IC 14

TITLE 14. NATURAL AND CULTURAL RESOURCES

IC 14-1

ARTICLE 1. REPEALED

(Repealed by P.L.1-1995, SEC.91.)

IC 14-2

ARTICLE 2. REPEALED

(Repealed by P.L.1-1995, SEC.91.)

IC 14-3

ARTICLE 3. REPEALED

(Repealed by P.L.1-1995, SEC.91.)

ARTICLE 4. REPEALED

(Repealed by P.L.1-1995, SEC.91.)

IC 14-5

ARTICLE 5. REPEALED

(Repealed by P.L.1-1995, SEC.91.)

IC 14-6

ARTICLE 6. REPEALED

(Repealed by P.L.1-1995, SEC.91.)

IC 14-7

ARTICLE 7. REPEALED

(Repealed by P.L.1-1995, SEC.91.)

IC 14-8

ARTICLE 8. GENERAL PROVISIONS AND DEFINITIONS

IC 14-8-1

Chapter 1. General Provisions

IC 14-8-1-1

Applicability of definitions

Sec. 1. Except as otherwise provided, the definitions in this article apply throughout this title.

As added by P.L.1-1995, SEC.1.

IC 14-8-1-2

Inapplicability of definitions

Sec. 2. The definitions in this article do not apply to the following:

(1) IC 14-25-13.

(2) IC 14-35-4.

As added by P.L.1-1995, SEC.1.

IC 14-8-2
Chapter 2. Definitions

IC 14-8-2-1
"Abandon"
Sec. 1. "Abandon", for purposes of IC 14-37, means to:
(1) terminate operations of a well for oil and gas purposes; and
(2) reclaim and restore the site of the well in a manner that will protect the waters and lands of Indiana against pollution.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-1.5
"Acquiescence"
Sec. 1.5. "Acquiescence", for the purposes of IC 14-26-2, has the meaning set forth in IC 14-26-2-1.2.
As added by P.L.6-2008, SEC.1.

IC 14-8-2-2
"Adjacent land"
Sec. 2. "Adjacent land", for purposes of IC 14-29-6, has the meaning set forth in IC 14-29-6-1.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-3
"Affected area"
Sec. 3. "Affected area", for purposes of IC 14-36-1, has the meaning set forth in IC 14-36-1-4.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-4
"Agency"
Sec. 4. "Agency" has the following meaning:
(1) For purposes of IC 14-23-8, the meaning set forth in IC 14-23-8-2.
(2) For purposes of IC 14-24-12, the meaning set forth in IC 14-24-12-1.
As added by P.L.1-1995, SEC.1. Amended by P.L.132-1996, SEC.1.

IC 14-8-2-5
"Agricultural purpose"
Sec. 5. "Agricultural purpose", for purposes of IC 14-21-1-24, has the meaning set forth in IC 14-21-1-24.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-5.5
"Alcoholic beverage"
Sec. 5.5. "Alcoholic beverage", for purposes of IC 14-16-1, has the meaning set forth in IC 14-16-1-1.5.

As added by P.L.219-2005, SEC.15.

IC 14-8-2-5.7
"All-terrain vehicle"

Sec. 5.7. "All-terrain vehicle", for purposes of IC 14-8-2-185, means a motorized, off-highway vehicle that:

(1) is fifty (50) inches or less in width;
(2) has a dry weight of twelve hundred (1,200) pounds or less;
(3) is designed for travel on at least three (3) nonhighway or off-highway tires; and
(4) is designed for recreational use by one (1) or more individuals.

The term includes parts, equipment, or attachments sold with the vehicle.

As added by P.L.86-2010, SEC.2. Amended by P.L.219-2014, SEC.5.

IC 14-8-2-6
"Alteration to the shoreline"

Sec. 6. "Alterations to the shoreline", for purposes of IC 14-26-2-15, has the meaning set forth in IC 14-26-2-15.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-7
"Animal"

Sec. 7. "Animal", for purposes of IC 14-22, includes all mammals, birds, reptiles, amphibians, fish, crustaceans, and mollusks.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-7.5
"Annual pass"

Sec. 7.5. "Annual pass", for the purposes of IC 14-19-3-5, has the meaning set forth in IC 14-19-3-5(a).

As added by P.L.134-1997, SEC.1.

IC 14-8-2-8
"Apiary"

Sec. 8. "Apiary", for purposes of IC 14-24, means a place where at least one (1) hive or colony of bees is kept.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-9
"Applicant"

Sec. 9. "Applicant", for purposes of IC 14-34-4-8, has the meaning set forth in IC 14-34-4-8.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-10
"Appraised value"

Sec. 10. "Appraised value", for purposes of IC 14-31-2, has the

meaning set forth in IC 14-31-2-2.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-11
"Approximate original contour"
Sec. 11. "Approximate original contour", for purposes of IC 14-34-10, has the meaning set forth in IC 14-34-10-1.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-12
"Aquatic vegetation"
Sec. 12. "Aquatic vegetation", for purposes of IC 14-22, means completely submerged or partially emerged:
(1) moss;
(2) algae; or
(3) rooted aquatic vegetation.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-13
"Aquifer"
Sec. 13. "Aquifer", for purposes of IC 14-25-7, has the meaning set forth in IC 14-25-7-1.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-13.5
"Archeological plan"
Sec. 13.5. "Archeological plan", for purposes of IC 14-21-1, has the meaning set forth in IC 14-21-1-8(b).
As added by P.L.46-2000, SEC.1.

IC 14-8-2-14
"Area"
Sec. 14. "Area" has the following meaning:
(1) For purposes of IC 14-23-7, the meaning set forth in IC 14-23-7-1.
(2) For purposes of IC 14-31-1, the meaning set forth in IC 14-31-1-2.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-15
"Articles of dedication"
Sec. 15. "Articles of dedication", for purposes of IC 14-31-1, has the meaning set forth in IC 14-31-1-3.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-16
"Artifact"
Sec. 16. "Artifact", for purposes of IC 14-21-1, has the meaning set forth in IC 14-21-1-2.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-16.4
"Authority"

Sec. 16.4. "Authority", for purposes of IC 14-28-5, has the meaning set forth in IC 14-28-5-0.5.
As added by P.L.155-2015, SEC.5.

IC 14-8-2-16.5
"Automated point of sale licensing system"

Sec. 16.5. "Automated point of sale licensing system", for purposes of IC 14-22, has the meaning set forth in IC 14-22-12-7.5(a).
As added by P.L.186-2003, SEC.27.

IC 14-8-2-17
"Average normal water level"

Sec. 17. "Average normal water level", for purposes of IC 14-26-4, has the meaning set forth in IC 14-26-4-1.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-18
"Bag limit"

Sec. 18. "Bag limit", for purposes of IC 14-22, means the quantity of individual wild animals that may be taken:

(1) in one (1) day of the specified season for a specified wild animal; or

(2) during the entire season;

as stated in IC 14-22.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-19
Repealed

(Repealed by P.L.2-1997, SEC.91.)

IC 14-8-2-19.5
"Base fluid"

Sec. 19.5. "Base fluid", for purposes of IC 14-37-3-8, means a fluid into which additives are mixed to form the hydraulic fracturing fluid that transports proppants into a geologic formation.
As added by P.L.16-2012, SEC.1.

IC 14-8-2-20
"Basin"

Sec. 20. "Basin" has the following meaning:

(1) For purposes of IC 14-25-1, the meaning set forth in section 1.2 of IC 14-25-15-1.

(2) For purposes of IC 14-30-1, the meaning set forth in IC 14-30-1-1.

(3) For purposes of IC 14-30-2, the meaning set forth in IC 14-30-2-1.
(4) For purposes of IC 14-30-3, the meaning set forth in IC 14-30-3-1.
(5) For purposes of IC 14-30-4, the meaning set forth in IC 14-30-4-1.

As added by P.L.1-1995, SEC.1. Amended by P.L.35-2001, SEC.1; P.L.4-2008, SEC.1.

IC 14-8-2-21
Repealed

(Repealed by P.L.2-1997, SEC.91.)

IC 14-8-2-22
"Beneficial use"

Sec. 22. "Beneficial use", for purposes of IC 14-25-7, has the meaning set forth in IC 14-25-7-2.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-23
Repealed

(Repealed by P.L.2-1997, SEC.91.)

IC 14-8-2-24
"Board"

Sec. 24. "Board" has the following meaning:
(1) For purposes of IC 14-27-6, the meaning set forth in IC 14-27-6-2.
(2) For purposes of IC 14-32, the soil conservation board established by IC 14-32-2-1.
(3) For purposes of IC 14-33, the board of directors of a conservancy district.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-25
"Boat"

Sec. 25. "Boat", for purposes of IC 14-15, means watercraft.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-26
"Bond pool"

Sec. 26. "Bond pool", for purposes of IC 14-34-8, has the meaning set forth in IC 14-34-8-1.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-26.2
"Boundary river"

Sec. 26.2. "Boundary river", for purposes of IC 14-28-1, has the meaning set forth in IC 14-28-1-1.2.

As added by P.L.135-1997, SEC.1.

IC 14-8-2-26.3
"Boundary river floodway"

Sec. 26.3. "Boundary river floodway", for purposes of IC 14-28-1, has the meaning set forth in IC 14-28-1-1.3.
As added by P.L.135-1997, SEC.2.

IC 14-8-2-27
"Boundary waters"

Sec. 27. "Boundary waters", for purposes of IC 14-9-9 and IC 14-22, means the following:

(1) The part of the Wabash River that forms the boundary between Illinois and Indiana.

(2) The part of the Ohio River that forms the boundary between Kentucky and Indiana.

(3) The part of the Great Miami River that forms the boundary between Ohio and Indiana.

(4) The part of Lake Michigan that is under the jurisdiction of Indiana.

(5) The lakes other than Lake Michigan that are on the boundary between Indiana and bordering states.

As added by P.L.1-1995, SEC.1. Amended by P.L.219-2014, SEC.6.

IC 14-8-2-27.5
"Bow"

Sec. 27.5. "Bow", for purposes of IC 14-22-40, has the meaning set forth in IC 14-22-40-1.
As added by P.L.133-1996, SEC.1.

IC 14-8-2-28
Repealed

(Repealed by P.L.2-1997, SEC.91.)

IC 14-8-2-29
"Buildings and grounds"

Sec. 29. "Buildings and grounds", for purposes of IC 14-20-7, has the meaning set forth in IC 14-20-7-1.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-29.7
"Bureau"

Sec. 29.7. "Bureau", for purposes of IC 14-11-3, has the meaning set forth in IC 14-11-3-0.3.
As added by P.L.257-1997(ss), SEC.24.

IC 14-8-2-30
"Burial ground"

Sec. 30. "Burial ground", for purposes of IC 14-21, has the

meaning set forth in IC 14-21-1-3.
As added by P.L.1-1995, SEC.1. Amended by P.L.46-2000, SEC.2.

IC 14-8-2-31
"Burial object"
Sec. 31. "Burial object", for purposes of IC 14-21-1, has the meaning set forth in IC 14-21-1-4.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-32
"Burns Waterway"
Sec. 32. "Burns Waterway", for purposes of IC 14-13-2, has the meaning set forth in IC 14-13-2-1.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-33
"Buy"
Sec. 33. "Buy", for purposes of IC 14-31-3, has the meaning set forth in IC 14-31-3-1.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-34
"Campaign"
Sec. 34. "Campaign", for purposes of IC 14-31-2, has the meaning set forth in IC 14-31-2-3.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-35
"Carnivore"
Sec. 35. (a) "Carnivore", for purposes of IC 14-22, means a flesh-eating mammal. The term includes the following:
(1) A wild animal of the following families:
(A) Canine.
(B) Feline.
(C) Ursine.
(2) A wild animal that is a result of crossbreeding between the following:
(A) An animal listed in subdivision (1).
(B) Another animal listed in subdivision (1) or a domestic animal.
(b) The term does not include a domestic animal.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-36
"Carry passengers for hire"
Sec. 36. (a) "Carry passengers for hire", for purposes of IC 14-15, means the carrying or transportation of passengers for a passage or trip in consideration of a fare or charge.
(b) The term does not include the following:

(1) The carrying or transportation of passengers or guests without charge.

(2) The leasing or rental of a watercraft to a lessee to be operated by the lessee as the lessee's own for an hour, a day, a week, or other fixed period.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-37
"Cast overburden"

Sec. 37. "Cast overburden", for purposes of IC 14-36-1, has the meaning set forth in IC 14-36-1-5.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-37.5
"Cemetery"

Sec. 37.5. "Cemetery", for purposes of IC 14-21, has the meaning set forth in IC 23-14-33-7.

As added by P.L.46-2000, SEC.3.

IC 14-8-2-37.6
"Cervidae"

Sec. 37.6. "Cervidae", for purposes of IC 14-22-20.5, has the meaning set forth in IC 14-22-20.5-1.

As added by P.L.93-2005, SEC.1.

IC 14-8-2-37.7
"Cervidae livestock operation"

Sec. 37.7. "Cervidae livestock operation", for purposes of IC 14-22-20.5, has the meaning set forth in IC 14-22-20.5-2.

As added by P.L.93-2005, SEC.2.

IC 14-8-2-37.8
"Cervidae products"

Sec. 37.8. "Cervidae products", for purposes of IC 14-22-20.5, has the meaning set forth in IC 14-22-20.5-3.

As added by P.L.93-2005, SEC.3.

IC 14-8-2-38
"Channel"

Sec. 38. "Channel" has the following meaning:

(1) For purposes of IC 14-28-1 and IC 14-28-3, the natural or artificial channel of a river or stream.

(2) For purposes of IC 14-29-4, the meaning set forth in IC 14-29-4-1.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-39
"Chase"

Sec. 39. "Chase", for purposes of IC 14-22, means following

wildlife without the intent to take.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-40
Repealed
(As added by P.L.1-1995, SEC.1. Repealed by P.L.40-2012, SEC.7.)

IC 14-8-2-41
"Class II well"
Sec. 41. "Class II well", for purposes of IC 14-37, means a well that injects fluids:
(1) that are brought to the surface in connection with conventional oil or gas production and can be commingled with wastewaters (other than wastewaters classified as hazardous waste at the time of injection) from gas plants that are an integral part of production operations;
(2) for the enhanced recovery of oil or gas; or
(3) for the storage of hydrocarbons that are liquid at standard temperature and pressure.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-42
Repealed
(Repealed by P.L.2-1997, SEC.91.)

IC 14-8-2-42.2
"Coal bed methane"
Sec. 42.2. "Coal bed methane", for purposes of section 317 of this chapter and IC 14-37, means gaseous substances of whatever character lying within or emanating from:
(1) unmined coal seams, either naturally or as a result of stimulation of the coal seam;
(2) the void created by mining out coal seams; or
(3) the gob created by longwall or other extraction methods of coal mining.
As added by P.L.78-2010, SEC.1. Amended by P.L.140-2011, SEC.1.

IC 14-8-2-42.5
"Collateral"
Sec. 42.5. "Collateral", for purposes of IC 14-34-7, has the meaning set forth in IC 14-34-7-0.5.
As added by P.L.176-1995, SEC.1.

IC 14-8-2-43
"Commence to drill a well"
Sec. 43. "Commence to drill a well", for purposes of IC 14-38-1, has the meaning set forth in IC 14-38-1-1.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-44
"Commercial fishing"

Sec. 44. "Commercial fishing", for purposes of IC 14-22-14, has the meaning set forth in IC 14-22-14-1.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-45
"Commercial fishing gear"

Sec. 45. "Commercial fishing gear", for purposes of IC 14-22-14, has the meaning set forth in IC 14-22-14-2.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-46
"Commercial fishing license"

Sec. 46. "Commercial fishing license", for purposes of IC 14-22-14, has the meaning set forth in IC 14-22-14-3.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-47
"Commercially minable coal resource"

Sec. 47. (a) "Commercially minable coal resource", for purposes of IC 14-37, means a seam of coal that:

(1) can be mined using generally accepted underground practices and suitable equipment; and

(2) consists of coal in sufficient quantities and of sufficient quality to be commercially saleable.

(b) The term includes a seam of coal to which one (1) or more of the following apply:

(1) The seam is:

(A) associated with an underground mine permitted under IC 14-34; and

(B) specifically intended to be mined under the permit.

(2) The seam is associated with an inactive underground mining operation at which mining operations:

(A) have temporarily ceased; and

(B) are anticipated to be resumed by the person with the right to develop the seam.

(3) The seam is identified as a commercially minable coal resource by the owner or lessee of the seam by a map accompanied by an affidavit that:

(A) is filed with the division of oil and gas; and

(B) states that the coal in the seam is being held for later commercial production.

(4) The seam is:

(A) at least thirty-six (36) inches thick; and

(B) located not more than eight hundred (800) feet below the surface.

As added by P.L.1-1995, SEC.1. Amended by P.L.78-2010, SEC.2; P.L.42-2011, SEC.31.

IC 14-8-2-48
"Commission"

Sec. 48. (a) "Commission", except as provided in this section, refers to the natural resources commission.

(b) "Commission", for purposes of IC 14-13-1, has the meaning set forth in IC 14-13-1-1.

(c) "Commission", for purposes of IC 14-13-2, has the meaning set forth in IC 14-13-2-2.

(d) "Commission", for purposes of IC 14-13-4, has the meaning set forth in IC 14-13-4-1.

(e) "Commission", for purposes of IC 14-13-5, has the meaning set forth in IC 14-13-5-1.

(f) "Commission", for purposes of IC 14-13-6, has the meaning set forth in IC 14-13-6-2.

(g) "Commission", for purposes of IC 14-14-1, has the meaning set forth in IC 14-14-1-3.

(h) "Commission", for purposes of IC 14-20-11, has the meaning set forth in IC 14-20-11-1.

(i) "Commission", for purposes of IC 14-28-4, has the meaning set forth in IC 14-28-4-1.

(j) "Commission", for purposes of IC 14-30-1, has the meaning set forth in IC 14-30-1-2.

(k) "Commission", for purposes of IC 14-30-2, has the meaning set forth in IC 14-30-2-2.

(l) "Commission", for purposes of IC 14-30-3, has the meaning set forth in IC 14-30-3-2.

(m) "Commission", for purposes of IC 14-30-4, has the meaning set forth in IC 14-30-4-2.

(n) "Commission", for purposes of IC 14-33-20, has the meaning set forth in IC 14-33-20-2.

As added by P.L.1-1995, SEC.1. Amended by P.L.35-2001, SEC.2; P.L.85-2008, SEC.1; P.L.197-2011, SEC.46; P.L.133-2012, SEC.162.

IC 14-8-2-49
"Committee"

Sec. 49. "Committee", for purposes of IC 14-34-8, has the meaning set forth in IC 14-34-8-2.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-49.2
"Compact"

Sec. 49.2. "Compact", for purposes of IC 14-25-15, has the meaning set forth in IC 14-25-15-1.

As added by P.L.225-2005, SEC.1. Amended by P.L.4-2008, SEC.2; P.L.113-2014, SEC.87; P.L.219-2014, SEC.7.

IC 14-8-2-49.5
"Comparative balance sheet"

Sec. 49.5. "Comparative balance sheet", for purposes of IC 14-34-7, has the meaning set forth in IC 14-34-7-0.6.
As added by P.L.176-1995, SEC.2.

IC 14-8-2-49.6
"Comparative income statement"
Sec. 49.6. "Comparative income statement", for purposes of IC 14-34-7, has the meaning set forth in IC 14-34-7-0.7.
As added by P.L.176-1995, SEC.3.

IC 14-8-2-50
"Compensate"
Sec. 50. "Compensate", for purposes of IC 14-34-11-3, has the meaning set forth in IC 14-34-11-3.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-51
"Conservancy district"
Sec. 51. "Conservancy district", for purposes of IC 14-25-2-11, has the meaning set forth in IC 14-25-2-11.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-52
"Conservation easement"
Sec. 52. "Conservation easement", for purposes of IC 14-29-6-13, has the meaning set forth in IC 14-29-6-13.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-53
"Conservation officer"
Sec. 53. "Conservation officer" refers to an officer employee of the law enforcement division organized under IC 14-9-8.
As added by P.L.1-1995, SEC.1. Amended by P.L.26-2008, SEC.1.

IC 14-8-2-54
Repealed
(Repealed by P.L.2-1997, SEC.91.)

IC 14-8-2-55
"Construction"
Sec. 55. "Construction" has the following meaning:
(1) For purposes of IC 14-25-4, the meaning set forth in IC 14-25-4-1.
(2) For purposes of IC 14-26-2-15, the meaning set forth in IC 14-26-2-15.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-56
Repealed

(As added by P.L.1-1995, SEC.1. Repealed by P.L.40-2012, SEC.8.)

IC 14-8-2-57
"Corporation"

Sec. 57. "Corporation", for purposes of IC 14-12-3, has the meaning set forth in IC 14-12-3-1.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-58
"Corps"

Sec. 58. "Corps", for purposes of IC 14-23-8, has the meaning set forth in IC 14-23-8-3.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-59
"Corridor"

Sec. 59. "Corridor" has the following meaning:

(1) For purposes of IC 14-13-4, the meaning set forth in IC 14-13-4-2.

(2) For purposes of IC 14-13-5, the meaning set forth in IC 14-13-5-2.

(3) For purposes of IC 14-13-6, the meaning set forth in IC 14-13-6-3.

As added by P.L.1-1995, SEC.1. Amended by P.L.197-2011, SEC.47.

IC 14-8-2-60
"Cost"

Sec. 60. "Cost", for purposes of IC 14-14-1, has the meaning set forth in IC 14-14-1-4.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-61
"Council"

Sec. 61. "Council", for purposes of IC 14-21-1, has the meaning set forth in IC 14-21-1-5.
As added by P.L.1-1995, SEC.1. Amended by P.L.197-2011, SEC.48.

IC 14-8-2-62
Repealed

(Repealed by P.L.2-1997, SEC.91.)

IC 14-8-2-62.1
"Credit card"

Sec. 62.1. "Credit card", for purposes of IC 14-11-1-7, has the meaning set forth in IC 14-11-1-7.
As added by P.L.95-1998, SEC.1.

IC 14-8-2-63

"Current assets"

Sec. 63. "Current assets", for purposes of IC 14-34-7-4, has the meaning set forth in IC 14-34-7-4.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-64

"Current liabilities"

Sec. 64. "Current liabilities", for purposes of IC 14-34-7-4, has the meaning set forth in IC 14-34-7-4.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-65

"Dealer"

Sec. 65. "Dealer" has the following meaning:

(1) For purposes of IC 14-16-1, the meaning set forth in IC 14-16-1-2.

(2) For purposes of IC 14-24, the term means a person who grows or buys nursery stock for the purpose of reselling or reshipping the stock in Indiana.

As added by P.L.1-1995, SEC.1. Amended by P.L.186-2003, SEC.28.

IC 14-8-2-65.5

"Decoy"

Sec. 65.5. "Decoy", for purposes of IC 14-22-40, has the meaning set forth in IC 14-22-40-2.

As added by P.L.133-1996, SEC.2.

IC 14-8-2-66

"Dedicate" and "dedication"

Sec. 66. "Dedicate" and "dedication", for purposes of IC 14-31-1, have the meaning set forth in IC 14-31-1-4.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-66.5

"Delinquent"

Sec. 66.5. "Delinquent", for purposes of IC 14-11-3, has the meaning set forth in IC 14-11-3-0.5.

As added by P.L.257-1997(ss), SEC.25.

IC 14-8-2-67

"Department"

Sec. 67. (a) "Department", except for purposes of IC 14-20-7 and IC 14-32, refers to the department of natural resources.

(b) "Department", for purposes of IC 14-20-7, refers to the Indiana department of veterans' affairs established by IC 10-17-1-2.

(c) "Department", for purposes of IC 14-32, refers to the Indiana state department of agriculture established by IC 15-11-2-1.

As added by P.L.1-1995, SEC.1. Amended by P.L.1-2006, SEC.206; P.L.2-2008, SEC.28; P.L.120-2008, SEC.5; P.L.113-2010, SEC.95.

IC 14-8-2-68
"Deputy director"

Sec. 68. "Deputy director" refers to the deputy director of the bureau that supervises a division.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-68.5
"Development plan"

Sec. 68.5. "Development plan", for purposes of IC 14-21-1, has the meaning set forth in IC 14-21-1-8(c).

As added by P.L.46-2000, SEC.4.

IC 14-8-2-69
"Dewatering well"

Sec. 69. "Dewatering well", for purposes of IC 14-25-4, has the meaning set forth in IC 14-25-4-2.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-70
"Diffused surface water"

Sec. 70. "Diffused surface water", for purposes of IC 14-25 through IC 14-29, means water that comes from falling rain or melting snow or ice and that:

(1) is diffused over the surface of the ground or that temporarily flows vagrantly on or over the surface of the ground as the natural elevations and depressions of the surface of the earth guide the water; and

(2) has no definite banks or channel.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-71
"Director"

Sec. 71. (a) Except as provided in subsection (b), "director" refers to the director of the department of natural resources.

(b) "Director", for purposes of IC 14-24-12, has the meaning set forth in IC 14-24-12-2.

As added by P.L.1-1995, SEC.1. Amended by P.L.132-1996, SEC.2.

IC 14-8-2-72
"District"

Sec. 72. "District" has the following meaning:

(1) For purposes of IC 14-27-8, the meaning set forth in IC 14-27-8-2.

(2) For purposes of IC 14-32, the term refers to a soil and water conservation district that was:

(A) organized under IC 13-3-1 (before its repeal) or IC 14-32-3 (before its repeal); or

(B) reestablished under IC 14-32-6.5 to incorporate additional territory.

(3) For purposes of IC 14-33, a conservancy district established under or accepting:

(A) IC 13-3-3 (before its repeal);

(B) IC 14-33; or

(C) IC 19-3-2 (before its repeal on April 1, 1980), including a conservancy district established before April 20, 1956, for any purpose provided in IC 14-33-1-1.

As added by P.L.1-1995, SEC.1. Amended by P.L.136-1997, SEC.1.

IC 14-8-2-73
"District plan"

Sec. 73. "District plan", for purposes of IC 14-33, means the plan made after a conservancy district is established for accomplishing the purpose of the district.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-74
"Ditch" or "drain"

Sec. 74. "Ditch" or "drain", for purposes of IC 14-27-8, has the meaning set forth in IC 14-27-8-3.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-75
"Diver"

Sec. 75. "Diver", for purposes of IC 14-15-9, has the meaning set forth in IC 14-15-9-1.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-76
"Divers down flag"

Sec. 76. "Divers down flag", for purposes of IC 14-15-9, has the meaning set forth in IC 14-15-9-2.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-77
"Division"

Sec. 77. "Division" has the following meaning:

(1) For purposes of IC 14-9-8, the meaning set forth in IC 14-9-8-2.

(2) For purposes of IC 14-21, the division of historic preservation and archeology.

(3) For purposes of IC 14-22, the division of fish and wildlife.

(4) For purposes of IC 14-24, the division of entomology and plant pathology.

(5) For purposes of IC 14-25.5, the division of water.

(6) For purposes of IC 14-31-2, the meaning set forth in IC 14-31-2-4.

(7) For purposes of IC 14-32, the division of soil conservation of the Indiana state department of agriculture established by

IC 15-11-4-1.

(8) For purposes of IC 14-37, the division of oil and gas.

As added by P.L.1-1995, SEC.1. Amended by P.L.145-2002, SEC.1; P.L.1-2006, SEC.207; P.L.2-2008, SEC.29; P.L.85-2008, SEC.2; P.L.120-2008, SEC.6; P.L.69-2009, SEC.1; P.L.167-2011, SEC.2.

IC 14-8-2-77.5
"Division director"

Sec. 77.5. "Division director", for purposes of IC 14-24-12, has the meaning set forth in IC 14-24-12-3.

As added by P.L.132-1996, SEC.3.

IC 14-8-2-78
"Dock or harbor line"

Sec. 78. "Dock or harbor line", for purposes of IC 14-18-6, has the meaning set forth in IC 14-18-6-1.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-79
Repealed

(Repealed by P.L.2-1997, SEC.91.)

IC 14-8-2-79.5
"Domiciled"

Sec. 79.5. "Domiciled", for purposes of section 242 of this chapter, means to be living in a place that:

(1) is a person's true, fixed, and permanent home and principal residence to which, whenever the person is temporarily absent, the person intends to return; and

(2) is a permanent building or a part of a building:

(A) including a house, a condominium, an apartment, a room in a house or complex, or a mobile home; and

(B) not including a vacant lot, second home, camp, cottage, or premises used solely for business.

As added by P.L.155-2002, SEC.2 and P.L.158-2002, SEC.1.

IC 14-8-2-80
"Due notice"

Sec. 80. "Due notice", for purposes of IC 14-32, means a notice given through publication at least two (2) times, with an interval of at least six (6) days between the two (2) publication dates, in a newspaper or other publication of general circulation within the appropriate area.

As added by P.L.1-1995, SEC.1. Amended by P.L.136-1997, SEC.2.

IC 14-8-2-81
Repealed

(Repealed by P.L.2-1997, SEC.91.)

IC 14-8-2-82
"Elements of beekeeping"
Sec. 82. "Elements of beekeeping", for purposes of IC 14-24, includes bees, hives, combs, combless packages of bees or queens, and beekeeping equipment or appurtenances.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-83
"Eligible cost"
Sec. 83. "Eligible cost", for purposes of IC 14-12-2-31, has the meaning set forth in IC 14-12-2-31.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-84
Repealed
(As added by P.L.1-1995, SEC.1. Repealed by P.L.133-2012, SEC.163.)

IC 14-8-2-85
"Endangered species"
Sec. 85. (a) "Endangered species", for purposes of IC 14-9-2-5, has the meaning set forth in IC 14-9-2-5(a).
(b) "Endangered species", for purposes of IC 14-22-34, has the meaning set forth in IC 14-22-34-1.
As added by P.L.1-1995, SEC.1. Amended by P.L.155-2015, SEC.6.

IC 14-8-2-86
"Exceptional benefits"
Sec. 86. "Exceptional benefits", for purposes of IC 14-33, means benefits to real property in a conservancy district greater than the benefits uniformly received throughout the district from:
(1) the establishment of the district; and
(2) the execution of the district plan.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-86.5
Repealed
(As added by P.L.225-2005, SEC.2. Repealed by P.L.113-2014, SEC.88; P.L.219-2014, SEC.8.)

IC 14-8-2-87
"Exotic mammal"
Sec. 87. "Exotic mammal", for purposes of IC 14-22, means a species that is:
(1) not native to Indiana; or
(2) extirpated from Indiana and either:
(A) a wild animal; or
(B) a feral animal other than a dog or cat.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-87.5
"Exotic weed"
Sec. 87.5. "Exotic weed" means a weed that is not native to Indiana.
As added by P.L.177-1995, SEC.1.

IC 14-8-2-87.6
"Family member"
Sec. 87.6. "Family member", for purposes of IC 14-21-5, has the meaning set forth in IC 14-21-5-1.
As added by P.L.68-2012, SEC.2.

IC 14-8-2-87.7
"Farmland"
Sec. 87.7. "Farmland", for purposes of IC 14-22-11-1, has the meaning set forth in IC 14-22-11-1.
As added by P.L.186-2003, SEC.29.

IC 14-8-2-88
"Field"
Sec. 88. "Field", for purposes of IC 14-37-9-3, has the meaning set forth in IC 14-37-9-3.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-89
"Field trial"
Sec. 89. "Field trial", for purposes of IC 14-22, means a trial of sporting dogs under field conditions where dogs chase or pursue wild animals under specified rules of national or regional recognized hunting dog associations approved by the director.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-90
"Financial clerk"
Sec. 90. "Financial clerk", for purposes of IC 14-33, means a bonded employee of the board of directors of a conservancy district charged with the faithful receipt and disbursement of the money of the district.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-91
"Financial responsibility bond"
Sec. 91. "Financial responsibility bond", for purposes of IC 14-25-5, has the meaning set forth in IC 14-25-5-2.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-91.5
"Firearm"
Sec. 91.5. "Firearm", for purposes of IC 14-22-40, has the

meaning set forth in IC 14-22-40-3.
As added by P.L.133-1996, SEC.3.

IC 14-8-2-92
"Fixed assets"
Sec. 92. "Fixed assets", for purposes of IC 14-34-7-4, has the meaning set forth in IC 14-34-7-4.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-93
"Flood" or "flood water"
Sec. 93. "Flood" or "flood water", for purposes of IC 14-28-1, IC 14-28-3, and IC 14-28-4, means the water:
(1) of a river, stream, or lake:
(A) in Indiana; or
(B) upon or adjoining a boundary line of Indiana; and
(2) that is above the bank or outside the channel and banks of the river, stream, or lake.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-94
"Flood control"
Sec. 94. "Flood control", for purposes of IC 14-28-1, has the meaning set forth in IC 14-28-1-2.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-95
"Flood control program"
Sec. 95. "Flood control program", for purposes of IC 14-28-5, has the meaning set forth in IC 14-28-5-1.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-96
"Flood easement"
Sec. 96. "Flood easement", for purposes of IC 14-28-1, has the meaning set forth in IC 14-28-1-3.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-97
"Flood flow"
Sec. 97. "Flood flow", for purposes of IC 14-28-1 and IC 14-28-3, means all of the water of a river or stream that exceeds the within-bank channel flow of the river or stream.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-98
"Flood hazard areas"
Sec. 98. "Flood hazard areas", for purposes of IC 14-28-1, IC 14-28-3, and IC 14-28-4, means those flood plains or parts of

flood plains that have not been adequately protected from flood water by means of dikes, levees, reservoirs, or other works approved by the natural resources commission.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-99
"Flood plain"
Sec. 99. "Flood plain", for purposes of IC 14-28-1, IC 14-28-3, and IC 14-28-4, means the area adjoining a river or stream that has been or may be covered by flood water.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-100
"Flood protection grade"
Sec. 100. "Flood protection grade", for purposes of IC 14-28-4-16, has the meaning set forth in IC 14-28-4-16.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-101
"Flood water of a watercourse"
Sec. 101. "Flood water of a watercourse", for purposes of IC 14-25 through IC 14-29, means water that is flowing or standing above the top level of or outside of the banks of a watercourse.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-102
"Floodway"
Sec. 102. "Floodway", for purposes of IC 14-28-1, IC 14-28-3, and IC 14-34, means:
(1) the channel of a river or stream; and
(2) the parts of the flood plain adjoining the channel that are reasonably required to efficiently carry and discharge the flood water or flood flow of a river or stream.
As added by P.L.1-1995, SEC.1. Amended by P.L.2-1997, SEC.51.

IC 14-8-2-103
"Foundation"
Sec. 103. "Foundation" refers to the Indiana natural resources foundation.
As added by P.L.1-1995, SEC.1. Amended by P.L.66-2008, SEC.1; P.L.167-2011, SEC.3.

IC 14-8-2-104
"Freeholder"
Sec. 104. "Freeholder", for purposes of IC 14-33, means a person who holds land:
(1) in fee;
(2) for life; or
(3) for some indeterminate period of time;

whether or not in joint title with at least one (1) other person.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-105
"Fresh water"

Sec. 105. "Fresh water", for purposes of IC 14-37, means water that contains not more than ten thousand (10,000) milligrams per liter of total dissolved solids.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-106
"Freshwater lake"

Sec. 106. "Freshwater lake", for purposes of IC 14-25-5, has the meaning set forth in IC 14-25-5-3.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-107
"Fund"

Sec. 107. "Fund" has the following meaning:

(1) For purposes of IC 14-9-5, the meaning set forth in IC 14-9-5-1.
(2) For purposes of IC 14-9-8-21, the meaning set forth in IC 14-9-8-21.
(3) For purposes of IC 14-9-8-21.5, the meaning set forth in IC 14-9-8-21.5.
(4) For purposes of IC 14-9-9, the meaning set forth in IC 14-9-9-3.
(5) For purposes of IC 14-12-1, the meaning set forth in IC 14-12-1-1.
(6) For purposes of IC 14-12-2, the meaning set forth in IC 14-12-2-2.
(7) For purposes of IC 14-12-3, the meaning set forth in IC 14-12-3-2.
(8) For purposes of IC 14-13-1, the meaning set forth in IC 14-13-1-2.
(9) For purposes of IC 14-13-2, the meaning set forth in IC 14-13-2-3.
(10) For purposes of IC 14-16-1, the meaning set forth in IC 14-16-1-30.
(11) For purposes of IC 14-19-8, the meaning set forth in IC 14-19-8-1.
(12) For purposes of IC 14-20-11, the meaning set forth in IC 14-20-11-2.
(13) For purposes of IC 14-22-3, the meaning set forth in IC 14-22-3-1.
(14) For purposes of IC 14-22-4, the meaning set forth in IC 14-22-4-1.
(15) For purposes of IC 14-22-5, the meaning set forth in IC 14-22-5-1.

(16) For purposes of IC 14-22-8, the meaning set forth in IC 14-22-8-1.
(17) For purposes of IC 14-22-34, the meaning set forth in IC 14-22-34-2.
(18) For purposes of IC 14-23-3, the meaning set forth in IC 14-23-3-1.
(19) For purposes of IC 14-25-2-4, the meaning set forth in IC 14-25-2-4.
(20) For purposes of IC 14-25-10, the meaning set forth in IC 14-25-10-1.
(21) For purposes of IC 14-25.5, the meaning set forth in IC 14-25.5-1-3.
(22) For purposes of IC 14-28-5, the meaning set forth in IC 14-28-5-2.
(23) For purposes of IC 14-31-2, the meaning set forth in IC 14-31-2-5.
(24) For purposes of IC 14-25-12, the meaning set forth in IC 14-25-12-1.
(25) For purposes of IC 14-32-8, the meaning set forth in IC 14-32-8-1.
(26) For purposes of IC 14-33-14, the meaning set forth in IC 14-33-14-3.
(27) For purposes of IC 14-33-21, the meaning set forth in IC 14-33-21-1.
(28) For purposes of IC 14-34-6-15, the meaning set forth in IC 14-34-6-15.
(29) For purposes of IC 14-34-14, the meaning set forth in IC 14-34-14-1.
(30) For purposes of IC 14-34-19-1.3, the meaning set forth in IC 14-34-19-1.3(a).
(31) For purposes of IC 14-34-19-1.5, the meaning set forth in IC 14-34-19-1.5(a).
(32) For purposes of IC 14-37-10, the meaning set forth in IC 14-37-10-1.

As added by P.L.1-1995, SEC.1. Amended by P.L.137-1997, SEC.1; P.L.160-1999, SEC.1; P.L.145-2002, SEC.2; P.L.233-2003, SEC.3; P.L.186-2003, SEC.30; P.L.225-2005, SEC.3; P.L.1-2006, SEC.208; P.L.85-2008, SEC.3; P.L.165-2011, SEC.1; P.L.167-2011, SEC.4; P.L.133-2012, SEC.164; P.L.113-2014, SEC.89; P.L.219-2014, SEC.9.

IC 14-8-2-108
"Furbearing mammal"

Sec. 108. "Furbearing mammal", for purposes of IC 14-22, means beaver, red fox, gray fox, long tailed weasel, mink, muskrat, raccoon, coyote, opossum, or skunk.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-109

"Fur buyer"

Sec. 109. "Fur buyer", for purposes of IC 14-22, means a person who purchases or solicits:

(1) the purchase of a furbearing mammal; or

(2) the untanned hide or fur of a furbearing mammal;

whether in the buyer's behalf or as agent for another person.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-110

"Game animal"

Sec. 110. "Game animal" has the following meanings:

(1) For purposes of IC 14-22-37, the meaning set forth in IC 14-22-37-1.

(2) For purposes of IC 14-22-40, the meaning set forth in IC 14-22-40-4.

As added by P.L.1-1995, SEC.1. Amended by P.L.133-1996, SEC.4.

IC 14-8-2-111

"Game bird"

Sec. 111. "Game bird", for purposes of IC 14-22-8, has the meaning set forth in IC 14-22-8-2.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-112

"Gate"

Sec. 112. "Gate", for purposes of IC 14-27-6, has the meaning set forth in IC 14-27-6-3.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-113

"Geology"

Sec. 113. "Geology", for purposes of IC 14-32-7, has the meaning set forth in IC 14-32-7-2.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-114

Repealed

(As added by P.L.1-1995, SEC.1. Repealed by P.L.80-2005, SEC.8.)

IC 14-8-2-115

"Ginseng"

Sec. 115. "Ginseng", for purposes of IC 14-31-3, has the meaning set forth in IC 14-31-3-2.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-116

"Ginseng dealer"

Sec. 116. "Ginseng dealer", for purposes of IC 14-31-3, has the

meaning set forth in IC 14-31-3-3.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-116.5
"Golf cart"
Sec. 116.5. "Golf cart", for purposes of IC 14-8-2-185 and IC 14-19-1-0.5, has the meaning set forth in IC 9-13-2-69.7.
As added by P.L.150-2009, SEC.20.

IC 14-8-2-117
"Governing board"
Sec. 117. "Governing board", for purposes of IC 14-28-5, has the meaning set forth in IC 14-28-5-3.
As added by P.L.1-1995, SEC.1. Amended by P.L.225-2005, SEC.4; P.L.113-2014, SEC.90; P.L.219-2014, SEC.10.

IC 14-8-2-117.3
"Governmental entity"
Sec. 117.3. "Governmental entity", for the purposes of IC 14-22-10-2, IC 14-22-10-2.5, and IC 14-34-19-15, has the meaning set forth in IC 14-22-10-2(a).
As added by P.L.178-1995, SEC.1. Amended by P.L.75-1998, SEC.1; P.L.71-2004, SEC.1.

IC 14-8-2-118
"Ground water" or "subterranean water"
Sec. 118. (a) "Ground water" or "subterranean water", for purposes of IC 14-25 through IC 14-29, except as provided in subsection (b), means all water that fills the natural openings under the earth's surface. The term includes the following:
(1) Underground water courses.
(2) Artesian basins.
(3) Reservoirs.
(4) Lakes.
(5) Other bodies of water below the earth's surface.
(b) "Ground water", for purposes of IC 14-25-7, has the meaning set forth in IC 14-25-7-3.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-118.5
"Guide services"
Sec. 118.5. "Guide services", for purposes of IC 14-22-38-6, has the meaning set forth in IC 14-22-38-6.
As added by P.L.219-2014, SEC.11.

IC 14-8-2-119
"Gypsum"
Sec. 119. "Gypsum" means gypsum, gypsum rock, and anhydrite. The term includes other materials that are necessary or incidental to

the extraction and removal of gypsum.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-120
"Hardiness zone"
Sec. 120. "Hardiness zone", for purposes of IC 14-24-6, has the meaning set forth in IC 14-24-6-2.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-121
"Harvest season"
Sec. 121. "Harvest season", for purposes of IC 14-31-3, has the meaning set forth in IC 14-31-3-4.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-121.3
"Hazard classification"
Sec. 121.3. "Hazard classification", for purposes of IC 14-27-7.5, has the meaning set forth in IC 14-27-7.5-2.
As added by P.L.148-2002, SEC.1.

IC 14-8-2-121.5
"Height"
Sec. 121.5. "Height", for purposes of IC 14-27-7.5, has the meaning set forth in IC 14-27-7.5-3.
As added by P.L.148-2002, SEC.2.

IC 14-8-2-122
"Higher or better uses"
Sec. 122. "Higher or better uses", for purposes of IC 14-34-10-2, has the meaning set forth in IC 14-34-10-2.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-122.5
"Highway"
Sec. 122.5. "Highway", for purposes of IC 14-22-10-11, means a public way for vehicular traffic, including the area within the right-of-way.
As added by P.L.52-2001, SEC.1.

IC 14-8-2-123
"Highway, street, or right-of-way"
Sec. 123. "Highway, street, or right-of-way", for purposes of IC 14-16, means the entire width between the boundary lines of a way:
(1) that is publicly maintained; and
(2) when any part of the way is open to the use of the public for purposes of vehicular travel.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-123.5
Repealed
(As added by P.L.85-2008, SEC.4. Repealed by P.L.133-2012, SEC.165.)

IC 14-8-2-124
"Historic property"
Sec. 124. "Historic property", for purposes of IC 14-21-1, means:
(1) a historic site;
(2) a historic structure; or
(3) other personal or real property located on or in a historic site or historic structure.
As added by P.L.1-1995, SEC.1. Amended by P.L.167-2011, SEC.5.

IC 14-8-2-125
"Historic site"
Sec. 125. "Historic site", for purposes of IC 14-21-1, means a site that is important to the general, archeological, agricultural, economic, social, political, architectural, industrial, or cultural history of Indiana. The term includes adjacent property that is necessary for the preservation or restoration of the site.
As added by P.L.1-1995, SEC.1. Amended by P.L.167-2011, SEC.6.

IC 14-8-2-126
"Historic structure"
Sec. 126. "Historic structure", for purposes of IC 14-21-1, means a structure that is important to the general, archeological, agricultural, economic, social, political, architectural, industrial, or cultural history of Indiana. The term includes adjacent property that is necessary for the preservation or restoration of the structure.
As added by P.L.1-1995, SEC.1. Amended by P.L.167-2011, SEC.7.

IC 14-8-2-127
"Human remains"
Sec. 127. "Human remains", for purposes of IC 14-21, has the meaning set forth in IC 14-21-1-7.
As added by P.L.1-1995, SEC.1. Amended by P.L.46-2000, SEC.5.

IC 14-8-2-128
"Hunt"
Sec. 128. "Hunt", for purposes of IC 14-22, means to take a wild animal except by trapping.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-128.2
"Hunter orange"
Sec. 128.2. "Hunter orange", for purposes of IC 14-22-38-7, has the meaning set forth in IC 14-22-38-7(a).
As added by P.L.104-2001, SEC.1.

IC 14-8-2-128.4
"Hydraulic fracturing"

Sec. 128.4. "Hydraulic fracturing" means the process of pumping fluids into a closed wellbore with sufficient downhole pressure to crack or fracture the formation, allowing the injection of a proppant into the fractures, thereby creating a high-permeability plane through which fluids can flow.

As added by P.L.16-2012, SEC.2.

IC 14-8-2-129
"Idle speed"

Sec. 129. "Idle speed", for purposes of IC 14-15-3-17, means the slowest possible speed, not exceeding five (5) miles per hour, that maintains steerage so that the wake or wash created by the watercraft is minimal.

As added by P.L.1-1995, SEC.1. Amended by P.L.38-2000, SEC.1.

IC 14-8-2-130
"Imminent danger to the health or safety of the public"

Sec. 130. "Imminent danger to the health or safety of the public", for purposes of IC 14-34-15-6, has the meaning set forth in IC 14-34-15-6.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-131
"Improvement location permit"

Sec. 131. "Improvement location permit", for purposes of IC 14-28-4, has the meaning set forth in IC 14-28-4-2.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-131.5
"Includes"

Sec. 131.5. "Includes" means includes but is not limited to.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-131.7
"Inland water"

Sec. 131.7. "Inland water" for purposes of IC 14-22-13, includes:

(1) the waters of the state; and

(2) the boundary waters of the state, except Lake Michigan and the Ohio River.

As added by P.L.151-2012, SEC.7.

IC 14-8-2-132
"Inn"

Sec. 132. "Inn", for purposes of IC 14-18-2-3, has the meaning set forth in IC 14-18-2-3.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-133
"Instream use"

Sec. 133. "Instream use", for purposes of IC 14-25-7, has the meaning set forth in IC 14-25-7-4.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-134
"Interested person"

Sec. 134. "Interested person" has the following meaning:

(1) For purposes of IC 14-18-6, the meaning set forth in IC 14-18-6-2.

(2) For purposes of IC 14-33, the term includes the following:

(A) A freeholder or corporation owning land within a proposed or an established conservancy district.

(B) A private or corporate person whose property may be condemned or injured by a conservancy district.

(C) An officer of a municipality.

(D) A federal or state agency.

(E) A local plan commission.

(F) A lienholder.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-135
Repealed

(As added by P.L.1-1995, SEC.1. Repealed by P.L.40-2012, SEC.6.)

IC 14-8-2-135.2
"Invitee"

Sec. 135.2. "Invitee", for purposes of IC 14-21-5, has the meaning set forth in IC 14-21-5-2.

As added by P.L.68-2012, SEC.3.

IC 14-8-2-136
"Kankakee River basin"

Sec. 136. "Kankakee River basin", for purposes of IC 14-30-1, has the meaning set forth in IC 14-30-1-3.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-137
"Lake"

Sec. 137. "Lake" has the following meaning:

(1) For purposes of IC 14-9-9 and IC 14-15, a natural or an artificial lake.

(2) For purposes of IC 14-26-2, the meaning set forth in IC 14-26-2-1.5.

(3) For purposes of IC 14-26-3, the meaning set forth in IC 14-26-3-1.

As added by P.L.1-1995, SEC.1. Amended by P.L.137-1997, SEC.2;

P.L.6-2008, SEC.2.

IC 14-8-2-138
"Lake Michigan"

Sec. 138. "Lake Michigan", for purposes of IC 14-22-14, has the meaning set forth in IC 14-22-14-4.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-139
"Lake owner"

Sec. 139. "Lake owner", for purposes of IC 14-25-5, has the meaning set forth in IC 14-25-5-4.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-140
"Land"

Sec. 140. "Land", for purposes of IC 14-36-2, has the meaning set forth in IC 14-36-2-2.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-141
"Land conservation"

Sec. 141. "Land conservation", for purposes of IC 14-32-7, has the meaning set forth in IC 14-32-7-3.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-142
"Landfill"

Sec. 142. "Landfill", for purposes of IC 14-32-5-4, has the meaning set forth in IC 14-32-5-4.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-143
"Land occupier" or "occupier of land"

Sec. 143. "Land occupier" or "occupier of land", for purposes of IC 14-32, means a firm, an individual of voting age, a limited liability company, or a corporation that:

(1) owns:
    (A) a life estate; or
    (B) an interest greater than a life estate;
in; or
(2) is in legal possession, under an express or implied rental lease, of;

a tract of land that is located within a district (as defined in IC 14-8-2-72(2)) or proposed for inclusion within a district under IC 14-32-6.5.
As added by P.L.1-1995, SEC.1. Amended by P.L.136-1997, SEC.3.

IC 14-8-2-144

Repealed

(Repealed by P.L.136-1997, SEC.43.)

IC 14-8-2-144.5

"Lands eligible for remining"

Sec. 144.5. "Lands eligible for remining", for purposes of IC 14-34, means those lands that are eligible for funding under:

(1) IC 14-34-19; or

(2) Section 402(g)(4) of the federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)(4)).

As added by P.L.179-1995, SEC.1.

IC 14-8-2-145

"Landscape"

Sec. 145. "Landscape", for purposes of IC 14-32-7, has the meaning set forth in IC 14-32-7-4.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-146

"Landscape survey"

Sec. 146. "Landscape survey", for purposes of IC 14-32-7-8, has the meaning set forth in IC 14-32-7-8.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-147

"Land use easement"

Sec. 147. "Land use easement", for purposes of IC 14-29-6-13, has the meaning set forth in IC 14-29-6-13.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-148

"Law enforcement officer"

Sec. 148. "Law enforcement officer", for purposes of IC 14-22-40, has the meaning set forth in IC 14-22-40-5.

As added by P.L.1-1995, SEC.1. Amended by P.L.133-1996, SEC.5; P.L.40-2012, SEC.9.

IC 14-8-2-149

Repealed

(As added by P.L.1-1995, SEC.1. Repealed by P.L.133-2012, SEC.166.)

IC 14-8-2-150

"Levee"

Sec. 150. "Levee", for purposes of IC 14-27-6, has the meaning set forth in IC 14-27-6-4.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-151

"Liabilities"

Sec. 151. "Liabilities", for purposes of IC 14-34-7, has the meaning set forth in IC 14-34-7-1.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-152

"License"

Sec. 152. "License" has the following meaning:

(1) For purposes of IC 14-11-3-1, the meaning set forth in IC 14-11-3-1.

(2) For purposes of IC 14-11-4, the meaning set forth in IC 14-11-4-3.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-153

"Litter"

Sec. 153. "Litter", for purposes of IC 14-15-2-8, has the meaning set forth in IC 14-15-2-8.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-154

"Little Calumet River basin"

Sec. 154. "Little Calumet River basin", for purposes of IC 14-13-2-29, has the meaning set forth in IC 14-13-2-29.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-154.5

"Local unit of government"

Sec. 154.5. "Local unit of government", for purposes of IC 14-22-31.5, has the meaning set forth in IC 14-22-31.5-1.

As added by P.L.134-1996, SEC.1.

IC 14-8-2-155

"Local unit"

Sec. 155. "Local unit", for purposes of IC 14-28-5, has the meaning set forth in IC 14-28-5-4.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-156

"Log"

Sec. 156. "Log" means a systematic, written record that describes the strata and formations progressively encountered while drilling a well for oil and gas purposes or a test hole, including water, oil, and gas formations and other underground resources. The term includes data usually recorded during drilling.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-157

Repealed

(Repealed by P.L.2-1997, SEC.91.)

IC 14-8-2-158
"Management"

Sec. 158. "Management", for purposes of IC 14-22-34, has the meaning set forth in IC 14-22-34-3.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-159
"Maumee River basin"

Sec. 159. "Maumee River basin", for purposes of IC 14-30-2, has the meaning set forth in IC 14-30-2-3.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-160
"Member"

Sec. 160. "Member" has the following meaning:

(1) For purposes of IC 14-12-2-15, the meaning set forth in IC 14-12-2-15.

(2) For purposes of IC 14-12-2-20, the meaning set forth in IC 14-12-2-20.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-161
"Merchantable timber"

Sec. 161. "Merchantable timber", for purposes of IC 14-23-4, has the meaning set forth in IC 14-23-4-2.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-162
"Migratory birds"

Sec. 162. "Migratory birds", for purposes of IC 14-22, refers to the following birds:

(1) Migratory game birds, including the following:

(A) Anatidae, or waterfowl, including brant, wild ducks, wild geese, and swans.

(B) Gruidae, or cranes, including little brown, sandhill, and whooping cranes.

(C) Rallidae, or rails, including coot, gallinules, sora, and other rails.

(D) Limicolae, or shorebirds, including avocets, curlews, dowitchers, godwits, knots, oyster catchers, phalaropes, plovers, sandpipers, snipe, tilts, surf birds, turnstones, willet, woodcock, tattlers, and yellow legs.

(E) Columbidae, or pigeons, including doves and wild pigeons.

(2) Migratory insectivorous birds, including the following:

(A) Cuckoos.

(B) Flickers and other woodpeckers.

(C) Nighthawks or bull-bats, and whippoorwills.
(D) Swifts.
(E) Hummingbirds and flycatchers.
(F) Bobolinks, meadowlarks, and orioles.
(G) Grosbeaks.
(H) Tanagers.
(I) Martins and other swallows.
(J) Waxwings.
(K) Shrikes and vireos.
(L) Warblers.
(M) Pipits.
(N) Catbirds and brown thrashers.
(O) Wrens.
(P) Brown creepers.
(Q) Nuthatches.
(R) Chickadees and titmice.
(S) Kinglets and gnat catchers.
(T) Robins and other thrushes.
(U) All other perching birds that feed entirely or chiefly on insects.

(3) Other migratory nongame birds, including the following:
(A) Auks.
(B) Auklets.
(C) Bitterns.
(D) Fulmars.
(E) Gannets.
(F) Grebes.
(G) Guillemots.
(H) Gulls.
(I) Herons.
(J) Jaegers.
(K) Loons.
(L) Murres.
(M) Petrels.
(N) Puffins.
(O) Shearwaters.
(P) Terns.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-163
"Migratory water fowl"

Sec. 163. "Migratory water fowl", for purposes of IC 14-22-7, has the meaning set forth in IC 14-22-7-1.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-164
"Mineral"

Sec. 164. "Mineral", for purposes of IC 14-36-1, has the meaning set forth in IC 14-36-1-6.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-165
"Mining"

Sec. 165. (a) "Mining", for purposes of IC 14-34-8-4, has the meaning set forth in IC 14-34-8-4.

(b) "Mining", for purposes of IC 14-36-2, has the meaning set forth in IC 14-36-2-3.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-166
"Mining refuse"

Sec. 166. "Mining refuse", for purposes of IC 14-36-1, has the meaning set forth in IC 14-36-1-7.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-167
"Minnow"

Sec. 167. "Minnow", for purposes of IC 14-22, includes the species of fish that the department determines by rule.

As added by P.L.1-1995, SEC.1. Amended by P.L.289-2013, SEC.1.

IC 14-8-2-168
"Mollusk"

Sec. 168. "Mollusk", for purposes of IC 14-22, means one (1) of the phylum mollusca.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-169
"Motorboat"

Sec. 169. (a) "Motorboat", for purposes of IC 14-15, except as provided in subsection (c), means a watercraft propelled by:

(1) an internal combustion, steam, or electrical inboard or outboard motor or engine; or

(2) any mechanical means.

(b) The term includes sailboats that are equipped with a motor or an engine described in subsection (a) when the motor or engine is in operation, whether or not the sails are hoisted.

(c) "Motorboat", for purposes of IC 14-15-11, has the meaning set forth in IC 14-15-11-6.

(d) The term includes a personal watercraft (as defined in section 202.5 of this chapter).

(e) "Motorboat", for purposes of IC 14-22-9-11, has the meaning set forth in IC 14-22-9-11.

As added by P.L.1-1995, SEC.1. Amended by P.L.57-1995, SEC.6; P.L.165-2011, SEC.2.

IC 14-8-2-169.5
"Motorized cart"

Sec. 169.5. "Motorized cart", for purposes of IC 14-19-1-1, has the meaning set forth in IC 14-19-1-0.5.
As added by P.L.225-2005, SEC.5.

IC 14-8-2-170
"Municipal corporation"
Sec. 170. "Municipal corporation", for purposes of IC 14-12-3, has the meaning set forth in IC 14-12-3-3.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-171
"Mussel"
Sec. 171. "Mussel", for purposes of IC 14-22, means a mollusk possessing a hard, pearly, hinged shell that:
(1) is capable of closing and opening; and
(2) completely encases and protects the living organism.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-172
"Natural gas"
Sec. 172. "Natural gas", for purposes of IC 14-37, means hydrocarbons that when produced in a natural state from an underground reservoir maintain a gaseous state at atmospheric conditions.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-173
"Nature preserve"
Sec. 173. "Nature preserve", for purposes of IC 14-31-1, has the meaning set forth in IC 14-31-1-5.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-174
"Natural resources"
Sec. 174. "Natural resources", for purposes of IC 14-26-2, has the meaning set forth in IC 14-26-2-2.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-175
"Natural river"
Sec. 175. "Natural river", for purposes of IC 14-29-6-8, has the meaning set forth in IC 14-29-6-8.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-176
"Natural scenic beauty"
Sec. 176. "Natural scenic beauty", for purposes of IC 14-26-2-5, has the meaning set forth in IC 14-26-2-5.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-177
"Net revenues"
Sec. 177. "Net revenues", for purposes of IC 14-33-20-15, has the meaning set forth in IC 14-33-20-15.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-178
"Net worth"
Sec. 178. "Net worth", for purposes of IC 14-34-7, has the meaning set forth in IC 14-34-7-2.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-179
"Nongame species"
Sec. 179. "Nongame species", for purposes of IC 14-22-34, has the meaning set forth in IC 14-22-34-4.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-179.5
"Nonresident"
Sec. 179.5. "Nonresident", for the purposes of IC 14-19-3-5, has the meaning set forth in IC 14-19-3-5(b).
As added by P.L.134-1997, SEC.2.

IC 14-8-2-180
"Nonsignificant ground water withdrawal facility"
Sec. 180. "Nonsignificant ground water withdrawal facility", for purposes of IC 14-25-4, has the meaning set forth in IC 14-25-4-3.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-181
"Normal water level of a lake"
Sec. 181. "Normal water level of a lake", for purposes of IC 14-26-5, has the meaning set forth in IC 14-26-5-2.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-182
"Nursery"
Sec. 182. "Nursery", for purposes of IC 14-24, means the premises where nursery stock is propagated, grown, or cultivated for distribution or sale as a business.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-183
"Nurseryman"
Sec. 183. "Nurseryman", for purposes of IC 14-24, means a person who owns, leases, manages, or controls a nursery.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-184
"Nursery stock"

Sec. 184. "Nursery stock" has the following meaning:

(1) For purposes of IC 14-23-1 and IC 14-24, except as provided in subdivision (2), botanically classified hardy perennial or biennial trees, shrubs, vines, fruit pits, and other plants or plant parts capable of propagation. The term does not include corms, tubers, field vegetables, or flower seeds.

(2) For purposes of IC 14-24-6, the meaning set forth in IC 14-24-6-3.

As added by P.L.1-1995, SEC.1. Amended by P.L.82-2007, SEC.2.

IC 14-8-2-185
"Off-road vehicle"

Sec. 185. (a) "Off-road vehicle", for purposes of IC 14-16-1 and IC 14-19-1-0.5, means a motor driven vehicle capable of cross-country travel:

(1) without benefit of a road; and

(2) on or immediately over land, water, snow, ice, marsh, swampland, or other natural terrain.

(b) The term includes the following:

(1) A multiwheel drive or low pressure tire vehicle.

(2) An amphibious machine.

(3) A ground effect air cushion vehicle.

(4) An all-terrain vehicle (as defined in section 5.7 of this chapter).

(5) A recreational off-highway vehicle (as defined in section 233.5 of this chapter).

(6) Other means of transportation deriving motive power from a source other than muscle or wind.

(c) The term does not include the following:

(1) A farm vehicle being used for farming, including, but not limited to, a farm wagon (as defined in IC 9-13-2-60(a)(2)).

(2) A vehicle used for military or law enforcement purposes.

(3) A construction, mining, or other industrial related vehicle used in performance of the vehicle's common function, including, but not limited to, a farm wagon (as defined in IC 9-13-2-60(a)(3)).

(4) A snowmobile (as defined by section 261 of this chapter).

(5) A registered aircraft.

(6) Any other vehicle properly registered by the bureau of motor vehicles.

(7) Any watercraft that is registered under Indiana statutes.

(8) A golf cart vehicle.

As added by P.L.1-1995, SEC.1. Amended by P.L.225-2005, SEC.6; P.L.150-2009, SEC.21; P.L.86-2010, SEC.3.

IC 14-8-2-186
"Oil"

Sec. 186. "Oil", for purposes of IC 14-37, means all liquid petroleum produced at a well.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-187
"Open burning"
Sec. 187. "Open burning", for purposes of IC 14-23-7-5, has the meaning set forth in IC 14-23-7-5.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-188
"Operate"
Sec. 188. "Operate" has the following meaning:
(1) For purposes of IC 14-15, the act of navigating, driving, steering, sailing, rowing, paddling, or otherwise moving or exercising physical control over the movement of a watercraft.
(2) For purposes of IC 14-16-1, the meaning set forth in IC 14-16-1-4.
As added by P.L.1-1995, SEC.1. Amended by P.L.186-2003, SEC.31.

IC 14-8-2-189
"Operation"
Sec. 189. "Operation", for purposes of IC 14-36-1, has the meaning set forth in IC 14-36-1-8.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-190
"Operator"
Sec. 190. "Operator" has the following meaning:
(1) For purposes of IC 14-16-1, the meaning set forth in IC 14-16-1-5.
(2) For purposes of IC 14-34, except IC 14-34-4-8 and IC 14-34-8-4, a person, partnership, limited liability company, or corporation engaged in coal mining who removes or intends to remove more than two hundred fifty (250) tons of coal from the earth by coal mining within twelve (12) consecutive months in one (1) location.
(3) For purposes of IC 14-34-4-8, the meaning set forth in IC 14-34-4-8.
(4) For purposes of IC 14-34-8-4, the meaning set forth in IC 14-34-8-4.
(5) For purposes of IC 14-36-1, the meaning set forth in IC 14-36-1-9.
(6) For purposes of IC 14-37, a person who:
(A) is issued a permit under IC 14-37; or
(B) is engaging in an activity for which a permit is required under IC 14-37.
As added by P.L.1-1995, SEC.1. Amended by P.L.186-2003, SEC.32.

IC 14-8-2-191
Repealed
(Repealed by P.L.2-1997, SEC.91.)

IC 14-8-2-192
"Other state"
Sec. 192. "Other state", for purposes of IC 14-28-1 and IC 14-28-3, means the following:
(1) Any state other than Indiana.
(2) The government of another state.
(3) An agency, an officer, a board, a bureau, a commission, a department, a division, or an instrumentality of another state.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-193
Repealed
(Repealed by P.L.2-1997, SEC.91.)

IC 14-8-2-194
"Overburden"
Sec. 194. "Overburden", for purposes of IC 14-36-1, has the meaning set forth in IC 14-36-1-10.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-195
"Owner"
Sec. 195. "Owner" has the following meaning:
(1) For purposes of IC 14-11-4, the meaning set forth in IC 14-11-4-2.
(2) For purposes of IC 14-15, a person who has the legal title to a watercraft.
(3) For purposes of IC 14-16-1, the meaning set forth in IC 14-16-1-6.
(4) For purposes of IC 14-25-4, the meaning set forth in IC 14-25-4-4.
(5) For purposes of IC 14-27-7, the meaning set forth in IC 14-27-7-1.
(6) For purposes of IC 14-27-7.5, the meaning set forth in IC 14-27-7.5-4.
(7) For purposes of IC 14-36, the term includes the following:
(A) Owners in fee.
(B) Life tenants.
(C) Tenants for years.
(D) Holders of remainder of reversionary interests.
(E) Holders of leaseholds or easements.
(F) Holders of mineral rights.
(8) For purposes of IC 14-37, a person who has the right to drill into and produce from a pool and to appropriate the oil and gas produced from the pool for:

(A) the person or others; or
(B) the person and others.
(9) For the purposes of IC 14-22-10-2, the meaning set forth in IC 14-22-10-2(c).
As added by P.L.1-1995, SEC.1. Amended by P.L.178-1995, SEC.2; P.L.138-1997, SEC.1; P.L.148-2002, SEC.3; P.L.186-2003, SEC.33.

IC 14-8-2-196
"Park"
Sec. 196. "Park", for purposes of IC 14-14-1, has the meaning set forth in IC 14-14-1-5.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-197
"Park project"
Sec. 197. "Park project", for purposes of IC 14-14-1, has the meaning set forth in IC 14-14-1-6.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-198
"Participating county"
Sec. 198. "Participating county" has the following meaning:
(1) For purposes of IC 14-30-2, the meaning set forth in IC 14-30-2-4.
(2) For purposes of IC 14-30-3, the meaning set forth in IC 14-30-3-3.
(3) For purposes of IC 14-30-4, the meaning set forth in IC 14-30-4-3.
As added by P.L.1-1995, SEC.1. Amended by P.L.35-2001, SEC.3.

IC 14-8-2-199
"Permit"
Sec. 199. (a) "Permit", for purposes of IC 14-28-1-38, has the meaning set forth in IC 14-28-1-38(a).
(b) "Permit", for purposes of IC 14-34, means a permit issued under IC 14-34 to conduct a surface coal mining and reclamation operation.
As added by P.L.1-1995, SEC.1. Amended by P.L.214-2014, SEC.1.

IC 14-8-2-200
"Permit area"
Sec. 200. "Permit area", for purposes of IC 14-34, means the area of land that is indicated on the approved map submitted by the operator with the operator's application.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-201
"Permittee"
Sec. 201. "Permittee", for purposes of IC 14-34, means a person

or the person's agent holding a permit issued under IC 14-34 to conduct a surface coal mining operation. The term includes a person who engages in surface coal mining operations without a permit.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-202
"Person"

Sec. 202. (a) "Person" means, except as provided in subsections (b) through (j), an individual, a partnership, an association, a fiduciary, an executor or administrator, a limited liability company, or a corporation.

(b) "Person", for purposes of IC 14-12-2, has the meaning set forth in IC 14-12-2-3.

(c) "Person", for purposes of IC 14-16, IC 14-22-28, IC 14-24, IC 14-26-2, IC 14-28-1, and IC 14-38-2, means an individual, a partnership, an association, a fiduciary, an executor or administrator, a limited liability company, a corporation, other legal entity, the state, or an agency, a political subdivision, or another instrumentality of the state.

(d) "Person", for purposes of IC 14-12-1, IC 14-12-2, IC 14-21, IC 14-25 through IC 14-29, except as otherwise provided in this section, IC 14-33, IC 14-34, and IC 14-37, means an individual, a partnership, an association, a fiduciary, an executor or administrator, a limited liability company, a corporation, or a governmental entity.

(e) "Person", for purposes of IC 14-22-31.5, has the meaning set forth in IC 14-22-31.5-2.

(f) "Person", for purposes of IC 14-25-3, has the meaning set forth in IC 14-25-3-1.

(g) "Person", for the purposes of IC 14-25-7, has the meaning set forth in IC 14-25-7-5.

(h) "Person", for purposes of IC 14-34, means an individual, a partnership, a limited liability company, an association, a society, a joint stock company, a firm, a company, a corporation, or other business organization.

(i) "Person", for purposes of IC 14-38-1, has the meaning set forth in IC 14-38-1-2.

(j) "Person", for purposes of IC 14-24-12, has the meaning set forth in IC 14-24-12-4.
As added by P.L.1-1995, SEC.1. Amended by P.L.132-1996, SEC.4; P.L.134-1996, SEC.2; P.L.155-2002, SEC.3 and P.L.158-2002, SEC.2; P.L.167-2011, SEC.8.

IC 14-8-2-202.5
"Personal watercraft"

Sec. 202.5. "Personal watercraft", for purposes of IC 14-15, means a watercraft:

(1) whose primary source of motive power is an inboard motor powering a water jet pump; and

(2) that is designed to be operated by a person who sits, stands,

or kneels on the surface of the watercraft rather than sitting or standing inside the watercraft.

As added by P.L.57-1995, SEC.7.

IC 14-8-2-203
"Pest or pathogen"

Sec. 203. "Pest or pathogen", for purposes of IC 14-24, means:

(1) an arthropod;
(2) a nematode;
(3) a microorganism;
(4) a fungus;
(5) a parasitic plant;
(6) a mollusk;
(7) a plant disease; or
(8) an exotic weed;

that may be injurious to nursery stock, agricultural crops, other vegetation, natural resources, or bees.

As added by P.L.1-1995, SEC.1. Amended by P.L.177-1995, SEC.2; P.L.225-2005, SEC.7; P.L.17-2009, SEC.1; P.L.113-2014, SEC.91; P.L.219-2014, SEC.12.

IC 14-8-2-204
"Petroleum"

Sec. 204. "Petroleum", for purposes of IC 14-38-1, has the meaning set forth in IC 14-38-1-3.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-205
"Pit"

Sec. 205. "Pit", for purposes of IC 14-36-1-15, has the meaning set forth in IC 14-36-1-15.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-206
"Plan"

Sec. 206. "Plan" has the following meaning:

(1) For purposes of IC 14-21-1, the meaning set forth in IC 14-21-1-8.
(2) For purposes of IC 14-30-2, the meaning set forth in IC 14-30-2-5.
(3) For purposes of IC 14-30-4, the meaning set forth in IC 14-30-4-4.

As added by P.L.1-1995, SEC.1. Amended by P.L.35-2001, SEC.4.

IC 14-8-2-207
"Plug" or "plugging"

Sec. 207. "Plug" or "plugging", for purposes of IC 14-38-2, has the meaning set forth in IC 14-38-2-3.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-208
"Political subdivision"

Sec. 208. "Political subdivision" has the following meaning:

(1) For purposes of IC 14-12-1, the meaning set forth in IC 14-12-1-2.

(2) For purposes of IC 14-13-2, the meaning set forth in IC 36-1-2-13.

(3) For purposes of IC 14-32-8, the meaning set forth in IC 14-32-8-2.

As added by P.L.1-1995, SEC.1. Amended by P.L.160-1999, SEC.2; P.L.167-2011, SEC.9; P.L.106-2012, SEC.2.

IC 14-8-2-209
"Pool"

Sec. 209. "Pool", for purposes of IC 14-37, means an accumulation of oil or natural gas that occurs in a separate underground reservoir under a single pressure system.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-210
"Potable water"

Sec. 210. "Potable water", for purposes of IC 14-25-4, has the meaning set forth in IC 14-25-4-5.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-211
"Premises"

Sec. 211. "Premises", for purposes of IC 14-22, includes land, water, and private ways.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-212
Repealed

(As added by P.L.1-1995, SEC.1. Repealed by P.L.40-2012, SEC.12.)

IC 14-8-2-213
"Prime farmland"

Sec. 213. "Prime farmland", for purposes of IC 14-34, has the meaning that is:

(1) prescribed by the United States Secretary of Agriculture:

(A) on the basis of factors such as moisture availability, temperature regime, chemical balance, permeability, surface layer composition, susceptibility to flooding, and erosion characteristics; and

(B) for land that historically has been used for intensive agricultural purposes; and

(2) published in the Federal Register.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-214
"Prior natural resources law"
Sec. 214. "Prior natural resources law", for purposes of IC 14-8-3, has the meaning set forth in IC 14-8-3-1.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-215
"Private waters"
Sec. 215. "Private waters", for purposes of IC 14-22-9-5, has the meaning set forth in IC 14-22-9-5.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-216
"Program"
Sec. 216. (a) "Program", for purposes of IC 14-12-3, has the meaning set forth in IC 14-12-3-4.
(b) "Program", for purposes of IC 14-23-6.5, has the meaning set forth in IC 14-23-6.5-1.
(c) "Program", for purposes of IC 14-32-8, has the meaning set forth in IC 14-32-8-3.
As added by P.L.1-1995, SEC.1. Amended by P.L.55-1999, SEC.1; P.L.160-1999, SEC.3.

IC 14-8-2-217
"Project"
Sec. 217. "Project", for purposes of IC 14-12-2, has the meaning set forth in IC 14-12-2-4.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-218
"Project committee"
Sec. 218. "Project committee", for purposes of IC 14-12-2, has the meaning set forth in IC 14-12-2-5.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-219
"Property"
Sec. 219. "Property" has the following meaning:
(1) For purposes of IC 14-12-2 and IC 14-21-3, the meaning set forth in IC 14-12-2-6.
(2) For purposes of IC 14-18-8, the meaning set forth in IC 14-18-8-1.
As added by P.L.1-1995, SEC.1. Amended by P.L.46-2000, SEC.6.

IC 14-8-2-220
"Proposed district"
Sec. 220. "Proposed district", for purposes of IC 14-33-4, has the meaning set forth in IC 14-33-4-1.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-221
"Proven territory"
Sec. 221. "Proven territory", for purposes of IC 14-38-1, has the meaning set forth in IC 14-38-1-4.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-222
"Public freshwater lake"
Sec. 222. "Public freshwater lake", for purposes of IC 14-26-2, has the meaning set forth in IC 14-26-2-3.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-222.5
"Public highway"
Sec. 222.5. "Public highway", for purposes of IC 14-22-10-11, has the meaning set forth in IC 8-2.1-17-14.
As added by P.L.52-2001, SEC.2.

IC 14-8-2-223
"Public land"
Sec. 223. "Public land", for purposes of IC 14-38-1, has the meaning set forth in IC 14-38-1-5.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-224
"Public or private property"
Sec. 224. "Public or private property" has the following meaning:
(1) For purposes of IC 14-22-2, the meaning set forth in IC 14-22-2-1.
(2) For purposes of IC 14-22-39-3, the meaning set forth in IC 14-22-39-3.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-225
"Public property"
Sec. 225. "Public property", for purposes of IC 14-16, means land and water that are:
(1) owned or leased by; and
(2) subject to the control of;
the state or any of the state's subdivisions.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-226
"Public waters"
Sec. 226. "Public waters", for purposes of IC 14-15, means every lake, river, stream, canal, ditch, and body of water that is:
(1) subject to the jurisdiction of the state; or
(2) owned or controlled by a public utility.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-227
"Pumping station"
Sec. 227. "Pumping station", for purposes of IC 14-27-6, has the meaning set forth in IC 14-27-6-5.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-228
"Pursue"
Sec. 228. "Pursue", for purposes of IC 14-22, means following wild animals with the intent to take.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-228.3
"Qualified individual"
Sec. 228.3. "Qualified individual", for purposes of IC 14-22-12-1.5, has the meaning set forth in IC 14-22-12-1.5(a).
As added by P.L.188-2001, SEC.1.

IC 14-8-2-228.5
"Raptor"
Sec. 228.5. "Raptor", for purposes of IC 14-22-10-11, has the meaning set forth in IC 14-22-10-11(a).
As added by P.L.52-2001, SEC.3.

IC 14-8-2-229
"Rated capacity of a pump"
Sec. 229. "Rated capacity of a pump", for purposes of IC 14-25-3-16, has the meaning set forth in IC 14-25-3-16.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-230
"Real property"
Sec. 230. "Real property" has the following meaning:
(1) For purposes of IC 14-17, IC 14-17-2, and IC 14-18-6, includes an interest in real property, such as the following:
(A) Any ownership interest in real property.
(B) A leasehold.
(C) A right-of-way.
(D) An easement, including a utility easement.
The term does not include personal property or an interest in personal property.
(2) For purposes of IC 14-20-3, the meaning set forth in IC 14-20-3-1.
(3) For purposes of IC 14-20-6, the meaning set forth in IC 14-20-6-1.
(4) For purposes of IC 14-20-8, the meaning set forth in IC 14-20-8-1.
(5) For purposes of IC 14-20-9, the meaning set forth in IC 14-20-9-2.

(6) For purposes of IC 14-20-10, the meaning set forth in IC 14-20-10-1.
(7) For purposes of IC 14-33:
(A) land;
(B) all buildings and fixtures on and appurtenant to land; and
(C) an estate created in:
(i) land; or
(ii) mines or minerals distinct from the surface of land;
by deed, contract reservation in a conveyance, or otherwise.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-231
"Reasonable beneficial use"
Sec. 231. "Reasonable beneficial use", for purposes of IC 14-25-7, has the meaning set forth in IC 14-25-7-6.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-232
"Reclamation"
Sec. 232. "Reclamation" has the following meaning:
(1) For purposes of IC 14-36-1, the meaning set forth in IC 14-36-1-11.
(2) For purposes of IC 14-36-2, the meaning set forth in IC 14-36-2-4.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-233
"Reclamation plan"
Sec. 233. "Reclamation plan", for purposes of IC 14-36-1, has the meaning set forth in IC 14-36-1-12.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-233.5
"Recreational off-road vehicle"
Sec. 233.5. "Recreational off-road vehicle", for purposes of IC 14-8-2-185, means a motorized, off-highway vehicle that:
(1) is sixty-five (65) inches or less in width;
(2) has a dry weight of two thousand (2,000) pounds or less;
(3) is designed for travel on at least four (4) nonhighway or off-highway tires; and
(4) is designed for recreational use by one (1) or more individuals.
As added by P.L.86-2010, SEC.4. Amended by P.L.219-2014, SEC.13.

IC 14-8-2-234
"Recreational purpose"
Sec. 234. "Recreational purpose", for purposes of IC 14-26-2-5, has the meaning set forth in IC 14-26-2-5.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-235
"Recreational river"

Sec. 235. "Recreational river", for purposes of IC 14-29-6, has the meaning set forth in IC 14-29-6-2.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-236
"Register"

Sec. 236. "Register", for purposes of IC 14-21-1, has the meaning set forth in IC 14-21-1-9.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-237
"Registry"

Sec. 237. "Registry", for purposes of IC 14-31-2, has the meaning set forth in IC 14-31-2-6.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-238
Repealed

(As added by P.L.1-1995, SEC.1. Repealed by P.L.40-2012, SEC.10.)

IC 14-8-2-239
"Repair"

Sec. 239. "Repair", for purposes of IC 14-34-11-3, has the meaning set forth in IC 14-34-11-3.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-239.5
Repealed

(As added by P.L.225-2005, SEC.8. Repealed by P.L.113-2014, SEC.92; P.L.219-2014, SEC.14.)

IC 14-8-2-240
"Reservoir"

Sec. 240. "Reservoir", for purposes of IC 14-37, means an underground geological formation that contains oil or natural gas.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-241
"Reservoir impoundment"

Sec. 241. "Reservoir impoundment", for purposes of IC 14-25 through IC 14-29, means the water stored in a reservoir created by the construction of a dam, an embankment, or other structure.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-242
"Resident"

Sec. 242. (a) "Resident", for purposes of IC 14-22, except as provided in subsection (b), means a person who:

(1) is domiciled in Indiana for sixty (60) consecutive days immediately preceding the date of the purchase of a license or permit; and

(2) does not claim residency for hunting, fishing, or trapping in any state other than Indiana or any country other than the United States.

(b) "Resident", for purposes of IC 14-22-17, has the meaning set forth in IC 14-22-17-1.

As added by P.L.1-1995, SEC.1. Amended by P.L.155-2002, SEC.4 and P.L.158-2002, SEC.3.

IC 14-8-2-242.5
Repealed

(As added by P.L.225-2005, SEC.9. Repealed by P.L.113-2014, SEC.93; P.L.219-2014, SEC.15.)

IC 14-8-2-243
"Restore" or "restoration"

Sec. 243. "Restore" or "restoration", for purposes of IC 14-36-2, has the meaning set forth in IC 14-36-2-5.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-244
"Review board"

Sec. 244. "Review board", for purposes of IC 14-21-1, has the meaning set forth in IC 14-21-1-10.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-245
"River"

Sec. 245. "River" has the following meaning:

(1) For purposes of IC 14-26-3, the meaning set forth in IC 14-26-3-2.

(2) For purposes of IC 14-29-6, the meaning set forth in IC 14-29-6-3.

(3) For purposes of IC 14-29-7, the meaning set forth in IC 14-29-7-2.

(4) For purposes of IC 14-32-7-12, the meaning set forth in IC 14-32-7-12.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-245.2
"Roe"

Sec. 245.2. "Roe" for purposes of IC 14-22-13-2.5, has the meaning set forth in IC 14-22-13-2.5(b).

As added by P.L.165-2011, SEC.3.

IC 14-8-2-245.3
"Rural community"

Sec. 245.3. "Rural community", for purposes of IC 14-23-6.5, has the meaning set forth in IC 14-23-6.5-2.
As added by P.L.55-1999, SEC.2.

IC 14-8-2-245.5
"Rural fire department"

Sec. 245.5. "Rural fire department", for purposes of IC 14-23-6.5, has the meaning set forth in IC 14-23-6.5-3.
As added by P.L.55-1999, SEC.3.

IC 14-8-2-246
"Scenic easement"

Sec. 246. "Scenic easement", for purposes of IC 14-29-6-13, has the meaning set forth in IC 14-29-6-13.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-247
"Scenic river"

Sec. 247. "Scenic river", for purposes of IC 14-29-6, has the meaning set forth in IC 14-29-6-4.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-248
"Season"

Sec. 248. "Season", for purposes of IC 14-22, means the period during which it is legal to fish, hunt, trap, or chase wild animals.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-249
"Sell"

Sec. 249. "Sell" has the following meaning:

(1) For purposes of IC 14-22-6-8, the meaning set forth in IC 14-22-6-8.

(2) For purposes of IC 14-22-38-6, the meaning set forth in IC 14-22-38-6.

(3) For purposes of IC 14-31-3, the meaning set forth in IC 14-31-3-5.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-250
"Selling season"

Sec. 250. "Selling season", for purposes of IC 14-31-3-9, has the meaning set forth in IC 14-31-3-9.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-251
Repealed
(As added by P.L.1-1995, SEC.1. Repealed by P.L.40-2012, SEC.11.)

IC 14-8-2-252
"Sewage"
Sec. 252. "Sewage" has the following meaning:
(1) For purposes of IC 14-15-2-7, the meaning set forth in IC 14-15-2-7.
(2) For purposes of IC 14-33-22, the meaning set forth in IC 14-33-22-2.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-253
"Sewerage system"
Sec. 253. "Sewerage system", for purposes of IC 14-33-22, has the meaning set forth in IC 14-33-22-3.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-254
"Ship"
Sec. 254. "Ship", for purposes of IC 14-22-38-6, has the meaning set forth in IC 14-22-38-6.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-254.5
"Shooting range"
Sec. 254.5. "Shooting range", for purposes of IC 14-22-31.5, has the meaning set forth in IC 14-22-31.5-3.
As added by P.L.134-1996, SEC.3.

IC 14-8-2-255
"Shoreline or water line"
Sec. 255. "Shoreline or water line" has the following meaning:
(1) For purposes of IC 14-26-2, the meaning set forth in IC 14-26-2-4.
(2) For purposes of IC 14-26-8, the meaning set forth in IC 14-26-8-2.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-256
"Significant ground water withdrawal facility"
Sec. 256. "Significant ground water withdrawal facility", for purposes of IC 14-25-4, has the meaning set forth in IC 14-25-4-6.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-257
"Significant water withdrawal facility"

Sec. 257. "Significant water withdrawal facility" has the following meaning:

(1) For purposes of IC 14-25-5, the meaning set forth in IC 14-25-5-5.

(2) For purposes of IC 14-25-7-15, the meaning set forth in IC 14-25-7-15.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-258
"Site"

Sec. 258. "Site", for purposes of IC 14-21, includes the following:

(1) An aboriginal mound, a fort, an earthwork, a village location, a burial ground, a ruin, a mine, a cave, a battleground, a shipwreck, or other similar location on land or under water.

(2) A location that contains or did contain a structure.

As added by P.L.1-1995, SEC.1. Amended by P.L.167-2011, SEC.10.

IC 14-8-2-259
"Small lake"

Sec. 259. "Small lake", for purposes of IC 14-15-3, has the meaning set forth in IC 14-15-3-1.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-260
"Small state park"

Sec. 260. "Small state park", for purposes of IC 14-19-2, has the meaning set forth in IC 14-19-2-1.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-261
"Snowmobile"

Sec. 261. "Snowmobile", for purposes of IC 14-16, means a motor driven vehicle:

(1) designed for travel primarily on snow or ice; and

(2) of a type that uses:

(A) sled type runners or skis;

(B) an endless belt tread; or

(C) any combination of these or other similar means of contact with the surface upon which the vehicle is operated.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-262
"Soil"

Sec. 262. "Soil", for purposes of IC 14-32-7, has the meaning set forth in IC 14-32-7-5.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-263
"St. Joseph River basin"

Sec. 263. "St. Joseph River basin", for purposes of IC 14-30-3, has the meaning set forth in IC 14-30-3-4.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-264
"Stamp"
Sec. 264. "Stamp" has the following meaning:
(1) For purposes of IC 14-22-7, the meaning set forth in IC 14-22-7-2.
(2) For purposes of IC 14-22-8, the meaning set forth in IC 14-22-8-3.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-265
"State"
Sec. 265. "State", for purposes of IC 14-28-1, IC 14-28-3, and IC 14-32, means the following:
(1) The Indiana state government.
(2) An agency, a subdivision, an officer, a board, a bureau, a commission, a department, a division, or an instrumentality of the state.
As added by P.L.1-1995, SEC.1. Amended by P.L.225-2005, SEC.10; P.L.113-2014, SEC.94; P.L.219-2014, SEC.16.

IC 14-8-2-266
Repealed
(As added by P.L.1-1995, SEC.1. Repealed by P.L.167-2011, SEC.31.)

IC 14-8-2-266.8
"State college or university project"
Sec. 266.8. "State college or university project", for purposes of IC 14-21-1, has the meaning set forth in IC 14-21-1-10.4.
As added by P.L.135-1996, SEC.1.

IC 14-8-2-267
"Stream"
Sec. 267. "Stream" has the following meaning:
(1) For purposes of IC 14-25-7, the meaning set forth in IC 14-25-7-7.
(2) For purposes of IC 14-29-8, the meaning set forth in IC 14-29-8-1.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-268
"Structure"
Sec. 268. "Structure" has the following meaning:
(1) For purposes of IC 14-21, a manmade construction.
(2) For purposes of IC 14-27-7.5, the meaning set forth in

IC 14-27-7.5-5.
As added by P.L.1-1995, SEC.1. Amended by P.L.148-2002, SEC.4; P.L.167-2011, SEC.11.

IC 14-8-2-268.5
"Substantial alteration"
Sec. 268.5. "Substantial alteration", for purposes of IC 14-21-1-18.6, has the meaning set forth in IC 14-21-1-18.6(a).
As added by P.L.54-1997, SEC.6.

IC 14-8-2-269
"Substantial legal and financial commitments in a surface coal mining operation"
Sec. 269. "Substantial legal and financial commitments in a surface coal mining operation", for purposes of IC 14-34-18, has the meaning set forth in IC 14-34-18-2.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-270
Repealed
(Repealed by P.L.2-1997, SEC.91.)

IC 14-8-2-271
"Supervisor"
Sec. 271. "Supervisor", for purposes of IC 14-32, refers to one (1) of the members of the governing body of a soil and water conservation district.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-272
"Surface coal mining and reclamation operations"
Sec. 272. "Surface coal mining and reclamation operations", for purposes of IC 14-34, means surface mining operations and all activities necessary and incident to the reclamation of the operations after August 3, 1977.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-273
"Surface coal mining operations"
Sec. 273. "Surface coal mining operations", for purposes of IC 14-34 and IC 14-36-2, means the following:
(1) Activities conducted on the surface of land in connection with a surface coal mine or, subject to the requirements of IC 14-34-11, surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. The activities include the following:
(A) Excavation for the purpose of obtaining coal, including common methods such as contour, strip, auger, hilltop

removal, boxcut, open pit, and area mining.

(B) The extraction of coal from coal refuse piles.

(C) The use of explosives and blasting.

(D) In situ distillation or retorting, leaching, or other chemical or physical processing.

(E) The cleaning, concentrating, or other processing or preparation of coal.

(F) The loading of coal for interstate commerce at or near the mine site.

The activities do not include the extraction of coal incidental to the extraction of other minerals if coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale or coal explorations subject to IC 14-34-9.

(2) The areas upon which mining activities occur or where mining activities disturb the natural land surface. The areas include the following:

(A) Adjacent land for which the use is incidental to mining activities.

(B) All land affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of mining activities and for haulage.

(C) Excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which structures, facilities, or other property or materials on the surface resulting from or incident to mining activities are sited.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-274
"Surface mining"

Sec. 274. "Surface mining", for purposes of IC 14-36, has the meaning set forth in IC 14-36.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-274.5
"Surface Mining Control and Reclamation Act"

Sec. 274.5. "Surface Mining Control and Reclamation Act", for purposes of IC 14-34-7, has the meaning set forth in IC 14-34-7-2.5.

As added by P.L.176-1995, SEC.4.

IC 14-8-2-275
"Surface water"

Sec. 275. "Surface water", for purposes of IC 14-25 through IC 14-29, means all water occurring on the surface of the ground. The term includes the following:

(1) Water in a stream.

(2) Natural and artificial lakes.
(3) Ponds.
(4) Swales.
(5) Marshes.
(6) Diffused surface water.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-276
"Surplus water"
Sec. 276. "Surplus water", for purposes of IC 14-25-7-13, has the meaning set forth in IC 14-25-7-13.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-277
"System"
Sec. 277. "System" has the following meaning:
(1) For purposes of IC 14-29-6, the meaning set forth in IC 14-29-6-5.
(2) For purposes of IC 14-31-1, the meaning set forth in IC 14-31-1-6.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-278
"Take"
Sec. 278. "Take" has the following meaning:
(1) For purposes of IC 14-22, except as provided in subdivision (2):
(A) to kill, shoot, spear, gig, catch, trap, harm, harass, or pursue a wild animal; or
(B) to attempt to engage in such conduct.
(2) For purposes of IC 14-22-34, the meaning set forth in IC 14-22-34-5.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-279
"Tangible net worth"
Sec. 279. "Tangible net worth", for purposes of IC 14-34-7, has the meaning set forth in IC 14-34-7-3.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-279.5
Repealed
(As added by P.L.112-2006, SEC.1. Amended by P.L.83-2009, SEC.1. Repealed by P.L.133-2012, SEC.167.)

IC 14-8-2-280
"Taxidermist"
Sec. 280. "Taxidermist", for purposes of IC 14-22-21, has the meaning set forth in IC 14-22-21-1.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-281
"Test hole"
Sec. 281. "Test hole", for purposes of IC 14-38-2, has the meaning set forth in IC 14-38-2-4.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-281.5
"Total length"
Sec. 281.5. "Total length", for purposes of IC 14-28-1-22, has the meaning set forth in IC 14-28-1-22(a).
As added by P.L.180-1995, SEC.1.

IC 14-8-2-282
"Trust committee"
Sec. 282. "Trust committee", for purposes of IC 14-12-2, has the meaning set forth in IC 14-12-2-7.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-283
Repealed
(As added by P.L.1-1995, SEC.1. Repealed by P.L.167-2011, SEC.31.)

IC 14-8-2-284
"Trust I"
Sec. 284. "Trust I", for purposes of IC 14-31-2, has the meaning set forth in IC 14-31-2-7.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-285
"Trust II"
Sec. 285. "Trust II", for purposes of IC 14-31-2, has the meaning set forth in IC 14-31-2-8.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-285.5
"Unanticipated event or condition"
Sec. 285.5. "Unanticipated event or condition", for purposes of IC 14-34-4, means an event or condition that:
(1) is encountered in a remining operation; and
(2) was not contemplated by the applicable surface coal mining and reclamation permit.
As added by P.L.179-1995, SEC.2.

IC 14-8-2-286
Repealed
(Repealed by P.L.2-1997, SEC.91.)

IC 14-8-2-287
"Underground injection"

Sec. 287. "Underground injection", for purposes of IC 14-32-5-4, has the meaning set forth in IC 14-32-5-4.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-288
"Underwater breathing apparatus"

Sec. 288. "Underwater breathing apparatus", for purposes of IC 14-15-9, has the meaning set forth in IC 14-15-9-3.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-289
"Unit of local government"

Sec. 289. "Unit of local government", for purposes of IC 14-12-1 and IC 14-22-10, means a:

(1) county;
(2) city;
(3) town; or
(4) township;

located in Indiana.

As added by P.L.1-1995, SEC.1. Amended by P.L.52-2001, SEC.4; P.L.82-2005, SEC.1.

IC 14-8-2-290
"United States"

Sec. 290. "United States" has the following meaning:

(1) For purposes of IC 14-28-1 and IC 14-28-3, the following:
  (A) The United States government.
  (B) An agency, an officer, a board, a bureau, a commission, a department, a division, or an instrumentality of the United States.
(2) For purposes of IC 14-32, the following:
  (A) The United States.
  (B) The Natural Resources Conservation Service of the United States Department of Agriculture.
  (C) Any other agency or instrumentality, corporate or otherwise, of the United States.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-291
"Unwarranted failure to comply"

Sec. 291. "Unwarranted failure to comply", for purposes of IC 14-34-15-7, has the meaning set forth in IC 14-34-15-7.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-291.5
"Upper Wabash River basin"

Sec. 291.5. "Upper Wabash River basin", for purposes of IC 14-30-4, has the meaning set forth in IC 14-30-4-5.
As added by P.L.35-2001, SEC.5.

IC 14-8-2-292
"Urban geology survey"
Sec. 292. "Urban geology survey", for purposes of IC 14-32-7-7, has the meaning set forth in IC 14-32-7-7.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-293
"User"
Sec. 293. "User", for purposes of IC 14-33-22, has the meaning set forth in IC 14-33-22-4.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-294
Repealed
(Repealed by P.L.2-1997, SEC.91.)

IC 14-8-2-294.5
"Utility"
Effective 1-1-2016.
Sec. 294.5. "Utility", for purposes of IC 14-18-10, includes a communications service provider (as defined in IC 8-1-32.5-4).
As added by P.L.145-2015, SEC.5.

IC 14-8-2-295
Repealed
(Repealed by P.L.2-1997, SEC.91.)

IC 14-8-2-296
"Vehicle"
Sec. 296. "Vehicle", for purposes of IC 14-16-1, has the meaning set forth in IC 14-16-1-7.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-297
"Visible"
Sec. 297. "Visible", for purposes of IC 14-15, means capable of being seen by a person of normal vision on a dark and clear night.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-298
"Vital"
Sec. 298. "Vital", for purposes of IC 14-24-5, has the meaning set forth in IC 14-24-5-1.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-298.5
"Volume"
Sec. 298.5. "Volume", for purposes of IC 14-27-7.5, has the meaning set forth in IC 14-27-7.5-6.
As added by P.L.148-2002, SEC.5.

IC 14-8-2-299
"Wabash River"
Sec. 299. "Wabash River", for purposes of IC 14-13-6, has the meaning set forth in IC 14-13-6-4.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-300
"Wabash River heritage corridor"
Sec. 300. "Wabash River heritage corridor", for purposes of IC 14-13-6, has the meaning set forth in IC 14-13-6-5.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-301
"Wake" or "wash"
Sec. 301. "Wake" or "wash", for purposes of IC 14-15, means a track left by a watercraft causing waves that:
(1) disrupt other water sport activities; or
(2) may cause injury or damage to individuals, watercraft, or property.
As added by P.L.1-1995, SEC.1.

IC 14-8-2-302
"Waste" or "wasted"
Sec. 302. "Waste" or "wasted" has the following meaning:
(1) For purposes of IC 14-25-3, the meaning set forth in IC 14-25-3-2.
(2) For purposes of IC 14-37, the term includes the following:
(A) Locating, spacing, drilling, equipping, operating, or producing a well for oil and gas purposes drilled after March 13, 1947, in any manner that:
(i) reduces or tends to reduce the quantity of oil or gas ultimately to be recovered from any well in Indiana; or
(ii) violates the spacing provisions adopted by the commission under IC 14-37.
(B) Storing oil in earthen reservoirs except in an emergency to prevent the total loss of that oil.
(C) Producing oil or gas in a manner that will cause water channeling or zoning.
(D) Injecting fluids into a stratum or part of a stratum capable of producing oil or gas, except in accordance with the terms of a Class II well for which a permit is issued under IC 14-37.
(E) Allowing water other than fresh water to flow from any

producing horizon located in a producing pool, except in accordance with the terms of a permit issued under IC 14-37.
(F) Allowing gas from a well that produces only gas to escape into the atmosphere, except as is necessary while making or changing connections, completing the well, or reconditioning the well.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-303
"Water containing state owned fish"

Sec. 303. "Water containing state owned fish", for purposes of IC 14-22, means any water on public or private land that:

(1) permits ingress by fish from waters of the state; or
(2) has been stocked with state owned fish.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-304
"Watercourse"

Sec. 304. (a) "Watercourse", for purposes of IC 14-25 through IC 14-29, means a channel that:

(1) has defined banks;
(2) is cut by erosion of running water through turf, soil, rock, or other material; and
(3) has a bottom over which water flows for substantial periods of the year.

(b) The term includes the following:

(1) The upstream and downstream parts of a watercourse that is lost in a swamp or a lake if the watercourse emerges from the swamp or lake in a well defined channel.
(2) A watercourse that has been improved by confining the watercourse in an artificial channel.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-305
"Watercraft"

Sec. 305. "Watercraft", for purposes of IC 14-15 and IC 14-29-8, means any instrumentality or device in or by means of which a person may be transported upon the public water of Indiana. The term includes a motorboat, sailboat, rowboat, skiff, dinghy, or canoe:

(1) of any length or size; and
(2) whether or not used to carry passengers for hire.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-306
"Water facilities" and "water supply"

Sec. 306. "Water facilities" and "water supply", for purposes of IC 14-33-20, have the meaning set forth in IC 14-33-20-3.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-307
"Water of the state"

Sec. 307. "Water of the state", for purposes of IC 14-22, means a lake, reservoir, marsh, waterway, or other water:

(1) under public:
(A) ownership;
(B) jurisdiction; or
(C) lease; or

(2) that has been used by the public with the acquiescence of any or all riparian owners.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-308
"Water resource"

Sec. 308. "Water resource", for purposes of IC 14-25-7, has the meaning set forth in IC 14-25-7-8.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-309
"Water resources"

Sec. 309. "Water resources", for purposes of IC 14-28-1, has the meaning set forth in IC 14-28-1-4.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-310
"Watershed"

Sec. 310. (a) "Watershed", for purposes of IC 14-25 through IC 14-29, means an area:

(1) from which water drains to a common point; and

(2) for:
(A) a watercourse, that is measured to the mouth of the watercourse; and
(B) any part of a watercourse, that is measured to the farthest downstream point in question.

(b) For purposes of IC 14-13-2, "watershed" has the meaning set forth in IC 14-13-2-3.8.

As added by P.L.1-1995, SEC.1. Amended by P.L.106-2012, SEC.3.

IC 14-8-2-311
"Water supply"

Sec. 311. "Water supply", for purposes of IC 14-25 through IC 14-29, means the volume of water designated for use in or by a beneficial process or purpose in the satisfaction of domestic, municipal, agricultural, industrial, commercial, recreational, power, transportation, stream pollution abatement, health, and other uses and needs in a manner consistent with the public interest.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-312

"Water supply reservoir"

Sec. 312. "Water supply reservoir", for purposes of IC 14-26-2-16, has the meaning set forth in IC 14-26-2-16.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-313

"Water supply storage"

Sec. 313. "Water supply storage", for purposes of IC 14-25 through IC 14-29, means the part of a reservoir impoundment designated or allocated for water supply purposes.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-314

"Water use easement"

Sec. 314. "Water use easement", for purposes of IC 14-29-6-13, has the meaning set forth in IC 14-29-6-13.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-315

"Waterway"

Sec. 315. "Waterway", for purposes of IC 14-22, means a river, stream, ditch, canal, or other channel through which water may flow continuously or seasonally.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-315.2

"Wear hunter orange"

Sec. 315.2. "Wear hunter orange", for purposes of IC 14-22-38-7, has the meaning set forth in IC 14-22-38-7(b).

As added by P.L.104-2001, SEC.2.

IC 14-8-2-316

"Weed"

Sec. 316. "Weed" means any plant that is competitive, persistent, pernicious, and interferes with human activity, and as a result is undesirable.

As added by P.L.177-1995, SEC.3.

IC 14-8-2-317

"Well for oil and gas purposes"

Sec. 317. "Well for oil and gas purposes", for purposes of IC 14-37, means a well bore drilled, deepened, or converted for any purpose for which a permit is required under IC 14-37. The term includes the following:

(1) An oil well.
(2) A natural gas well.
(3) A coal bed methane well.
(4) A Class II well.
(5) A structure test well.

(6) A well used for the sole purpose of supplying water for the secondary recovery of petroleum resources.

(7) An underground gas storage well or underground gas storage observation well.

As added by P.L.1-1995, SEC.1. Amended by P.L.78-2010, SEC.3.

IC 14-8-2-318
"Wild animal"

Sec. 318. "Wild animal" has the following meaning:

(1) For purposes of IC 14-22, except as provided in subdivision (2), an animal whose species usually:

(A) lives in the wild; or

(B) is not domesticated.

(2) For purposes of IC 14-22-38-6, the meaning set forth in IC 14-22-38-6.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-319
"Wild ginseng"

Sec. 319. "Wild ginseng", for purposes of IC 14-31-3, has the meaning set forth in IC 14-31-3-6.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-320
"Wildlife"

Sec. 320. "Wildlife" has the following meaning:

(1) For purposes of IC 14-22, except as provided in subdivision (2), all wild birds and wild mammals.

(2) For purposes of IC 14-22-34, the meaning set forth in IC 14-22-34-6.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-321
"Withdrawal use"

Sec. 321. "Withdrawal use", for purposes of IC 14-25-7, has the meaning set forth in IC 14-25-7-9.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-322
"Works"

Sec. 322. "Works", for purposes of IC 14-33-22, has the meaning set forth in IC 14-33-22-5.

As added by P.L.1-1995, SEC.1.

IC 14-8-2-323
"Zoological park"

Sec. 323. "Zoological park", for purposes of IC 14-22-26, has the meaning set forth in IC 14-22-26-2.

As added by P.L.1-1995, SEC.1.

IC 14-8-3

Chapter 3. Effect of Recodification by the Act of the 1995 Regular Session of the General Assembly

IC 14-8-3-1

"Prior natural resources law" defined

Sec. 1. As used in this chapter, "prior natural resources law" refers to the statutes that are repealed or amended in the recodification act of the 1995 regular session of the general assembly as the statutes existed before the effective date of the applicable or corresponding provision of the recodification act of the 1995 regular session of the general assembly.

As added by P.L.1-1995, SEC.1.

IC 14-8-3-2

Purpose of recodification act

Sec. 2. The purpose of the recodification act of the 1995 regular session of the general assembly is to recodify prior natural resources law in a style that is clear, concise, and easy to interpret and apply. Except to the extent that:

(1) the recodification act of the 1995 regular session of the general assembly is amended to reflect the changes made in a provision of another bill that adds to, amends, or repeals a provision in the recodification act of the 1995 regular session of the general assembly; or

(2) the minutes of meetings of the code revision commission during 1994 expressly indicate a different purpose;

the substantive operation and effect of the prior natural resources law continue uninterrupted as if the recodification act of the 1995 regular session of the general assembly had not been enacted.

As added by P.L.1-1995, SEC.1.

IC 14-8-3-3

Statutory construction

Sec. 3. Subject to section 2 of this chapter, sections 4 through 9 of this chapter shall be applied to the statutory construction of the recodification act of the 1995 regular session of the general assembly.

As added by P.L.1-1995, SEC.1. Amended by P.L.2-1997, SEC.52.

IC 14-8-3-4

Effect on existing rights and liabilities

Sec. 4. (a) The recodification act of the 1995 regular session of the general assembly does not affect:

(1) any rights or liabilities accrued;

(2) any penalties incurred;

(3) any violations committed;

(4) any proceedings begun;

(5) any bonds, notes, loans, or other forms of indebtedness

issued, incurred, or made;
(6) any tax levies made or authorized;
(7) any funds established;
(8) any patents issued;
(9) the validity, continuation, or termination of any contracts or leases executed; or
(10) the validity, continuation, scope, termination, suspension, or revocation of:
(A) permits;
(B) licenses;
(C) certificates of registration;
(D) grants of authority; or
(E) limitations of authority;

before the effective date of the recodification act of the 1995 regular session of the general assembly (July 1, 1995). Those rights, liabilities, penalties, offenses, proceedings, bonds, notes, loans, other forms of indebtedness, tax levies, funds, patents, contracts, leases, permits, licenses, certificates of registration, grants of authority, or limitations of authority continue and shall be imposed and enforced under prior natural resources law as if the recodification act of the 1995 regular session of the general assembly had not been enacted.

(b) The recodification act of the 1995 regular session of the general assembly does not:
(1) extend, or cause to expire, a permit, license, certificate of registration, or other grant or limitation of authority; or
(2) in any way affect the validity, scope, or status of a license, permit, certificate of registration, or other grant or limitation of authority;

issued under the prior natural resources law.

(c) The recodification act of the 1995 regular session of the general assembly does not affect the revocation, limitation, or suspension of a permit, license, certificate of registration, or other grant or limitation of authority based in whole or in part on violations of the prior natural resources law or the rules adopted under the prior natural resources law.

As added by P.L.1-1995, SEC.1.

IC 14-8-3-5

Recodification of prior natural resources law

Sec. 5. The recodification act of the 1995 regular session of the general assembly shall be construed as a recodification of prior natural resources law. If the literal meaning of the recodification act of the 1995 regular session of the general assembly would result in a substantive change in the prior natural resources law, the difference shall be construed as a typographical, spelling, or other clerical error that must be corrected by:
(1) inserting, deleting, or substituting words, punctuation, or other matters of style in the recodification act of the 1995 regular session of the general assembly; and

(2) using any other rule of statutory construction;

as necessary or appropriate to apply the recodification act of the 1995 regular session of the general assembly in a manner that does not result in a substantive change in the law. The principle of statutory construction that a court must apply the literal meaning of an act if the literal meaning of the act is unambiguous does not apply to the recodification act of the 1995 regular session of the general assembly to the extent that the recodification act of the 1995 regular session of the general assembly is not substantively identical to the prior natural resources law.

As added by P.L.1-1995, SEC.1.

IC 14-8-3-6

References to repealed and replaced statutes

Sec. 6. Subject to section 7 of this chapter, a reference in a statute or rule to a statute that is repealed and replaced in the same or a different form in the recodification act of the 1995 regular session of the general assembly shall be treated after the effective date of the new provision as a reference to the new provision.

As added by P.L.1-1995, SEC.1.

IC 14-8-3-7

References to provisions of recodification act

Sec. 7. A citation reference in the recodification act of the 1995 regular session of the general assembly to another provision of the recodification act of the 1995 regular session of the general assembly shall be treated as including a reference to the provision of prior natural resources law that is substantively equivalent to the provision of the recodification act of the 1995 regular session of the general assembly that is referred to by the citation reference.

As added by P.L.1-1995, SEC.1.

IC 14-8-3-8

References to rules

Sec. 8. (a) As used in the recodification act of the 1995 regular session of the general assembly, a reference to rules adopted under any provision of this title or under any other provision of the recodification act of the 1995 regular session of the general assembly refers to either:

(1) rules adopted under the recodification act of the 1995 regular session of the general assembly; or

(2) rules adopted under the prior natural resources law until those rules have been amended, repealed, or superseded.

(b) Rules adopted under the prior natural resources law continue in effect after June 30, 1995, until the rules are amended, repealed, or suspended.

As added by P.L.1-1995, SEC.1.

IC 14-8-3-9

References to provisions of prior natural resources law

Sec. 9. (a) A reference in the recodification act of the 1995 regular session of the general assembly to a citation in the prior natural resources law before its repeal is added in certain sections of the recodification act of the 1995 regular session of the general assembly only as an aid to the reader.

(b) The inclusion or omission in the recodification act of the 1995 regular session of the general assembly of a reference to a citation in the prior natural resources law before its repeal does not affect:

(1) any rights or liabilities accrued;
(2) any penalties incurred;
(3) any violations committed;
(4) any proceedings begun;
(5) any bonds, notes, loans, or other forms of indebtedness issued, incurred, or made;
(6) any tax levies made;
(7) any funds established;
(8) any patents issued;
(9) the validity, continuation, or termination of contracts or leases executed; or
(10) the validity, continuation, scope, termination, suspension, or revocation of:
    (A) permits;
    (B) licenses;
    (C) certificates of registration;
    (D) grants of authority; or
    (E) limitations of authority;

before the effective date of the recodification act of the 1995 regular session of the general assembly (July 1, 1995). Those rights, liabilities, penalties, offenses, proceedings, bonds, notes, loans, other forms of indebtedness, tax levies, funds, patents, contracts, leases, licenses, permits, certificates of registration, and other grants of authority continue and shall be imposed and enforced under prior natural resources law as if the recodification act of the 1995 regular session of the general assembly had not been enacted.

(c) The inclusion or omission in the recodification act of the 1995 regular session of the general assembly of a citation to a provision in the prior natural resources law does not affect the use of a prior conviction, violation, or noncompliance under the prior natural resources law as the basis for revocation of a license, permit, certificate of registration, or other grant of authority under the recodification act of the 1995 regular session of the general assembly, as necessary or appropriate to apply the recodification act of the 1995 regular session of the general assembly in a manner that does not result in a substantive change in the law.

As added by P.L.1-1995, SEC.1.

IC 14-9

ARTICLE 9. DEPARTMENT OF NATURAL RESOURCES

IC 14-9-1

Chapter 1. Creation of Department

IC 14-9-1-1

Creation of department

Sec. 1. The department of natural resources is created. The department consists of the following:

(1) The director.

(2) Four (4) deputy directors.

(3) Other personnel necessary for the performance of the functions imposed upon the department.

As added by P.L.1-1995, SEC.2.

IC 14-9-2
Chapter 2. Director of Department

IC 14-9-2-1
Creation of office of director

Sec. 1. The office of director of the department is created. The governor shall appoint the director, who serves at the pleasure of the governor. The director is the executive and chief administrative officer of the department.

As added by P.L.1-1995, SEC.2. Amended by P.L.100-2012, SEC.35.

IC 14-9-2-2
Appointment and removal of deputies, officers, and employees

Sec. 2. The director may do the following:

(1) Appoint and remove deputy directors.

(2) Upon the recommendation of the deputy director of a bureau, appoint and remove all officers and employees of the bureau.

As added by P.L.1-1995, SEC.2.

IC 14-9-2-3
Supervisory duties

Sec. 3. The director has the following duties:

(1) Supervision of the work of the department and of each of the divisions.

(2) The control of all officers, deputies, inspectors, and employees charged with the enforcement of the penal provisions of this title or of the rules of the commission.

(3) The direct charge of the conservation officers in the enforcement of the laws relating to fisheries and game.

As added by P.L.1-1995, SEC.2.

IC 14-9-2-4
Law enforcement powers

Sec. 4. (a) The director may, with the approval of the commission, do the following:

(1) Cooperate with any other department of state government in the enforcement of law.

(2) Assign deputies to aid the other department in making inspections and in the prevention or detection of crime.

(3) Receive similar assistance from the deputies of any other state department.

(b) If deputies or employees of one (1) department are assigned to another department, the deputies or employees shall be paid from the money of the department to which the deputies or employees are assigned.

As added by P.L.1-1995, SEC.2.

IC 14-9-2-5
"Endangered species"

Sec. 5. (a) As used in this section, "endangered species" means the following:

(1) An endangered species as defined by IC 14-22-34-1.

(2) A native plant species classified by the division of nature preserves as endangered or threatened.

(b) Information that provides the specific or general location of an endangered species or information that, if disclosed, could have a detrimental effect on an endangered species may be kept confidential for purposes of IC 5-14-3-4 at the discretion of the director.

As added by P.L.155-2015, SEC.7.

IC 14-9-3

Chapter 3. Bureaus of Department

IC 14-9-3-1

Creation of bureaus

Sec. 1. The following bureaus are created within the department:

(1) The bureau of water and resource regulation.

(2) The bureau of lands and cultural resources.

(3) The bureau of mine reclamation.

(4) The bureau of law enforcement and administration.

As added by P.L.1-1995, SEC.2.

IC 14-9-3-2

Deputy directors

Sec. 2. Each bureau is headed by a deputy director. Each deputy director:

(1) must be professionally or technically qualified for the position; and

(2) shall be employed in accordance with IC 14-9-7.

As added by P.L.1-1995, SEC.2.

IC 14-9-4

Chapter 4. Divisions of Department

IC 14-9-4-1

Establishment of divisions

Sec. 1. The following divisions are established within the department:

(1) Accounting.
(2) Administrative support services.
(3) Budget.
(4) Engineering.
(5) Entomology and plant pathology.
(6) Fish and wildlife.
(7) Forestry.
(8) Historic preservation and archeology.
(9) Human resources.
(10) Internal audit.
(11) Land acquisition.
(12) Law enforcement.
(13) Management information systems.
(14) Nature preserves.
(15) Oil and gas.
(16) Outdoor recreation.
(17) Public information and education.
(18) Reclamation.
(19) Reservoir management.
(20) Safety and training.
(21) State parks.
(22) Water.
(23) State land office.

As added by P.L.1-1995, SEC.2. Amended by P.L.1-2006, SEC.209; P.L.167-2011, SEC.12; P.L.151-2012, SEC.8.

IC 14-9-4-2

Creation, consolidation, or abolition of divisions or bureaus

Sec. 2. (a) The commission may, with the approval of the governor, create divisions other than the divisions established by section 1 of this chapter as the work of the department develops and as is necessary to differentiate the various functions of the department.

(b) The commission may, with the approval of the governor, merge, consolidate, and abolish bureaus and divisions other than the division of law enforcement as the work of the department develops and as is necessary to consolidate, coordinate, or reduce the functions of the department.

(c) In the creation, consolidation, or abolition of bureaus or divisions, the commission may not do the following:

(1) Exercise a power or duty not otherwise provided by law.

(2) Abdicate or otherwise avoid the execution of a duty imposed by law.

As added by P.L.1-1995, SEC.2.

IC 14-9-4-3

State entomologist; state forester

Sec. 3. The:

(1) director of the division of entomology and plant pathology is the state entomologist; and

(2) director of the division of forestry is the state forester.

As added by P.L.1-1995, SEC.2.

IC 14-9-5

Chapter 5. Revolving Funds of Divisions

IC 14-9-5-1

"Fund" defined

Sec. 1. As used in this chapter, "fund" refers to the revolving fund of a division.

As added by P.L.1-1995, SEC.2.

IC 14-9-5-2

Revolving funds

Sec. 2. All money accruing to the use of a division, other than a regular or specific appropriation made by the general assembly, is considered to constitute a revolving fund for the use of the division.

As added by P.L.1-1995, SEC.2.

IC 14-9-5-3

Money reverting to state general fund

Sec. 3. Money in a fund does not revert to the state general fund at the end of a state fiscal year.

As added by P.L.1-1995, SEC.2. Amended by P.L.66-2008, SEC.2.

IC 14-9-5-4

Indiana sportsmen's benevolence account

Sec. 4. (a) As used in this section, "account" means the Indiana sportsmen's benevolence account established by subsection (b).

(b) The Indiana sportsmen's benevolence account is established within the fund for the division of law enforcement to encourage citizen participation in feeding the state's hungry through donations of wild game that has been lawfully hunted.

(c) The account consists of:

(1) gifts;

(2) donations;

(3) proceeds derived from marketing by the division of law enforcement of goods related to the feeding of the state's hungry through donations of wild game under subsection (b); and

(4) donations collected under IC 14-22-12-1(c).

(d) The expenses of administering the account shall be paid from money in the account.

(e) The division of law enforcement shall:

(1) conduct a publicity campaign relating to feeding the state's hungry through donations of wild game;

(2) coordinate with nonprofit entities and other entities created with goals of feeding the state's hungry;

(3) coordinate with nonprofit entities to use the money collected under IC 14-22-12-1(c) to assist meat processors in processing donations of wild game related to feeding the state's hungry; and

(4) engage in any other activities to further the goals of this

section.

(f) A person who receives money from the fund must submit a budget request for providing estimated payments to participating meat processors for the number of donated wild game animals to be included in the program. The division of law enforcement must certify the information on the application and determine:

(1) whether the participating meat processor may receive a grant; and

(2) the amount of the grant each participating meat processor may receive under this section.

(g) An eligible meat processor may use money granted to the meat processor from the account as authorized under this section. However, an eligible meat processor must submit to the division of law enforcement any information that is requested of the meat processor. At the request of the division of law enforcement or the state board of accounts, the eligible meat processor shall submit to an audit of the funds received.

(h) The division of law enforcement shall make grant distributions under this section to eligible meat processors as soon as practical after receipt of an approved invoice for payment.

(i) The department shall adopt rules under IC 4-22-2 to implement this chapter, including rules governing:

(1) the deadlines for applying for a grant under this section;

(2) the types of expenses incurred for which grant money may be used; and

(3) any expense documentation required to satisfy program accounting needs.

(j) Money in the account is annually appropriated for the purposes described in this section.

(k) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(l) Money in the account at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.66-2008, SEC.3. Amended by P.L.46-2010, SEC.1; P.L.124-2013, SEC.1; P.L.2-2014, SEC.75.

IC 14-9-6

Chapter 6. Advisory Councils

IC 14-9-6-1

Creation of advisory council

Sec. 1. An advisory council is established to serve both of the following:

(1) The bureau of water and resource regulation.

(2) The bureau of lands and cultural resources.

As added by P.L.1-1995, SEC.2. Amended by P.L.95-2006, SEC.1.

IC 14-9-6-2

Members

Sec. 2. (a) The advisory council consists of seven (7) members appointed by the governor.

(b) Not more than four (4) members may be of the same political party.

As added by P.L.1-1995, SEC.2. Amended by P.L.95-2006, SEC.2; P.L.133-2012, SEC.168.

IC 14-9-6-3

Terms of members

Sec. 3. The term of a member of a council is three (3) years. The terms must be staggered so that the terms of not more than three (3) members may expire in a year.

As added by P.L.1-1995, SEC.2. Amended by P.L.133-2012, SEC.169.

IC 14-9-6-4

Filling of vacancies

Sec. 4. A vacancy on a council caused by a reason other than an expired term shall be filled for the remainder of the unexpired term.

As added by P.L.1-1995, SEC.2.

IC 14-9-6-5

Travel expenses

Sec. 5. The members are entitled to receive traveling expenses that are necessarily incident to the performance of official functions.

As added by P.L.1-1995, SEC.2. Amended by P.L.95-2006, SEC.3.

IC 14-9-6-6

Meetings

Sec. 6. The advisory council:

(1) shall hold a meeting in January of each calendar year; and

(2) may hold meetings at the call of the chairperson.

As added by P.L.1-1995, SEC.2. Amended by P.L.95-2006, SEC.4; P.L.133-2012, SEC.170.

IC 14-9-6-7
Chairpersons and officers

Sec. 7. During the meeting held in January of each calendar year, the advisory council shall elect the following:

(1) A chairperson and vice chairperson.

(2) Any other officer needed to carry out the business of the advisory council.

As added by P.L.1-1995, SEC.2. Amended by P.L.95-2006, SEC.5; P.L.133-2012, SEC.171.

IC 14-9-6-8
Action in advisory capacity

Sec. 8. (a) The advisory council shall act in an advisory capacity to the department and the commission with respect to the bureaus on matters pertaining to the following:

(1) Policy.

(2) Administration of all programs and facilities under the control and management of the bureau.

(3) The programs conducted by the department in the areas served by the bureau.

(b) The advisory council may not act in any capacity on specific license or permit applications.

As added by P.L.1-1995, SEC.2. Amended by P.L.95-2006, SEC.6.

IC 14-9-7

Chapter 7. Employees of Department

IC 14-9-7-1

Repealed

(As added by P.L.1-1995, SEC.2. Repealed by P.L.100-2012, SEC.36.)

IC 14-9-7-2

Personnel procedures

Sec. 2. The department shall develop the necessary procedures to ensure that the required knowledge, ability, education, and experience qualifications are met by the employees of the department.

As added by P.L.1-1995, SEC.2. Amended by P.L.100-2012, SEC.37.

IC 14-9-7-3

Applicability of IC 14-9-8 to law enforcement division employees

Sec. 3. Notwithstanding any provision of this article to the contrary, IC 14-9-8 applies to employees of the law enforcement division.

As added by P.L.1-1995, SEC.2.

IC 14-9-7-4

Repealed

(As added by P.L.1-1995, SEC.2. Repealed by P.L.100-2012, SEC.38.)

IC 14-9-7-5

Repealed

(As added by P.L.220-2011, SEC.290. Repealed by P.L.100-2012, SEC.39.)

IC 14-9-8
Chapter 8. Law Enforcement

IC 14-9-8-1
Repealed
(As added by P.L.1-1995, SEC.2. Repealed by P.L.26-2008, SEC.19.)

IC 14-9-8-2
"Division" defined
Sec. 2. As used in this chapter, "division" refers to the law enforcement division.
As added by P.L.1-1995, SEC.2.

IC 14-9-8-3
Organization of division
Sec. 3. The law enforcement division shall be organized in conformity with rules adopted by the commission.
As added by P.L.1-1995, SEC.2.

IC 14-9-8-4
Purchases
Sec. 4. The department shall purchase all property, supplies, and equipment for the division.
As added by P.L.1-1995, SEC.2.

IC 14-9-8-5
Compensation of director and conservation officers
Sec. 5. The salaries and compensation of the division director and the conservation officers shall be fixed by the director and approved by the budget agency as provided by Indiana law.
As added by P.L.1-1995, SEC.2.

IC 14-9-8-6
Appointment of director
Sec. 6. The governor shall appoint the director of the division in accordance with a recommendation of the director. The division director:

(1) is in charge of the division and has general supervision of the work of the division;
(2) serves at the pleasure of the governor;
(3) shall be selected on the basis of training and experience; and
(4) must have had at least five (5) years experience in a supervisory capacity in a law enforcement agency closely associated with conservation to equip the division director for the position.

As added by P.L.1-1995, SEC.2.

IC 14-9-8-7
Duties of director

Sec. 7. (a) The division director shall, with the approval of the director, do the following:

(1) Establish classification of ranks, grades, and positions in the division.

(2) Designate the authority and responsibility of each rank.

(3) For each rank, grade, and position, set standards of qualifications and fix the prerequisite of training, education, and experience.

(b) The division director may, with the approval of the director, designate the rank, grade, and position to be held by each employee of the division. The division director may assign and reassign each employee of the division to serve at the stations and perform the duties that the division director designates.

As added by P.L.1-1995, SEC.2.

IC 14-9-8-8
Appointment of personnel

Sec. 8. The division director shall, with the approval of the director, appoint personnel to the ranks, grades, and positions within the division.

As added by P.L.1-1995, SEC.2. Amended by P.L.100-2012, SEC.40.

IC 14-9-8-9
Political activities not to be required

Sec. 9. An officer appointee or a conservation officer of the division may not be ordered in any manner to do any of the following:

(1) Engage in the activities or interest of any of the following:

(A) A political party.

(B) A candidate for public office.

(C) A candidate for nomination to public office.

(2) Participate in any manner in a political campaign for the nomination or election of candidates to public office.

As added by P.L.1-1995, SEC.2.

IC 14-9-8-10
Worker's compensation

Sec. 10. (a) Injury, death, or occupational disease of a conservation officer arising out of and during the course of the performance of the officer's duties as a conservation officer is compensable under IC 22-3.

(b) For the purposes of this chapter and IC 22-3, all conservation officers are conclusively presumed to have accepted the compensation provisions of IC 22-3.

As added by P.L.1-1995, SEC.2.

IC 14-9-8-11

Training and examinations

Sec. 11. (a) The division director shall, with the approval of the director, organize and conduct a training school for officer candidates and other employees of the division. A conservation officer may not be assigned to regular active duty until the officer has received training and successfully passed a course prescribed by the division director. The division director shall periodically prescribe and conduct supplemental training courses for all conservation officers of the division.

(b) The division director shall devise and administer examinations designed to test applicants in the qualifications required for the rank, grade, or position. Only those applicants who best meet the prerequisites may be appointed.

As added by P.L.1-1995, SEC.2.

IC 14-9-8-12

Probationary employees

Sec. 12. All new conservation officers appointed to the division are probationary employees for one (1) year from the date of appointment.

As added by P.L.1-1995, SEC.2.

IC 14-9-8-13

Ineligibility for reappointment

Sec. 13. A person who:

(1) is discharged from the division; or

(2) withdraws before the completion of two (2) years of duty from date of appointment;

is not eligible for reappointment.

As added by P.L.1-1995, SEC.2.

IC 14-9-8-14

Discharge, demotion, or suspension

Sec. 14. (a) The division director may, with the approval of the director, discharge, demote, or temporarily suspend an employee of the division, for cause, after preferring charges in writing.

(b) An employee who is discharged or demoted is entitled to a public hearing before the department if the employee demands a hearing within ten (10) days after receiving notice of the charges. The employee may be represented by counsel.

(c) The findings of the department are final, except that the employee may appeal to the appropriate court.

(d) A probationary employee may be discharged without charges being made and is not entitled to a hearing.

(e) A conservation officer may not be discharged because of political affiliation.

As added by P.L.1-1995, SEC.2.

IC 14-9-8-15

Uniforms and equipment

Sec. 15. (a) The department shall provide the conservation officers of the division the uniforms and equipment necessary to the performance of their duties. All uniforms and equipment remain the property of the state.

(b) The division director shall, with the approval of the director, charge against an employee of the division the value of property lost or destroyed through carelessness or neglect of the employee. The value of the equipment shall be deducted from the pay of the employee.

As added by P.L.1-1995, SEC.2.

IC 14-9-8-16

Powers and duties of conservation officers

Sec. 16. (a) A conservation officer of the division:

(1) has all necessary police powers to enforce the natural resources laws; and

(2) may, without warrant, arrest a person for a violation of those laws when committed in the officer's presence.

(b) A conservation officer shall do the following:

(1) Detect and prevent violations of natural resources laws.

(2) Enforce natural resources laws and rules.

(3) Perform other related duties that are imposed upon conservation officers by law.

(c) A conservation officer has the same power with respect to natural resources matters and the enforcement of the laws relating to natural resources laws as have law enforcement officers in their respective jurisdictions. A warrant of arrest or search warrant issued by proper authority may be executed by a conservation officer in any county.

As added by P.L.1-1995, SEC.2.

IC 14-9-8-17

Police and arrest powers

Sec. 17. A conservation officer:

(1) is a law enforcement officer under IC 9-13-2-92 and IC 35-31.5-2-185 and has the power to enforce Indiana laws and without warrant to arrest for the violation of any of those laws when committed in the officer's presence;

(2) is a police officer under IC 9-13-2-127;

(3) has the power of law enforcement officers to arrest under IC 35-33-1-1; and

(4) has the power to enforce Indiana laws and may exercise all powers granted by law to state police officers, sheriffs, and members of police departments.

As added by P.L.1-1995, SEC.2. Amended by P.L.114-2012, SEC.35.

IC 14-9-8-18

Carrying arms

Sec. 18. (a) A uniformed conservation officer shall carry arms in the performance of the officer's duty.

(b) A nonuniformed conservation officer may carry arms in the performance of the officer's duty.

As added by P.L.1-1995, SEC.2.

IC 14-9-8-19

Obstructing, hindering, or interfering with director, officer, or employee

Sec. 19. A person who knowingly obstructs, hinders, or interferes with:

(1) the director;

(2) the division director;

(3) a conservation officer; or

(4) an employee or agent of the division of fish and wildlife;

in lawful discharge of the individual's duty in the enforcement of this chapter commits a Class C misdemeanor.

As added by P.L.1-1995, SEC.2.

IC 14-9-8-20

Cooperation with law enforcement officers; investigations

Sec. 20. The division shall do the following:

(1) Cooperate with the law enforcement officers of the state in the detection of the violation of Indiana natural resources laws.

(2) Conduct investigations as necessary to secure the evidence that may be essential to the conviction of alleged violators of Indiana natural resources laws.

As added by P.L.1-1995, SEC.2.

IC 14-9-8-21

Conservation officers fish and wildlife fund

Sec. 21. (a) As used in this section, "fund" refers to the conservation officers fish and wildlife fund established by this section.

(b) The conservation officers fish and wildlife fund is established. The department shall administer the fund. The department may expend the money in the fund exclusively for special law enforcement investigations of fish and wildlife violations. The expenditures authorized under this subsection include the purchase and repair of decoys (as defined in IC 14-22-40-2).

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. However, if the amount of money in the fund at the end of a state fiscal year exceeds thirty-five thousand dollars ($35,000), the treasurer of state shall transfer the excess from the fund into the fish and wildlife fund.

As added by P.L.1-1995, SEC.2. Amended by P.L.133-1996, SEC.6.

IC 14-9-8-21.5
Conservation officers marine enforcement fund

Sec. 21.5. (a) As used in this section, "fund" refers to the conservation officers marine enforcement fund established by this section.

(b) The conservation officers marine enforcement fund is established. The department shall administer the fund. The department may expend the money in the fund exclusively for marine enforcement efforts associated with recreational boating on Indiana waters, including uses described in IC 14-9-9-5.

(c) The fund consists of money from the lake and river enhancement fee paid by boat owners and deposited under IC 6-6-11-12(c)(2). Money deposited in the fund is annually appropriated and allotted to the department to carry out the purposes of this section. The expenses of administering the fund shall be paid from money in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. However, the department may transfer from the fund to the counties with special boat patrol needs fund (IC 14-9-9-5) an amount that does not exceed twenty percent (20%) of money deposited into the fund.

As added by P.L.233-2003, SEC.4.

IC 14-9-8-22
Retirement of conservation officers

Sec. 22. Whenever a conservation officer retires after at least twenty (20) years of service, the department shall, in recognition of the officer's service to the department, do the following:

(1) Permit the officer to retain the standard hand service weapon the department issued to the officer.

(2) Issue the officer a badge that indicates the officer is a retired conservation officer.

(3) Issue the officer an identification card that contains the following information:

(A) The name of the department.

(B) The name of the officer.

(C) The officer's rank in the department.

(D) That the officer is retired.

(E) That the officer is authorized to retain the service weapon issued to the officer by the department.

As added by P.L.1-1995, SEC.2.

IC 14-9-8-23
"Turn in a poacher" program

Sec. 23. (a) The "turn in a poacher" program is established within the division for the purpose of encouraging citizen participation in deterring the unlawful taking or possession of game, fish, or nongame wildlife.

(b) Under the program the department shall accomplish the

purpose set out in subsection (a) by doing the following:

(1) Providing a toll free telephone service.

(2) Developing and conducting a publicity campaign for the program.

(3) Conducting investigations initiated through citizen participation in the enforcement of game, fish, and nongame wildlife laws.

(4) Approving and coordinating reward payments.

As added by P.L.1-1995, SEC.2.

IC 14-9-8-24

Persons authorized to enforce fish and wildlife laws

Sec. 24. The director may authorize a person who is not a conservation officer to enforce Indiana fish and wildlife laws as if the person were a conservation officer under the following conditions:

(1) The person must be a full-time law enforcement officer in Indiana or a full-time conservation law enforcement officer from another state, the United States, or Canada.

(2) The person's employer must agree, in writing, to continue the person's level of compensation, including all insurance, medical, retirement, and other benefits, and must agree that no additional compensation or benefits will be paid by the state.

(3) The authorization may not be for longer than ninety (90) days, but the authorization may be renewed.

(4) The authorization must relate to a specific problem or operation.

(5) The authorization must be in writing.

As added by P.L.1-1995, SEC.2.

IC 14-9-8-25

Conservation officers authorized to work with law enforcement agencies

Sec. 25. The director may authorize a conservation officer to work temporarily with a law enforcement agency in Indiana, another state, or Canada under the following conditions:

(1) The authorization may not be for longer than thirty (30) days, but the authorization may be renewed.

(2) The authorization must relate to a specific problem or operation.

(3) The authorization must be in writing.

As added by P.L.1-1995, SEC.2.

IC 14-9-8-26

Repealed

(Repealed by P.L.2-1996, SEC.297.)

IC 14-9-8-27

Conservation reserve officer assisting in enforcement of watercraft laws

Sec. 27. (a) A conservation reserve officer may be appointed to assist the division in the enforcement of watercraft laws and for no other purpose. A conservation reserve officer must be appointed in the same manner that a conservation officer is appointed.

(b) A conservation reserve officer:

(1) may not be a conservation officer;

(2) has the police powers of a conservation officer to enforce watercraft laws, except as limited by the rules of the department;

(3) to the extent that money is appropriated for a purpose listed in this subdivision, may receive:

(A) a uniform allowance;

(B) compensation for time lost from other employment because of court appearances;

(C) insurance for life, accident, and sickness coverage;

(D) compensation for lake patrol duties that the division director assigns and approves for compensation; or

(E) any combination of benefits specified in clauses (A) through (D);

(4) is not eligible to participate in a pension program provided for conservation officers;

(5) may not be appointed until completion of the following:

(A) A minimum of forty (40) hours of general reserve officer training.

(B) A minimum of twelve (12) hours in addition to the training under subdivision (A) in the enforcement of watercraft laws.

(C) A probationary period specified by rule of the department;

(6) may not:

(A) make an arrest;

(B) conduct a search or seizure of a person or property; or

(C) carry a firearm;

unless the conservation reserve officer successfully completes a pre-basic course under IC 5-2-1-9(f); and

(7) may be covered by the medical treatment and burial expense provisions of the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases law (IC 22-3-7).

If compensability of an injury covered under subdivision (7) is an issue, the administrative procedures of IC 22-3-2 through IC 22-3-6 and IC 22-3-7 must be used to resolve the issue.

(c) A conservation reserve officer carrying out lake patrol duties under this chapter is immune from liability under IC 34-30-12, notwithstanding the payment of compensation to the conservation reserve officer.

(d) The department may adopt rules under IC 4-22-2 to implement this section and to limit the authority of conservation reserve officers.

As added by P.L.2-1996, SEC.252. Amended by P.L.1-1998, SEC.109.

IC 14-9-8-28
Salaries

Sec. 28. (a) The natural resources commission shall categorize salaries of enforcement officers within each rank based upon the rank held and the number of years of service in the department through the twentieth year. The salary ranges that the commission assigns to each rank shall be divided into a base salary and twenty (20) increments above the base salary with:

(1) the base salary in the rank paid to a person with less than one (1) year of service in the department; and

(2) the highest salary in the rank paid to a person with at least twenty (20) years of service in the department.

(b) The salary matrix prescribed by this section shall be reviewed and approved by the state budget agency before implementation.

(c) The salaries for law enforcement officers of the law enforcement division of the department must be equal to the salaries of police employees of the state police department under IC 10-11-2-13, based upon years of service in the department and rank held.

(d) The requirement of subsection (c) does not affect:

(1) any rights or liabilities accrued; or

(2) any proceedings begun;

on or before June 30, 1999. Those rights, liabilities, and proceedings continue and shall be imposed and enforced under prior civil law and procedure as if the requirement of subsection (c) had not been enacted.

As added by P.L.2-1996, SEC.253. Amended by P.L.206-1999, SEC.1; P.L.2-2003, SEC.42; P.L.234-2007, SEC.307.

IC 14-9-9

Chapter 9. Counties with Special Boat Patrol Needs

IC 14-9-9-1

"Department" defined

Sec. 1. As used in this chapter, "department" refers to the department of natural resources.

As added by P.L.137-1997, SEC.3.

IC 14-9-9-2

"Fiscal body" defined

Sec. 2. As used in this chapter, "fiscal body" has the meaning set forth in IC 36-1-2-6(1) or IC 36-1-2-6(2), whichever applies.

As added by P.L.137-1997, SEC.3.

IC 14-9-9-3

"Fund" defined

Sec. 3. As used in this chapter, "fund" refers to the counties with special boat patrol needs fund established by section 5 of this chapter.

As added by P.L.137-1997, SEC.3.

IC 14-9-9-4

"Lake" defined

Sec. 4. As used in this chapter, "lake" has the meaning set forth in IC 14-8-2-137(1).

As added by P.L.137-1997, SEC.3.

IC 14-9-9-5

Establishment of fund; operation

Sec. 5. (a) The counties with special boat patrol needs fund is established exclusively to provide grants to certain counties to provide law enforcement services on lakes or boundary waters located within the counties.

(b) The department shall administer the fund. Money in the fund includes money transferred from the conservation officers marine enforcement fund (IC 14-9-8-21.5). Money in the fund is annually appropriated to the department and shall be used exclusively for the enforcement of laws pertaining to watercraft on lakes or boundary waters located in counties with special boat patrol needs as described in this chapter.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(e) Money in the fund at the end of a fiscal year does not revert to the state general fund.

As added by P.L.137-1997, SEC.3. Amended by P.L.233-2003, SEC.5; P.L.219-2014, SEC.17.

IC 14-9-9-6
Distribution of grants from fund; formula

Sec. 6. The department shall develop a formula for the distribution of grants from the fund. The formula must take into account at least the following factors:

(1) The number of lakes or boundary waters located within the county.

(2) The extent of boat usage for each lake or boundary waters in the county.

(3) The total number of acres of lake or boundary waters surface within the county.

(4) The extent to which law enforcement services on the lakes or boundary waters located within the county are provided by the county.

(5) Any other pertinent factor that affects the extent to which law enforcement services are provided on lakes or boundary waters located within the county.

As added by P.L.137-1997, SEC.3. Amended by P.L.219-2014, SEC.18.

IC 14-9-9-7
Grant eligibility requirements

Sec. 7. For a county to be eligible to receive a grant from the fund, each year in which a grant is sought the following must occur:

(1) The county sheriff must submit to the fiscal body an estimated budget request to provide special needs boat patrol on lakes or boundary waters located within the county. If the county sheriff does not request a grant from the fund, the fiscal body may complete an estimated budget.

(2) If the budget request is approved, the fiscal body must timely apply to the department, on forms provided by the department, for a grant under this chapter.

(3) The department must certify the information on the application and, based on the formula developed under section 6 of this chapter, determine:

(A) whether the county may receive a grant; and

(B) the amount of the grant the county may receive;

under this chapter.

As added by P.L.137-1997, SEC.3. Amended by P.L.217-2011, SEC.1; P.L.219-2014, SEC.19.

IC 14-9-9-8
Restrictions on grant usage

Sec. 8. (a) If a county is awarded a grant under this chapter, the county must establish a special account within the county's general fund. The grant must be deposited in the special account for the county sheriff's or fiscal body's exclusive use in providing law enforcement services on lakes or boundary waters located within the county.

(b) The county sheriff or fiscal body may use grant money as authorized under this chapter without appropriation. However, itemized receipts for expenditures of money granted from the fund must be submitted for inspection and review upon request of the department. At the request of the department, the county auditor of the participating county shall conduct an audit of the account.

(c) The receipt of a grant under this chapter may not be used as a basis for lowering the county's maximum permissible ad valorem property tax levy.

(d) All individuals providing law enforcement services using a grant under this chapter, whether under the authority of the county sheriff or under a contract with the fiscal body, must meet the minimum training requirement set forth in IC 5-2-1-9.

As added by P.L.137-1997, SEC.3. Amended by P.L.217-2011, SEC.2; P.L.219-2014, SEC.20.

IC 14-9-9-9

Time of distributions

Sec. 9. The department shall make the grant distributions to the recipient counties in May and November.

As added by P.L.137-1997, SEC.3.

IC 14-9-9-10

Adoption of rules

Sec. 10. The department shall adopt rules under IC 4-22-2 to implement this chapter, including rules governing:

(1) the deadlines for applying for a grant under this chapter; and

(2) the types of expenses incurred by a county sheriff's department in providing the law enforcement services on lakes or boundary waters in the county for which grant money may be used.

As added by P.L.137-1997, SEC.3. Amended by P.L.219-2014, SEC.21.

IC 14-10

ARTICLE 10. NATURAL RESOURCES COMMISSION

IC 14-10-1

Chapter 1. Establishment of Commission

IC 14-10-1-1

Establishment and members of commission

Sec. 1. The natural resources commission is established. The commission consists of twelve (12) members as follows:

(1) The commissioner of the Indiana department of transportation or the commissioner's designee.

(2) The commissioner of the department of environmental management or the commissioner's designated deputy.

(3) The director of the office of tourism development or the director's designee.

(4) The director of the department.

(5) The chairperson of the advisory council established by IC 14-9-6-1.

(6) The president of the Indiana academy of science or the president's designee.

(7) Six (6) citizen members appointed by the governor, at least two (2) of whom must have knowledge, experience, or education in the environment or in natural resource conservation. Not more than three (3) citizen members may be of the same political party.

As added by P.L.1-1995, SEC.3. Amended by P.L.229-2005, SEC.9; P.L.95-2006, SEC.7.

IC 14-10-1-2

Filling of vacancies of ex officio members

Sec. 2. The governor may fill a vacancy in the ex officio membership of the commission by temporary appointment. However, the term of a member appointed terminates upon the filling of the office.

As added by P.L.1-1995, SEC.3.

IC 14-10-1-3

Citizen members

Sec. 3. (a) The term of a citizen member of the commission is three (3) years.

(b) The governor may remove a citizen member for cause.

(c) The governor shall appoint a person to fill a vacancy in the citizen membership of the commission caused by death, resignation, removal, or other cause for the unexpired term.

As added by P.L.1-1995, SEC.3.

IC 14-10-1-4
Per diem compensation and traveling expenses

Sec. 4. (a) The members of the commission who are not state employees are entitled to the minimum salary per diem as provided in IC 4-10-11-2.1(b) for each day that the members are engaged in the official business of the commission.

(b) The members of the commission are entitled to reimbursement for travel, lodging, meals, and other expenses as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.1-1995, SEC.3.

IC 14-10-1-5
Officers

Sec. 5. (a) One (1) time each year the commission shall elect officers from the membership of the commission. The officers must include the following:

(1) A chairman, who shall preside at meetings.

(2) A vice chairman, who shall preside at meetings in the absence of the chairman.

(3) A secretary, who shall cause the preparation and maintenance of records of the business of the commission.

(b) Officers:

(1) serve for terms of one (1) year; and

(2) may be reelected by the membership of the commission.

As added by P.L.1-1995, SEC.3.

IC 14-10-1-6
Quorum

Sec. 6. A majority of the members of the commission constitutes a quorum for the transaction of business, the exercise of powers, or the performance of duties.

As added by P.L.1-1995, SEC.3.

IC 14-10-1-7
Meetings

Sec. 7. (a) The commission shall have at least four (4) regular meetings in each fiscal year and as many additional or special meetings as the commission's business, powers, or duties require.

(b) The chairman:

(1) may call a special meeting; and

(2) shall call a special meeting at the request of any five (5) members.

As added by P.L.1-1995, SEC.3.

IC 14-10-2

Chapter 2. Powers and Duties of Commission

IC 14-10-2-0.3

Transfer of power to establish fees; treatment of rules

Sec. 0.3. On May 13, 2005, the powers of the department to establish fees are transferred to the commission. After May 13, 2005, the commission may exercise any power delegated to the department to establish fees, and a rule of the department that establishes a fee for any of the following shall be treated as a rule of the commission:

(1) Programs of the department or the commission.

(2) Facilities owned or operated by the department, the commission, or a lessee of the department or the commission.

(3) Licenses issued by the commission, the department, or the director of the department.

(4) Inspections or other similar services under this title performed by the department or an assistant or employee of the department.

As added by P.L.220-2011, SEC.291.

IC 14-10-2-1

Powers of commission

Sec. 1. The commission may do the following:

(1) Take the action that is necessary to enable the state to participate in the programs set forth in 16 U.S.C. 470 et seq.

(2) Promulgate and maintain a state register of districts, sites, buildings, structures, and objects significant in American or Indiana history, architecture, archeology, and culture and expend money for the purpose of preparing comprehensive statewide historic surveys and plans, in accordance with criteria established by the commission, that comply with the standards and regulations promulgated by the United States Secretary of the Interior for the preservation, acquisition, and development of the properties.

(3) Establish in accordance with criteria established by the United States Secretary of the Interior a program of matching grants-in-aid to public agencies for projects having as their purpose the preservation for public benefit of properties that are significant in American or Indiana history, architecture, archeology, and culture.

(4) Accept grants from public and private sources, including those provided under 16 U.S.C. 470 et seq.

(5) Establish fees for the following:

(A) Programs of the department or the commission.

(B) Facilities owned or operated by the department or the commission or a lessee of the department or commission.

(C) Licenses issued by the commission, the department, or the director.

(D) Inspections or other similar services under this title performed by the department or an assistant or employee of the department.

(6) Adopt rules under IC 4-22-2 for the establishment of fees under subdivision (5).

As added by P.L.1-1995, SEC.3. Amended by P.L.246-2005, SEC.115.

IC 14-10-2-2

Appointment of administrative law judges; division of hearings; appointment of special judge

Sec. 2. (a) The commission shall appoint administrative law judges.

(b) The commission shall create a division of hearings. The division of hearings shall assist the commission in performing the functions of this section. The director of the division of hearings may appoint a special administrative law judge.

(c) A person who is not appointed by:

(1) the director of the division of hearings; or

(2) the commission;

may not act as an administrative law judge.

As added by P.L.1-1995, SEC.3. Amended by P.L.99-2005, SEC.4; P.L.100-2012, SEC.41.

IC 14-10-2-2.5

Consolidated proceedings

Sec. 2.5. (a) A person who is the party in a hearing under this title or IC 4-21.5-7 may move to have the:

(1) environmental law judge appointed under IC 4-21.5-7; or

(2) administrative law judge appointed under section 2 of this chapter;

consolidate multiple proceedings that are subject to the jurisdiction of both the office of environmental adjudication and the division of hearings.

(b) The environmental law judge or the administrative law judge shall grant the motion made under subsection (a) if the following findings are made:

(1) The proceedings include the following:

(A) Common questions of law or fact.

(B) At least one (1) person, other than the department or the department of environmental management, who is a party to all the proceedings.

(C) Issues of water quality, water quantity, or both.

(2) Consolidation may support administrative efficiency.

(c) If a motion to consolidate proceedings has been granted under subsection (b), the hearing must be conducted by a panel that consists of at least one (1) environmental law judge and one (1) administrative law judge. The panel is the ultimate authority for matters authorized under IC 4-21.5-7-5 and this title. Any party, including the

department and the department of environmental management, may petition an appropriate court for judicial review of a final determination of the panel.

(d) The office of environmental adjudication and the division of hearings shall adopt joint rules to implement this section.

As added by P.L.84-2008, SEC.3.

IC 14-10-2-3

Commission as ultimate authority of department

Sec. 3. Except as provided in section 2.5 of this chapter and IC 14-34-2-2, the commission is the ultimate authority of the department under IC 4-21.5.

As added by P.L.1-1995, SEC.3. Amended by P.L.84-2008, SEC.4.

IC 14-10-2-4

Adoption of rules

Sec. 4. (a) The commission shall adopt rules under IC 4-22-2 to carry out the commission's duties under this title.

(b) The commission may adopt rules to exempt an activity from licensing under this title, except:

(1) IC 14-34;
(2) IC 14-36-1; and
(3) IC 14-38-2;

if the activity poses not more than a minimal potential for harm.

(c) Except as provided in subsection (d), whenever the department or the director has the authority to adopt rules under IC 4-22-2, the commission shall exclusively exercise the authority.

(d) Emergency rules adopted under section 5 of this chapter shall be adopted by the director.

As added by P.L.1-1995, SEC.3.

IC 14-10-2-5

Emergency rules

Sec. 5. (a) The department may adopt emergency rules under IC 4-22-2-37.1 to carry out the duties of the department under the following:

(1) IC 14-9.
(2) This article.
(3) IC 14-11.
(4) IC 14-12-2.
(5) IC 14-14.
(6) IC 14-17-3.
(7) IC 14-18, except IC 14-18-6 and IC 14-18-8.
(8) IC 14-19-1 and IC 14-19-8.
(9) IC 14-21.
(10) IC 14-22-3, IC 14-22-4, and IC 14-22-5.
(11) IC 14-23-1.
(12) IC 14-25, except IC 14-25-8-3 and IC 14-25-13.
(13) IC 14-26.

(14) IC 14-27.
(15) IC 14-28.
(16) IC 14-29.
(17) IC 14-35-1, IC 14-35-2, and IC 14-35-3.
(18) IC 14-37.
(19) IC 14-38, except IC 14-38-3.

(b) A rule adopted under subsection (a) expires not later than one (1) year after the rule is accepted for filing by the publisher of the Indiana Register.

As added by P.L.1-1995, SEC.3. Amended by P.L.186-2003, SEC.34; P.L.123-2006, SEC.32; P.L.140-2011, SEC.2; P.L.167-2011, SEC.13; P.L.133-2012, SEC.172.

IC 14-10-2-6
Notices of violation

Sec. 6. (a) The commission may issue a notice of violation to a person who violates a law administered by the department for which a misdemeanor or an infraction penalty is established. If the person:

(1) receives the notice; and
(2) fails to abate the violation within a period of not less than fifteen (15) days specified in the notice;

the commission may impose a charge that does not exceed the maximum amount that may be assessed by a court for committing the violation.

(b) IC 4-21.5 applies to proceedings by the commission under this section. The department has the burden of proving the alleged violation by a preponderance of the evidence.

(c) A separate notice of violation may be issued or a separate charge imposed for each day a violation occurs.

(d) The person may establish as an affirmative defense the filing by a prosecuting attorney of a misdemeanor information or infraction complaint based on the same event as that upon which the notice of violation was based. The person has the burden of proving the affirmative defense.

(e) The remedy provided by this section is supplemental to other remedies.

As added by P.L.1-1995, SEC.3.

IC 14-10-2-7
Treatment of certain rules

Sec. 7. Any rule:

(1) adopted by the director of the department of natural resources under IC 14-2 (before its repeal); and
(2) in effect on June 30, 1990;

shall be treated after June 30, 1990, as a rule adopted by the natural resources commission.

As added by P.L.220-2011, SEC.292.

IC 14-10-3

Chapter 3. Employment of Property Managers

IC 14-10-3-1

Applicability of chapter

Sec. 1. This chapter applies to the property managers of each of the following divisions of the department:

(1) State parks.
(2) Forestry.
(3) Fish and wildlife.
(4) Reservoir management.

As added by P.L.1-1995, SEC.3. Amended by P.L.167-2011, SEC.14.

IC 14-10-3-2

Procedures to be followed

Sec. 2. The procedures prescribed by this chapter shall be followed to enlist, train, hire, or terminate employment of individuals subject to this chapter.

As added by P.L.1-1995, SEC.3.

IC 14-10-3-3

Establishment of minimum requirements

Sec. 3. The commission shall establish minimum aptitude, educational, and experience requirements for each position of management and supervision.

As added by P.L.1-1995, SEC.3.

IC 14-10-3-4

Posting of open positions

Sec. 4. (a) The director of a division subject to this chapter shall inform the state personnel department and the general public of Indiana of the following:

(1) That a position is or will be vacant within the division.
(2) That applications for employment will be accepted for at least thirty (30) days.

(b) However, the director of the department, acting through the deputy director of the bureau that supervises the division, may fill a property management position by promoting or transferring within the department a qualified individual previously employed under this chapter.

As added by P.L.1-1995, SEC.3.

IC 14-10-3-5

Director to review applications and make recommendations

Sec. 5. The director of the division with whom the application for employment is made shall:

(1) review all applications; and
(2) recommend to the commission at least one (1) individual for

employment.
As added by P.L.1-1995, SEC.3.

IC 14-10-3-6
Repealed
(As added by P.L.1-1995, SEC.3. Repealed by P.L.100-2012, SEC.42.)

IC 14-10-3-7
Repealed
(As added by P.L.1-1995, SEC.3. Repealed by P.L.100-2012, SEC.43.)

IC 14-10-3-8
Repealed
(As added by P.L.1-1995, SEC.3. Repealed by P.L.100-2012, SEC.44.)

IC 14-10-3-9
Repealed
(As added by P.L.1-1995, SEC.3. Repealed by P.L.100-2012, SEC.45.)

IC 14-10-3-10
Employees not required to declare political, religious, or fraternal affiliations
Sec. 10. An individual employed under this chapter may not be required to declare the individual's political, religious, or fraternal affiliations.
As added by P.L.1-1995, SEC.3. Amended by P.L.100-2012, SEC.46.

IC 14-11

ARTICLE 11. POWERS AND DUTIES OF DEPARTMENT

IC 14-11-1

Chapter 1. General Powers and Duties

IC 14-11-1-1

General powers of department

Sec. 1. The department may do the following:

(1) Investigate, compile, and disseminate information and make recommendations concerning the natural resources of Indiana and their conservation, including the following:

(A) The drainage and reclamation of land.

(B) Flood prevention.

(C) Development of water power.

(D) Culture and preservation of forests, fish, and game.

(E) The preservation of soils.

(F) The prevention of the waste of mineral resources.

(G) The prevention and methods of control of plant diseases, infections, and pests.

(H) The prevention and methods of control of bee diseases, the increased production of honey, and the use of bee appliances.

(I) Other questions or subjects that are contained in this title.

(2) Cooperate with the appropriate departments of the federal government in conducting topographical and other surveys, experiments, or work of joint interest to the state and the federal government.

As added by P.L.1-1995, SEC.4.

IC 14-11-1-2

Cooperation with public or private entities or individuals

Sec. 2. The department may cooperate with:

(1) a public or private institution; or

(2) individuals, societies, or associations of individuals;

in making scientific investigations, compiling reports, or otherwise in the manner and to the extent that the commission considers necessary or advantageous in carrying out the purposes of this title.

As added by P.L.1-1995, SEC.4.

IC 14-11-1-3

Powers regarding oaths and subpoenas

Sec. 3. (a) A member of the commission, a division director, or a hearing officer appointed by the commission may do the following:

(1) Administer oaths and certify to official acts.

(2) Require information from any person for purposes of this title.

(3) Issue subpoenas.
(4) Require the attendance of witnesses.
(5) Examine witnesses under oath.

(b) If a person fails to comply with an order issued under this chapter or under IC 14-3-1 (before its repeal), the circuit court having jurisdiction over the person shall, on request, require compliance with the order.

As added by P.L.1-1995, SEC.4.

IC 14-11-1-4

Preparation and dissemination of literature and information

Sec. 4. (a) The commission may have prepared the technical and nontechnical literature and information relating to matters within the field of work of the department or a division of the department that the commission considers suitable and worthy of publication. The commission shall disseminate the literature and information through the public press and otherwise. The commission may, with the approval of the governor, publish the literature and information in bulletin form.

(b) The literature and information shall be paid for out of money appropriated for the expenses of the department.

As added by P.L.1-1995, SEC.4.

IC 14-11-1-5

Delegation of management and operation of property

Sec. 5. The department may, by contract, delegate the management and operation of any of the property held and managed by the department to an organization under the terms the department considers advisable.

As added by P.L.1-1995, SEC.4.

IC 14-11-1-6

Enforcement powers

Sec. 6. The department shall recommend and secure the enforcement of laws for the conservation and development of the natural resources of Indiana.

As added by P.L.1-1995, SEC.4.

IC 14-11-1-7

Payment by credit card

Sec. 7. (a) As used in this section, "credit card" includes a bank card, debit card, charge card, prepaid card, or other similar method of payment.

(b) In addition to other methods of payment allowed by law, the department may accept payment by credit card for licenses, fees, or other amounts due the department.

(c) The department may enter into appropriate agreements with banks or other organizations authorized to do business in Indiana to enable the department to accept payment by credit card.

(d) The department may recognize net amounts remitted by the bank or other organization as deposit in full of amounts due the department.

(e) The department may pay any applicable credit card service charge or fee.

As added by P.L.95-1998, SEC.2.

IC 14-11-1-8

Limitation; sale or lease of water rights; Charlestown water wells

Sec. 8. The department of natural resources may not sell, lease, exchange, or transfer property or an interest in a property to another person for the purpose of allowing the selling of water out of Indiana from Charlestown Water Wells located on park property without the prior approval of River Ridge Development Authority.

As added by P.L.234-2007, SEC.293.

IC 14-11-2
Chapter 2. Rules

IC 14-11-2-1
Adoption of rules

Sec. 1. (a) The department may adopt rules under IC 4-22-2 for the conduct of the following:

(1) Department meetings.

(2) Upon the recommendation of the director, the work of the department and the divisions.

(b) The department may not adopt rules under IC 4-22-2 for the establishment of fees for the following:

(1) Programs of the department or the commission.

(2) Facilities owned or operated by the department or the commission or a lessee of the department or commission.

(3) Licenses issued by the commission, the department, or the director.

(4) Inspections or other similar services under this title performed by the department or an assistant or employee of the department.

As added by P.L.1-1995, SEC.4. Amended by P.L.246-2005, SEC.116.

IC 14-11-2-2
Violation of rules

Sec. 2. A person who violates a rule adopted under this chapter commits a Class C infraction.

As added by P.L.1-1995, SEC.4.

IC 14-11-2-3
Repealed

(As added by P.L.1-1995, SEC.4. Repealed by P.L.246-2005, SEC.229.)

IC 14-11-3
Chapter 3. Licenses and Hearings

IC 14-11-3-0.3
"Bureau" defined
Sec. 0.3. As used in this chapter, "bureau" refers to the child support bureau (Title IV-D agency) established under IC 31-25-3.
As added by P.L.257-1997(ss), SEC.26. Amended by P.L.145-2006, SEC.130.

IC 14-11-3-0.5
"Delinquent" defined
Sec. 0.5. As used in this chapter, "delinquent" means at least:
(1) two thousand dollars ($2,000); or
(2) three (3) months;
past due on payment of court ordered child support.
As added by P.L.257-1997(ss), SEC.27.

IC 14-11-3-1
Licenses
Sec. 1. (a) As used in this section, "license" means a license, a franchise, a permit, a certification, an approval, a registration, a charter, or a similar form of authorization that may be issued to a person by:
(1) the department;
(2) the commission; or
(3) the director;
under Indiana law. The term does not include a license issued by the historic preservation review board established by IC 14-21-1-20.
(b) Notwithstanding any other law, the director shall issue all licenses.
(c) A designee of the director may issue licenses. A designee of the director must be a full-time employee of the department.
As added by P.L.1-1995, SEC.4.

IC 14-11-3-2
Hearings
Sec. 2. Except as provided in IC 14-34-2-2, the commission shall hold all hearings under IC 4-21.5 and IC 4-22-2.
As added by P.L.1-1995, SEC.4.

IC 14-11-3-4
License probation for failure to pay child support; notice; reinstatement
Sec. 4. (a) Upon receiving an order from the bureau under IC 31-25-4-32(j), the director shall send to the person who is the subject of the order a notice that does the following:
(1) States that the person is delinquent and is subject to an order placing the person on probationary status.

(2) Explains that unless the person contacts the bureau and:

(A) pays the person's child support arrearage in full; or

(B) establishes a payment plan with the bureau to pay the arrearage, which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;

within twenty (20) days after the date the notice is mailed, the director shall place the person on probationary status with respect to any license issued to the person under IC 14-22-12, IC 14-22-14, IC 14-22-16, IC 14-22-17, IC 14-22-19, IC 14-24-7, or IC 14-31-3.

(3) Explains that the person may contest the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status by making written application to the bureau within twenty (20) days after the date the notice is mailed.

(4) Explains that the only basis for contesting the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status is a mistake of fact.

(5) Explains the procedures to:

(A) pay the person's child support arrearage in full; or

(B) establish a payment plan with the bureau to pay the arrearage, which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

(6) Explains that the probation will terminate ten (10) business days after the director receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

(b) Upon receiving an order from the bureau under IC 31-25-4-34(e), the director shall send to the person who is the subject of the order a notice that states the following:

(1) That a license issued to the person under IC 14-22-12, IC 14-22-14, IC 14-22-16, IC 14-22-17, IC 14-22-19, IC 14-24-7, or IC 14-31-3 has been placed on probationary status, beginning five (5) business days after the date the notice is mailed, and that the probation will terminate ten (10) business days after the director receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

(2) That if the director is advised by the bureau that the person whose license has been placed on probationary status has failed to:

(A) pay the person's child support arrearage in full; or

(B) establish a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;

within twenty (20) days after the date the notice is mailed, the director shall suspend the person's license.

(c) If a person whose license has been placed on probationary status fails to:

(1) pay the person's child support arrearage in full; or

(2) establish a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;

within twenty (20) days after the notice required under subsection (b) is mailed, the director shall suspend the person's license.

(d) The director may not reinstate a license placed on probation or suspended under this section until the director receives a notice from the bureau that the person has:

(1) paid the person's child support arrearage in full; or

(2) established a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

As added by P.L.257-1997(ss), SEC.28. Amended by P.L.145-2006, SEC.131; P.L.103-2007, SEC.6; P.L.123-2014, SEC.1.

IC 14-11-4
Chapter 4. Procedures Governing Certain Licenses

IC 14-11-4-1
Applicability of chapter

Sec. 1. This chapter applies to applications for licenses under the following:

(1) IC 14-22-26-3(2) (wild animals).
(2) IC 14-26-2 (lake preservation).
(3) IC 14-26-5 (dams).
(4) IC 14-28-1 (flood control).
(5) IC 14-29-3 (removal of substances from streams).
(6) IC 14-29-4 (construction of channels).

As added by P.L.1-1995, SEC.4.

IC 14-11-4-2
"Owner" defined

Sec. 2. As used in this chapter, "owner" means the person:

(1) listed on the tax assessment rolls as being responsible for the payment of real property taxes imposed on the property; and
(2) in whose name title to real property is shown in the records of the recorder of the county in which the real property is located.

As added by P.L.1-1995, SEC.4.

IC 14-11-4-3
"License" defined

Sec. 3. As used in this chapter, "license" means a permit, a license, a concession, or other authorization that may be issued to a person by:

(1) the director;
(2) the department; or
(3) the commission;

under Indiana law.

As added by P.L.1-1995, SEC.4.

IC 14-11-4-4
Issuance of license 30 days after notice of application given

Sec. 4. The director or the department may not issue a license until thirty (30) days after the notice required by this chapter has been given. Notice may be given at any time after an application for a license is filed with the department. The department may require by rule that notice under section 5 of this chapter be provided by the license applicant.

As added by P.L.1-1995, SEC.4.

IC 14-11-4-5
Notice of application for license

Sec. 5. (a) If a license application affects real property, notice of the application is required as follows:

(1) The applicant must notify at least one (1) of the owners of each parcel of real property reasonably known to be adjacent to the affected real property.

(2) The department shall notify the persons who have requested notification of a license application that:

(A) affects the specific real property to which the application relates; or

(B) is of the same type as the application.

(b) The commission may adopt rules under IC 4-22-2 to require the following:

(1) That additional persons be notified of an application for a license.

(2) That additional forms of notice be given.

As added by P.L.1-1995, SEC.4.

IC 14-11-4-6

Requests for notice

Sec. 6. If notice is not required by section 5 of this chapter, the department shall notify the persons who have requested notice of a license application that is of the same type as the application.

As added by P.L.1-1995, SEC.4.

IC 14-11-4-7

Manner and contents of notice

Sec. 7. Notice under this chapter shall be given in the same manner as under IC 4-21.5-3-1, but is not the notice required under IC 4-21.5. Notice must include the following:

(1) Reference to the license application.

(2) An explanation of options available to the person served.

As added by P.L.1-1995, SEC.4.

IC 14-11-4-8

Public hearings

Sec. 8. (a) A public hearing shall be held on the question of the issuance of an original or a renewal license upon any of the following:

(1) The request of the applicant.

(2) The filing of a petition requesting a public hearing that is signed by twenty-five (25) individuals who are at least eighteen (18) years of age and who:

(A) reside in the county where the licensed activity would take place; or

(B) own real property within one (1) mile of the site of the proposed or existing licensed activity.

(3) The motion of the director.

(b) The public hearing authorized by this section does not constitute an agency action under IC 4-21.5.

(c) If a petition under subsection (a)(2) requests that the public hearing be conducted at a location within a county affected by a proposed license, the department shall conduct the public hearing at that location.
As added by P.L.1-1995, SEC.4.

IC 14-11-4-9
Adoption of rules
Sec. 9. The commission shall adopt rules under IC 4-22-2 to implement this chapter.
As added by P.L.1-1995, SEC.4.

IC 14-11-5
Chapter 5. Enforcement

IC 14-11-5-1
Enforcement

Sec. 1. The attorney general and prosecuting attorneys shall rigidly enforce this title.

As added by P.L.1-1995, SEC.4.

IC 14-12

ARTICLE 12. STATE RESOURCE DEVELOPMENT

IC 14-12-1

Chapter 1. Indiana Natural Resources Foundation

IC 14-12-1-1

"Fund" defined

Sec. 1. As used in this chapter, "fund" refers to the Indiana natural resources fund established by this chapter.

As added by P.L.1-1995, SEC.5.

IC 14-12-1-2

"Political subdivision" defined

Sec. 2. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

As added by P.L.1-1995, SEC.5.

IC 14-12-1-3

Repealed

(As added by P.L.1-1995, SEC.5. Repealed by P.L.82-2005, SEC.8.)

IC 14-12-1-4

Creation of foundation

Sec. 4. The Indiana natural resources foundation is created as a public body corporate and politic.

As added by P.L.1-1995, SEC.5.

IC 14-12-1-5

Members

Sec. 5. (a) The foundation consists of twelve (12) members, not more than six (6) of whom may be of the same political affiliation, appointed by the governor.

(b) At least one (1) member shall be appointed from each congressional district.

(c) A member of the foundation may not be an officer or employee of:

(1) the United States, the state, or a political subdivision; or

(2) an agency of the United States, the state, or a political subdivision.

As added by P.L.1-1995, SEC.5.

IC 14-12-1-6

Term of members

Sec. 6. (a) The term of each member is four (4) years. A member appointed to fill the unexpired term of a member serves until the end of the unexpired term.

(b) At the expiration of a member's term, the member may be reappointed.

(c) The term of each member begins July 1 and continues for four (4) years. Three (3) terms begin each year.

As added by P.L.1-1995, SEC.5.

IC 14-12-1-7

Chairman

Sec. 7. At the foundation's first meeting after June 30 of each year, the members shall select one (1) of the members to serve as chairman until the chairman's successor is selected.

As added by P.L.1-1995, SEC.5.

IC 14-12-1-8

Director as advisor to foundation

Sec. 8. (a) The director of the department, or the director's designee, is an advisor to the foundation.

(b) An advisor to the foundation may do the following:

(1) Attend all meetings of the foundation.

(2) Participate in all proceedings at foundation meetings other than voting.

As added by P.L.1-1995, SEC.5.

IC 14-12-1-9

Purpose of foundation

Sec. 9. (a) The exclusive purpose of the foundation is to acquire real and personal property to be donated under subsection (b).

(b) The foundation may donate real and personal property to the following:

(1) The department, subject to subsection (c).

(2) Any unit of local government.

(c) The foundation must have the approval of the director to donate real or personal property to the state.

As added by P.L.1-1995, SEC.5.

IC 14-12-1-10

Powers of foundation

Sec. 10. The foundation may do the following:

(1) Adopt bylaws for the regulation of the foundation's affairs and the conduct of the foundation's business.

(2) Adopt an official seal, which may not be the seal of the state.

(3) Maintain a principal office and other offices the foundation designates.

(4) Sue and be sued in the name and style of "Indiana Natural Resources Foundation", with service of process being made to the chairman of the foundation by leaving a copy at the principal office of the foundation or at the residence of the chairman if the foundation has no principal office.

(5) To exercise the powers or perform the duties of the

foundation, do the following:

(A) Acquire by any means except eminent domain a right or an interest in or upon real or personal property of any kind or nature. The foundation shall hold the legal title to property acquired in the name of the foundation.

(B) Dispose of a right or an interest in real property.

(6) Make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of the duties and the execution of the powers of the foundation under this chapter.

(7) Employ an executive director and other employees that are necessary in the foundation's judgment and fix their compensation.

(8) Conduct studies of the feasibility of certain natural resource projects and facilities.

(9) Receive and accept from any person grants for or in aid of the acquisition, construction, improvement, or development of any part of the projects of the foundation and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, applied, or disposed of only for the purposes consistent with the purposes of this chapter for which the grants and contributions may be made.

(10) Hold, use, administer, and expend money that may be acquired by the foundation.

(11) Do all acts and things necessary or proper to carry out the powers expressly granted in this chapter.

As added by P.L.1-1995, SEC.5.

IC 14-12-1-10.1
Repealed

(As added by P.L.5-1996, SEC.12. Repealed by P.L.177-2011, SEC.5.)

IC 14-12-1-11
Establishment of fund

Sec. 11. (a) The Indiana natural resources fund is established. Expenditures from the fund may be made only to carry out the purposes of this chapter. The foundation shall do the following:

(1) Hold the fund in the name of the foundation.

(2) Administer the fund.

(3) Make all expenditures from the fund.

(b) Gifts of money to the fund or the foundation or the proceeds from the sale of gifts donated to the fund or the foundation shall be deposited in the fund.

(c) The expenses of administering this chapter shall be paid from money in the fund.

(d) The money in the fund at the end of a state fiscal year remains in the fund and does not revert to any other fund. If the foundation is terminated, the money in the fund reverts to the department.

(e) The fund is subject to audit as if the foundation were a state agency.
As added by P.L.1-1995, SEC.5.

IC 14-12-1-11.1
Establishment and administration of forest restoration fund

Sec. 11.1. (a) The forest restoration fund is established. Expenditures from the fund may be made only to carry out the purpose of restoration, conservation, and improvement of lands:

(1) classified as native forest land, forest plantations, or wildlands under IC 6-1.1-6; and
(2) approved by the state forester.

(b) The foundation shall do the following:

(1) Hold the fund in the name of the foundation.
(2) Administer the fund.
(3) Make all expenditures from the fund.

(c) Gifts of money to the fund or the proceeds from the sale of gifts donated to the fund or the foundation shall be deposited in the fund.

(d) The expenses of administering this chapter shall be paid from money in the fund.

(e) The money in the fund at the end of a state fiscal year remains in the fund and does not revert to any other fund. If the foundation is terminated, the money in the fund reverts to the department.

(f) The fund is subject to audit as if the foundation were a state agency.
As added by P.L.66-2006, SEC.26.

IC 14-12-1-12
Property tax exemption

Sec. 12. The foundation is exempt from taxes on real or personal property the foundation acquires or disposes of or as a consequence of the foundation's transactions.
As added by P.L.1-1995, SEC.5.

IC 14-12-1-13
Coordination of expenditures

Sec. 13. Expenditures from the fund shall be coordinated with expenditures under the Indiana heritage trust program established by IC 14-12-2.
As added by P.L.1-1995, SEC.5.

IC 14-12-2

Chapter 2. Indiana Heritage Trust Program

IC 14-12-2-1

Purpose of program

Sec. 1. (a) The purpose of the Indiana heritage trust program and this chapter is to acquire real property or interests in real property that:

(1) is an example of outstanding natural features and habitats;

(2) has historical and archeological significance; and

(3) provides areas for conservation, recreation, and the restoration of native biological diversity.

(b) The Indiana heritage trust program shall acquire real property for new and existing state parks, state forests, nature preserves, fish and wildlife areas, wetlands, trails, and river corridors. The program shall ensure that Indiana's rich natural heritage is preserved or enhanced for succeeding generations.

(c) It is not the purpose of the Indiana heritage trust program to acquire property for resale to the federal government. However, the sale of property acquired under this chapter to the federal government is not prohibited.

As added by P.L.1-1995, SEC.5.

IC 14-12-2-2

"Fund" defined

Sec. 2. As used in this chapter, "fund" refers to the Indiana heritage trust fund established by this chapter.

As added by P.L.1-1995, SEC.5.

IC 14-12-2-3

"Person" defined

Sec. 3. As used in this chapter, "person" means an individual, a partnership, an association, a limited liability company, a corporation, an estate, a trust, or a governmental entity.

As added by P.L.1-1995, SEC.5.

IC 14-12-2-4

"Project" defined

Sec. 4. As used in this chapter, "project" means an undertaking that:

(1) furthers the purposes of this chapter;

(2) involves the acquisition of property for new and existing state parks, state historic or archeological sites, state forests, nature preserves, fish and wildlife areas, wetlands, trails, or river corridors; and

(3) is eligible to receive an expenditure from the fund.

As added by P.L.1-1995, SEC.5.

IC 14-12-2-5
"Project committee" defined

Sec. 5. As used in this chapter, "project committee" refers to the Indiana heritage trust project committee established by this chapter.
As added by P.L.1-1995, SEC.5.

IC 14-12-2-6
"Property" defined

Sec. 6. As used in this chapter, "property" means an interest in real property. The term includes the following:

(1) Ownership in fee simple.
(2) Conservation easements.
(3) Leaseholds.
(4) Management rights.

As added by P.L.1-1995, SEC.5.

IC 14-12-2-7
"Trust committee" defined

Sec. 7. As used in this chapter, "trust committee" refers to the Indiana heritage trust committee established by this chapter.
As added by P.L.1-1995, SEC.5.

IC 14-12-2-8
Trust committee; establishment and members

Sec. 8. (a) The Indiana heritage trust committee is established.

(b) The trust committee consists of the following seventeen (17) members:

(1) The twelve (12) members of the natural resources foundation under IC 14-12-1-5.
(2) Two (2) members of the senate appointed by the president pro tempore of the senate with advice from the minority leader of the senate.
(3) Two (2) members of the house of representatives appointed by the speaker of the house of representatives with advice from the minority leader of the house of representatives.
(4) The treasurer of state or the treasurer's designee.

As added by P.L.1-1995, SEC.5. Amended by P.L.181-1995, SEC.1.

IC 14-12-2-9
Trust committee; chairman

Sec. 9. The chairman of the foundation is the chairman of the trust committee.
As added by P.L.1-1995, SEC.5.

IC 14-12-2-10
Trust committee; meetings

Sec. 10. The trust committee shall meet at least annually and at the call of the chairman.
As added by P.L.1-1995, SEC.5.

IC 14-12-2-11
Trust committee; quorum

Sec. 11. (a) Nine (9) voting members of the trust committee constitute a quorum.

(b) The affirmative vote of nine (9) of the members of the trust committee is necessary for the trust committee to take any action.
As added by P.L.1-1995, SEC.5.

IC 14-12-2-12
Trust committee; purpose

Sec. 12. The purpose of the trust committee is to determine whether proposed projects under this chapter should be approved and to perform other duties given to the trust committee by this chapter.
As added by P.L.1-1995, SEC.5.

IC 14-12-2-13
Trust committee; budget

Sec. 13. Based upon recommendations from the project committee, the trust committee shall, before the end of each state fiscal year, prepare a budget for expenditures from the fund for the following state fiscal year. The budget must contain priorities for expenditures from the fund to accomplish the projects that have been approved by the governor under this chapter. The budget shall be submitted to the governor.
As added by P.L.1-1995, SEC.5.

IC 14-12-2-14
Project committee; establishment and members

Sec. 14. (a) The Indiana heritage trust project committee is established.

(b) The project committee consists of the following sixteen (16) members:

(1) The director of the division of fish and wildlife.
(2) The director of the division of forestry.
(3) The director of the division of nature preserves.
(4) The director of the division of state parks.
(5) The director of the division of outdoor recreation.
(6) The chief executive officer of the Indiana state museum and historic sites corporation established by IC 4-37-2-1.
(7) Ten (10) individuals appointed by the governor. The governor shall appoint individuals so that all the following are satisfied:
(A) The individuals must be residents of Indiana.
(B) The individuals must have a demonstrated interest or experience in:
(i) conservation of natural resources; or
(ii) management of public property.
(C) Each Indiana congressional district must be represented by at least one (1) individual who is a resident of that

congressional district.

(D) The individuals must represent the following:

(i) The environmentalist community.

(ii) The academic community.

(iii) Organized hunting and fishing groups.

(iv) The forest products community.

(v) The parks and recreation community.

As added by P.L.1-1995, SEC.5. Amended by P.L.170-2002, SEC.92; P.L.167-2011, SEC.15.

IC 14-12-2-15

Project committee; terms of members

Sec. 15. (a) As used in this section, "member" refers to a member of the project committee under section 14(b)(7) of this chapter.

(b) The term of a member begins on the later of the following:

(1) The day the term of the member who the individual is appointed to succeed expires.

(2) The day the individual is appointed by the governor.

(c) The term of a member expires July 1 of the second year after the member is appointed. However, a member serves at the pleasure of the governor.

(d) The governor may reappoint a member for a new term.

(e) The governor shall appoint an individual to fill a vacancy among the members.

As added by P.L.1-1995, SEC.5.

IC 14-12-2-16

Project committee; chairman

Sec. 16. The governor shall appoint the chairman of the project committee from among the members of the committee.

As added by P.L.1-1995, SEC.5.

IC 14-12-2-17

Project committee; meetings

Sec. 17. (a) The project committee shall meet at least quarterly and at the call of the chairman.

(b) The project committee may convene a meeting at any location in Indiana.

(c) The project committee shall plan and conduct meetings in a manner that promotes broad public participation and ensures that the views of the members of the public attending the meetings may be fairly presented.

As added by P.L.1-1995, SEC.5.

IC 14-12-2-18

Project committee; quorum

Sec. 18. (a) Nine (9) members of the project committee constitute a quorum.

(b) The affirmative vote of nine (9) members of the project

committee is necessary for the project committee to take any action.

(c) A member of the project committee who is a division director may designate in writing a representative from the respective division of the department to serve as a member of the project committee when the member of the project committee is unable to attend a meeting.

As added by P.L.1-1995, SEC.5.

IC 14-12-2-19

Project committee; purpose

Sec. 19. The purpose of the project committee is to do the following:

(1) Propose projects to the trust committee under this chapter.

(2) Provide technical advice and assistance to the trust committee.

(3) Before the end of each state fiscal year, propose a budget for expenditures from the fund for the following state fiscal year. The budget must contain priorities for expenditures to accomplish projects that have been approved by the governor under this chapter. The proposed budget shall be submitted to the trust committee.

As added by P.L.1-1995, SEC.5.

IC 14-12-2-20

Per diem compensation and traveling expenses

Sec. 20. (a) As used in this section, "member" refers to a member of the following:

(1) The trust committee.

(2) The project committee.

(b) Each member who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(d) Each member who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council.

As added by P.L.1-1995, SEC.5.

IC 14-12-2-21

Procedure for acquisition of property

Sec. 21. (a) The following procedure must be followed before the department may acquire property under this chapter:

(1) The project committee must propose a project to the trust committee.

(2) The trust committee must approve the project proposed by the project committee, with or without modifications, and recommend the project to the governor for approval.

(3) The governor must approve the project as recommended by the trust committee and inform the director of the department of the governor's approval.

(b) When the procedure under subsection (a) is completed, the department shall acquire the property subject to the project according to Indiana law.

As added by P.L.1-1995, SEC.5.

IC 14-12-2-22

Management of property

Sec. 22. Property acquired by the state under this chapter may be managed by any of the following:

(1) The department.

(2) A person with whom the department enters into a management agreement under rules adopted under section 34 of this chapter.

As added by P.L.1-1995, SEC.5.

IC 14-12-2-23

Eminent domain precluded

Sec. 23. Eminent domain may not be used to acquire property under this chapter.

As added by P.L.1-1995, SEC.5.

IC 14-12-2-24

Strategic plan

Sec. 24. The trust committee shall, with the assistance of the project committee and the department, adopt and make available to the public a strategic plan to implement the purposes of this chapter.

As added by P.L.1-1995, SEC.5.

IC 14-12-2-25

Fund; establishment

Sec. 25. (a) The Indiana heritage trust fund is established for the purpose of purchasing property as provided in this chapter.

(b) The fund consists of the following:

(1) Appropriations made by the general assembly.

(2) Interest as provided in subsection (e).

(3) Fees from environmental license plates issued under IC 9-18-29.

(4) Money donated to the fund.

(5) Money transferred to the fund from other funds.

(c) The department shall administer the fund.

(d) The expenses of administering the fund and this chapter shall be paid from the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public trust funds are invested. Interest that accrues from these investments shall be deposited in the fund.

(f) An appropriation made by the general assembly to the fund shall be allotted and allocated at the beginning of the fiscal period for which the appropriation was made.

(g) Money in the fund at the end of a state fiscal year does not revert to the state general fund or any other fund.

(h) Subject to this chapter, there is annually appropriated to the department all money in the fund for the purposes of this chapter.

As added by P.L.1-1995, SEC.5.

IC 14-12-2-26

Fund; accounts

Sec. 26. The following accounts are established within the fund:

(1) The state parks account. Money in this account may be used only to purchase property for state park purposes.

(2) The state forests account. Money in this account may be used only to purchase property for state forest purposes.

(3) The nature preserves account. Money in this account may be used only to purchase property for nature preserve purposes.

(4) The fish and wildlife account. Money in this account may be used only to purchase property for fish or wildlife management purposes.

(5) The outdoor recreation account. Money in this account may be used only to purchase property for outdoor recreation, historic site, or archeological site purposes.

(6) The stewardship account. Money in this account may be used only for the following purposes:

(A) Maintenance of property acquired under this chapter.

(B) Costs of removal of structures, debris, and other property that is unsuitable for the intended use of the property to be acquired.

(C) Costs of site preparation related to any of the following:

(i) The public use of the property, such as fences, rest rooms, public ways, trails, and signs.

(ii) Protecting or preserving the property's natural environment.

(iii) Returning the property to the property's natural state.

(D) Not more than ten percent (10%) of the money in the account for the promotion of the purposes of the Indiana heritage trust program.

(7) The discretionary account. Subject to section 31 of this chapter, money in this account may be used for any purpose for

which the accounts listed in subdivisions (1) through (6) may be used.

As added by P.L.1-1995, SEC.5.

IC 14-12-2-27

Fund allocations to stewardship account

Sec. 27. Five percent (5%) of the money appropriated to the fund shall be allotted to the stewardship account established by section 26(6) of this chapter.

As added by P.L.1-1995, SEC.5.

IC 14-12-2-28

Fund; other allotments

Sec. 28. After the allotment required under section 27 of this chapter has been made, the following allotments shall be made:

(1) Ten percent (10%) of the balance shall be allotted to each account listed in section 26(1) through 26(5) of this chapter.

(2) Fifty percent (50%) of the balance shall be allotted to the account listed in section 26(7) of this chapter.

As added by P.L.1-1995, SEC.5.

IC 14-12-2-29

Fund; balance in accounts not reverting to fund

Sec. 29. The balance in an account listed in section 26 of this chapter on June 30 of a year does not revert to the fund on the following July 1.

As added by P.L.1-1995, SEC.5.

IC 14-12-2-30

Fund; use of money in accounts

Sec. 30. (a) Money in the accounts of the fund, other than the stewardship account, may be used for the following:

(1) Acquisition costs, such as costs of surveying, title insurance, and other activities associated with the transfer of title to property.

(2) Costs of services and expenses related to acquisition, such as engineering, appraisal, environmental, accounting, project development, and legal services and expenses.

(b) Money in the fund may not be used for the following:

(1) The costs of construction of structures other than those authorized under section 26(6) of this chapter.

(2) The costs of removal (as defined in IC 13-11-2-187) and remedial action (as defined in IC 13-11-2-185) relating to hazardous substances (as defined in IC 13-11-2-98).

(3) The costs of wastewater treatment.

As added by P.L.1-1995, SEC.5. Amended by P.L.1-1996, SEC.62.

IC 14-12-2-31

Fund; matching money or value for expenditures

Sec. 31. (a) As used in this section, "eligible cost" refers to a cost listed in section 30(a) of this chapter.

(b) Expenditures from the discretionary account may only be made to the extent that, for every three dollars ($3) to be expended from that account for an approved project, at least one dollar ($1) in matching money or value is provided for an approved project from nonstate sources or from the foundation.

(c) In determining whether sufficient matching money or value has been provided, the trust committee shall consider the following to be matching value:

(1) The value, as determined by the trust committee, of property and eligible costs related to the acquisition donated to the department for an approved project.

(2) The value, as determined by the trust committee, of improvements to property in an approved project, such as reforestation, reclamation, and other efforts that, in a manner satisfactory to the trust committee, preserve the property or restore the property to a more natural state.

(3) The value, as determined by the trust committee, of the dedication of, other restriction on, or improvements to property adjoining an approved project for conservation purposes, in a manner satisfactory to the trust committee.

(4) The value, as determined by the trust committee, of other real property:

(A) held by a nonprofit corporation, the federal government, or local government; and

(B) used for the benefit of property in an approved project, with restrictions on the use of the property, such as dedication as a nature preserve, in a manner satisfactory to the trust committee.

(5) Distributions of federal revenues directly to the fund or through the state that are used for an approved project.

As added by P.L.1-1995, SEC.5.

IC 14-12-2-32

Fund; coordination of expenditures

Sec. 32. Expenditures from the fund shall be coordinated with expenditures by the foundation from the Indiana natural resources fund established by IC 14-12-1-11.

As added by P.L.1-1995, SEC.5.

IC 14-12-2-33

Annual report

Sec. 33. Before October 1 of each year, the trust committee shall prepare a report concerning the program established by this chapter for the public and the general assembly. A report prepared for the general assembly must be in an electronic format under IC 5-14-6.

As added by P.L.1-1995, SEC.5. Amended by P.L.28-2004, SEC.126.

IC 14-12-2-34
Adoption of rules

Sec. 34. The commission may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.1-1995, SEC.5.

IC 14-12-2-35
Fish and wildlife land acquisition stamps

Sec. 35. (a) The department shall produce and make available for sale a voluntary fish and wildlife land acquisition stamp.

(b) The department shall determine the form and design of the stamp. A new design shall be adopted for the stamp each year.

(c) The stamp shall be:

(1) offered for sale by the department; and

(2) distributed to license agents authorized to sell licenses under IC 14-22 for sale by those agents.

(d) The price of each stamp is five dollars ($5). A license agent who sells a stamp may charge and retain an additional fifty cents ($0.50) as a fee for selling the stamp.

(e) A license agent selling stamps under this section shall, not later than five (5) days after the close of each quarter:

(1) report to the director of the department:

(A) the number of stamps sold by the agent during the preceding quarter; and

(B) the number of unsold stamps remaining in the possession of the agent; and

(2) remit all money collected for the stamps, minus the fees provided for in subsection (d), to the department.

(f) The money collected by the department from the sale of the stamps shall be deposited in the fish and wildlife account established within the Indiana heritage trust fund by section 26(4) of this chapter.

As added by P.L.182-1995, SEC.1.

IC 14-12-3

Chapter 3. Hometown Indiana Grant Program

IC 14-12-3-1

"Corporation" defined

Sec. 1. As used in this chapter, "corporation" means the following:

(1) A nonprofit corporation formed under IC 23-7-1.1 (before its repeal on August 1, 1991) or IC 23-17.

(2) A municipal corporation.

As added by P.L.1-1995, SEC.5.

IC 14-12-3-2

"Fund" defined

Sec. 2. As used in this chapter, "fund" refers to the hometown Indiana fund established by this chapter.

As added by P.L.1-1995, SEC.5.

IC 14-12-3-3

"Municipal corporation" defined

Sec. 3. As used in this chapter, "municipal corporation" has the meaning set forth in IC 36-1-2.

As added by P.L.1-1995, SEC.5.

IC 14-12-3-4

"Program" defined

Sec. 4. As used in this chapter, "program" refers to the hometown Indiana grant program established by this chapter.

As added by P.L.1-1995, SEC.5.

IC 14-12-3-5

Establishment of program

Sec. 5. The hometown Indiana grant program is established.

As added by P.L.1-1995, SEC.5.

IC 14-12-3-6

Administration of program

Sec. 6. The department shall administer the program.

As added by P.L.1-1995, SEC.5.

IC 14-12-3-7

Grants

Sec. 7. The department shall grant money from the fund to eligible corporations for any of the following purposes:

(1) Community parks and recreation areas.

(2) Historic preservation of real property.

(3) Community forestry.

As added by P.L.1-1995, SEC.5.

IC 14-12-3-8
Eligibility for grants

Sec. 8. To be eligible to receive a grant from the fund for a project, a corporation must do the following:

(1) Apply for the grant in a manner prescribed by rules of the commission.

(2) Provide at least fifty percent (50%) of the cost of the proposed project through public or private money, labor, or property.

As added by P.L.1-1995, SEC.5.

IC 14-12-3-9
Community park or recreation area grants

Sec. 9. To be eligible to receive a grant for a project involving a community park or recreation area, the following conditions must be met in addition to those set forth in section 8 of this chapter:

(1) The applicant must be a municipal corporation.

(2) The grant must be used to acquire, develop, or renovate a community park or recreation area.

(3) The community park or recreation area must be on land owned or controlled by the municipal corporation.

(4) The community park or recreation area must be operated and maintained for public recreation.

(5) The applicant must demonstrate the ability of the municipal corporation to operate and maintain the community park or recreation area after completion.

(6) The applicant must demonstrate that the project will be compatible with existing site conditions, including sewers and utility facilities.

As added by P.L.1-1995, SEC.5.

IC 14-12-3-10
Historic preservation grants

Sec. 10. To be eligible to receive a grant for a project involving the historic preservation of real property, the following conditions must be met in addition to those set forth in section 8 of this chapter:

(1) The applicant must be a municipal corporation or a nonprofit corporation that has no affiliation with religion.

(2) The property must be listed in the Indiana State Register of Historic Sites and Structures.

(3) The project must meet professional standards in architecture, history, and archeology established by rules of the commission.

(4) Some of the facilities of the property must regularly be open to the public or be maintained for public benefit.

(5) The applicant must demonstrate that there are adequate provisions, including sufficient identified sources of money, to ensure that the property will be adequately operated and maintained.

As added by P.L.1-1995, SEC.5.

IC 14-12-3-11
Community forestry grants

Sec. 11. To be eligible to receive a grant for a project involving community forestry, the following conditions must be met in addition to those set forth in section 8 of this chapter:

(1) The applicant must be a municipal corporation or a nonprofit corporation that has no affiliation with religion.

(2) The land involved in the project must be on land owned or controlled by the municipal corporation.

(3) The applicant must demonstrate that there are adequate provisions to maintain the completed project.

(4) The applicant must demonstrate the project will be compatible with existing site conditions, including sewers and utility facilities.

As added by P.L.1-1995, SEC.5.

IC 14-12-3-12
Ratings

Sec. 12. The department shall make all grants in accordance with ratings established under criteria established by rule.

As added by P.L.1-1995, SEC.5.

IC 14-12-3-13
Adoption of rules

Sec. 13. (a) The commission shall adopt the rules required by this chapter under IC 4-22-2.

(b) The commission may adopt other rules under IC 4-22-2 to implement this chapter.

As added by P.L.1-1995, SEC.5.

IC 14-12-3-14
Establishment of fund

Sec. 14. (a) The hometown Indiana fund is established to carry out the purposes of this chapter. The department shall administer the fund.

(b) Gifts of money to the fund or the proceeds from the sale of gifts donated to the fund shall be deposited in the fund.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund. However, if the fund is abolished, the money in the fund reverts to the state general fund.

As added by P.L.1-1995, SEC.5.

IC 14-13

ARTICLE 13. LOCAL RESOURCE DEVELOPMENT

IC 14-13-1

Chapter 1. Indiana White River State Park Development Commission

IC 14-13-1-0.3

Continuation of commission

Sec. 0.3. Notwithstanding IC 4-26-3-27 and IC 4-26-3-27.3 (before their repeal) and the one (1) year delay period ordered by the governor under Executive Order 92-5 issued under IC 4-26-3-11 (before its repeal), the Indiana White River state park development commission is not abolished, and the powers, duties, and functions adhering to it do not terminate on June 30, 1993.

As added by P.L.220-2011, SEC.293.

IC 14-13-1-1

"Commission"

Sec. 1. As used in this chapter, "commission" refers to the Indiana White River state park development commission.

As added by P.L.1-1995, SEC.6.

IC 14-13-1-2

"Fund"

Sec. 2. As used in this chapter, "fund" refers to the White River park development fund created by this chapter.

As added by P.L.1-1995, SEC.6.

IC 14-13-1-3

Purposes of chapter

Sec. 3. The general purposes of this chapter are to do the following:

(1) Promote the general health and welfare of citizens of Indiana.

(2) Provide for the creation, development, and facilitation of park, exposition, educational, athletic, and recreational projects.

(3) Provide for the operation and maintenance of those projects.

(4) Create a commission with the authority to carry out the purposes of this chapter.

As added by P.L.1-1995, SEC.6.

IC 14-13-1-4

Liberal construction

Sec. 4. This chapter, being necessary for the welfare of Indiana and the inhabitants of Indiana, should be liberally construed to effect the purposes of this chapter.

As added by P.L.1-1995, SEC.6.

IC 14-13-1-5
Creation of commission

Sec. 5. The Indiana White River state park development commission is created as a public body corporate and politic.
As added by P.L.1-1995, SEC.6.

IC 14-13-1-6
Voting members

Sec. 6. The commission has ten (10) voting members as follows:
(1) The director or the director's designee.
(2) The executive of the city of Indianapolis or the executive's designee.
(3) The president of Indiana University or the president's designee.
(4) Seven (7) members appointed by the governor as follows:
(A) One (1) member for a term ending December 31, 1995.
(B) Two (2) members for terms ending December 31, 1996.
(C) Two (2) members for terms ending December 31, 1997.
(D) Two (2) members for terms ending December 31, 1998.
As added by P.L.1-1995, SEC.6.

IC 14-13-1-7
Term of voting members

Sec. 7. The term of a voting member is four (4) years. However, if an appointee is appointed to serve an unexpired term, the appointee serves only until the end of the unexpired term.
As added by P.L.1-1995, SEC.6.

IC 14-13-1-8
Political party affiliation of voting members

Sec. 8. Two (2) members appointed for terms expiring at the same time may not belong to the same political party.
As added by P.L.1-1995, SEC.6.

IC 14-13-1-9
Legislative members

Sec. 9. (a) In addition to the voting members of the commission, the governor shall appoint four (4) legislative members from the general assembly from recommendations made by the speaker of the house of representatives and the president pro tempore of the senate as follows:
(1) Two (2) legislative members must be members of the house of representatives, but may not be members of the same political party.
(2) Two (2) legislative members must be members of the senate, but may not be members of the same political party.
(b) The legislative members may not:
(1) vote in proceedings of the commission; and
(2) be counted for purposes of establishing a quorum.

(c) The term of a legislative member is four (4) years, except for the following:

(1) A legislative member's membership on the commission is terminated when the legislative member ceases to be a member of the general assembly.

(2) A legislative member appointed to serve an unexpired term may serve only until the end of that term.

As added by P.L.1-1995, SEC.6.

IC 14-13-1-10
Eligibility for reappointment

Sec. 10. A member of the commission is eligible for reappointment.

As added by P.L.1-1995, SEC.6.

IC 14-13-1-11
Chairman; treasurer

Sec. 11. The governor shall annually designate:

(1) one (1) of the voting members of the commission as chairman; and

(2) one (1) of the voting members of the commission as treasurer;

for terms expiring December 31.

As added by P.L.1-1995, SEC.6.

IC 14-13-1-12
Meetings

Sec. 12. (a) The commission shall meet on call of any of the following:

(1) The chairman.

(2) The executive director.

(3) Any three (3) voting members.

(b) Seven (7) voting members constitute a quorum.

As added by P.L.1-1995, SEC.6.

IC 14-13-1-13
Per diem compensation and traveling expenses

Sec. 13. (a) Each voting member is entitled to reimbursement for traveling and other expenses as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency. Each voting member who is not a state employee is entitled to the minimum salary per diem as provided in IC 4-10-11-2.1(b).

(b) Each legislative member of the commission is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council.

As added by P.L.1-1995, SEC.6.

IC 14-13-1-14
Executive director

Sec. 14. The governor shall appoint an executive director for the commission.

As added by P.L.1-1995, SEC.6.

IC 14-13-1-14.5
Repealed

(As added by P.L.5-1996, SEC.13. Repealed by P.L.177-2011, SEC.5.)

IC 14-13-1-15
Park project development plan

Sec. 15. (a) The commission may design and implement a plan for the establishment and development of park, exposition, educational, athletic, and recreational projects to be located within one (1) mile of the banks of the White River in a consolidated city and county. The projects may include any of the following:

(1) Parks.
(2) Recreational facilities.
(3) Exposition facilities.
(4) Zoos, aquariums, aviaries, or other facilities for animal life.
(5) Facilities for entertainment, meetings, industrial and trade shows, athletic events, and other displays and events of cultural, educational, entertainment, and recreational value.
(6) Other facilities that the commission considers appropriate to the general public welfare and to the cultural, recreational, educational, or civic well-being of the public.

(b) In designing and implementing this plan, the commission may employ the architects, engineers, surveyors, planners, advisors, and consultants that the commission considers appropriate. The commission may seek and accept the advice and comments of other persons and entities, including political subdivisions and public agencies, that the commission considers appropriate.

As added by P.L.1-1995, SEC.6.

IC 14-13-1-16
Acquisition of property by purchase or lease

Sec. 16. (a) The commission may acquire, by purchase or by lease:

(1) any land, property, rights, rights-of-way, franchises, easements, and other interests in real property, including land under water and riparian rights; and
(2) any existing facilities, betterments, and improvements;

that the commission considers necessary or convenient for the establishment, development, construction, improvement, or operation of any projects.

(b) Property may be acquired under subsection (a):

(1) upon the terms; and
(2) at the price or rent;

that the commission considers reasonable and that are agreed upon by the commission and the owner.

(c) The commission may acquire land and other interests in real property under subsection (a) by:

(1) gift or bequest; or

(2) condemnation under section 17 of this chapter.

(d) The commission shall take and hold title to the land and other interests in the name of the state of Indiana.

As added by P.L.1-1995, SEC.6.

IC 14-13-1-17

Eminent domain powers

Sec. 17. (a) The commission may acquire by appropriation under Indiana eminent domain law:

(1) any land, property, rights, rights-of-way, franchises, easements, or other interests in real property, including land under water and riparian rights; or

(2) any existing facilities, betterments, and improvements, or other property;

necessary and proper for the creation, development, establishment, maintenance, or operation of a project or any part of a project.

(b) If property is acquired under Indiana eminent domain law, the commission shall use the property only for the specific uses that are stated in the complaint filed under IC 32-24-1-4 and for no other purpose.

As added by P.L.1-1995, SEC.6. Amended by P.L.2-2002, SEC.58.

IC 14-13-1-18

Acquisition of property from political subdivisions or public entities

Sec. 18. Each:

(1) county, city, town, township, and other political subdivision of the state; and

(2) public agency, department, and commission;

may, upon the terms and conditions that the proper authorities of the entity and the commission consider reasonable and appropriate, lease, lend, grant, or convey to the commission, at the commission's request, real or personal property, including an interest in the property, owned by the entity that is necessary or convenient to effecting the purposes of this chapter.

As added by P.L.1-1995, SEC.6.

IC 14-13-1-19

Property improvements

Sec. 19. In establishing and developing projects, the commission may:

(1) construct, reconstruct, establish, build, repair, remodel, enlarge, extend, or add to the facilities, betterments, and improvements; and

(2) clear and prepare any site for construction;
that the commission considers appropriate and in furtherance of the purposes of this chapter.
As added by P.L.1-1995, SEC.6.

IC 14-13-1-20
Conveyance of property to political subdivisions or public entities
Sec. 20. (a) The commission may sell, transfer, or convey to:
(1) a political subdivision of the state; or
(2) a public agency, department, or commission;
for the consideration and upon the terms that the commission considers appropriate real property, including a facility, betterment, or improvement, within the projects or acquired under this chapter, if the sale, transfer, or conveyance and ownership by the transferee further the purposes of this chapter.
(b) Transfer is subject to the restrictions that the commission considers appropriate and in furtherance of the purposes of this chapter.
As added by P.L.1-1995, SEC.6.

IC 14-13-1-21
Management of park projects
Sec. 21. (a) The commission may provide for the construction, improvement, development, operation, and management of the projects, including any facilities, betterments, and improvements that are part of the projects, in the manner that the commission considers appropriate and in furtherance of the purposes of this chapter.
(b) The commission may enter into:
(1) a lease agreement as lessor or sublessor; or
(2) an operating or license agreement;
with respect to all or part of a site, a facility, a betterment, or an improvement that is part of the projects with at least one (1) public or private person or entity, including political subdivisions of the state and public agencies, departments, and commissions, on the terms and conditions that the commission considers appropriate and in furtherance of the purposes of this chapter.
As added by P.L.1-1995, SEC.6.

IC 14-13-1-22
Repealed
(As added by P.L.1-1995, SEC.6. Repealed by P.L.197-2011, SEC.153.)

IC 14-13-1-23
Repealed
(As added by P.L.1-1995, SEC.6. Repealed by P.L.197-2011, SEC.153.)

IC 14-13-1-24

Repealed

(As added by P.L.1-1995, SEC.6. Repealed by P.L.197-2011, SEC.153.)

IC 14-13-1-25

Repealed

(As added by P.L.1-1995, SEC.6. Repealed by P.L.197-2011, SEC.153.)

IC 14-13-1-26

Repealed

(As added by P.L.1-1995, SEC.6. Repealed by P.L.197-2011, SEC.153.)

IC 14-13-1-27

Feasibility study

Sec. 27. The commission shall study the feasibility of programs, projects, events, and facilities of national and international significance in the areas of health, nutrition, physical fitness, medical science, recreation, athletics, animal study, veterinary science, and related areas.

As added by P.L.1-1995, SEC.6. Amended by P.L.197-2011, SEC.49.

IC 14-13-1-28

General powers of commission

Sec. 28. The commission may do the following:

(1) Adopt bylaws for the regulation of the commission's affairs and the conduct of the commission's business.

(2) Adopt an official seal, which may not be the seal of the state.

(3) Maintain a principal office and other offices that the commission designates.

(4) Sue and be sued in the name and style of "White River State Park Development Commission", with service of process being had upon the chairman of the commission by leaving a copy at the principal office of the commission.

(5) Acquire by grant, purchase, gift, devise, lease, eminent domain, or otherwise and hold, use, sell, lease, or dispose of:

(A) real and personal property of every kind and nature; and

(B) any right and interest;

necessary for the full exercise or convenient or useful for the carrying on of any of the commission's powers under this chapter.

(6) Exercise within Indiana and in the name of the state of Indiana the power of eminent domain under Indiana law governing the exercise of the power of eminent domain for any public purposes.

(7) Fix, collect, and review admission charges, entrance fees, tolls, and other user charges for the use of a facility within the projects owned or leased by the commission or dedicated to the

commission by a political subdivision of the state or a public agency, department, or commission having jurisdiction of the facility.

(8) Acquire by fee or by lease, obtain option on, hold, and dispose of real and personal property reasonably necessary and proper to the exercise of the commission's powers and the performance of the commission's duties under this chapter.

(9) Make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of the commission's duties and the execution of the commission's powers under this chapter.

(10) Employ and fix the compensation of consulting engineers, superintendents, and other engineers, construction and accounting experts, attorneys, and other employees and agents the commission considers necessary.

(11) Conduct studies of the financial feasibility of the park and recreational projects and facilities, betterments, and improvements within those projects.

(12) Avail itself of the services of professional and other personnel employed by an agency, a department, or a commission of the state for purposes of studying the feasibility of or designing, constructing, or maintaining the projects or a facility within those projects.

(13) Receive and accept:

(A) from the federal government or a federal agency or department grants for or in aid of the acquisition, construction, improvement, or development of any part of the projects of the commission; and

(B) aid or contributions from any source of money, property, labor, or other things of value;

to be held, used, and applied only for the purposes, consistent with the purposes of this chapter, for which the grants and contributions may be made.

(14) Hold, use, administer, and expend the money that is appropriated or transferred to the commission.

(15) Assist or cooperate with a political subdivision or public agency, department, or commission, including the payment of money or the transfer of property by the commission to the political subdivision or public agency, department, or commission, if the commission considers the assistance or cooperation appropriate and in furtherance of the purposes of this chapter.

(16) Accept assistance and cooperation from a political subdivision or public agency, department, or commission, including the acceptance of money or property by the commission from the political subdivision or public agency, department, or commission, if the commission considers the assistance or cooperation appropriate and in furtherance of the purposes of this chapter.

(17) All acts and things necessary or proper to carry out the powers expressly granted in this chapter.

As added by P.L.1-1995, SEC.6.

IC 14-13-1-29

Creation of fund

Sec. 29. (a) The White River park development fund is created. The commission shall make expenditures from the fund only to accomplish the purposes of this chapter, including the acquisition of real property and interests in real property as the site for projects of the commission and the construction of facilities, betterments, and improvements within the projects.

(b) The commission shall do the following:

(1) Hold the fund in the name of the commission.

(2) Administer the fund.

(3) Make all expenditures from the fund.

(c) The money in the fund at the end of a fiscal year remains in the fund and does not revert to any other fund.

As added by P.L.1-1995, SEC.6.

IC 14-13-1-30

Revenue bonds; issuance

Sec. 30. (a) The acquisition, construction, or improvement of real property, a facility, a betterment, or an improvement constituting part of a project of the commission, including acquisition of the site for a project, may be financed in whole or in part by the issuance before July 1, 2005, of bonds payable solely out of the net income received from the operation of the real property, facility, betterment, or improvement.

(b) If the commission desires to finance an acquisition, a construction, or an improvement in whole or in part as provided in this section or sections 31 through 36 of this chapter, the commission must adopt a resolution authorizing the issuance of bonds. The resolution must set forth the following:

(1) The date on which the principal of the bonds matures, not exceeding forty (40) years from the date of issuance.

(2) The maximum interest rate to be paid on the bonds.

(3) Other terms and conditions upon which the bonds are issued.

(c) The commission shall take all actions necessary to issue the bonds in accordance with the resolution. The commission may enter into a trust agreement with a trust company as trustee for the bondholders. An action to contest the validity of any bonds to be issued under this chapter may not be brought after the fifteenth day following the receipt of bids for the bonds.

As added by P.L.1-1995, SEC.6. Amended by P.L.235-2005, SEC.183.

IC 14-13-1-31

Revenue bonds; not debt of state or subdivision; payable solely

from money pledged

Sec. 31. (a) Revenue bonds issued under this chapter or under IC 14-6-29 (before its repeal) do not constitute any of the following:

(1) A debt of the state or of a political subdivision of the state.

(2) A pledge of the faith and credit of the state or a political subdivision of the state.

(b) The bonds are payable solely from the revenues pledged for their payment as authorized in this chapter or IC 14-6-29 (before its repeal).

As added by P.L.1-1995, SEC.6.

IC 14-13-1-32

Revenue bonds; redemption; negotiability

Sec. 32. (a) Revenue bonds issued under this chapter or under IC 14-6-29 (before its repeal) may be made redeemable before maturity at the option of the commission at the price and under the terms and conditions that are set by the commission in the authorizing resolution. The commission shall do the following:

(1) Determine the form of the bonds, including any interest coupons to be attached to the bonds.

(2) Fix the denomination of the bonds.

(3) Fix the place of payment of principal and interest, which may be at any bank or trust company within or outside Indiana.

(b) Revenue bonds have the qualities and incidents of negotiable instruments under Indiana law. Provision may be made for the registration of any of the bonds as to principal alone and also as to both principal and interest.

As added by P.L.1-1995, SEC.6.

IC 14-13-1-33

Revenue bonds; requirements

Sec. 33. (a) Revenue bonds issued under this chapter shall be issued in the name of the commission and must recite on the face of each bond that the principal of and interest on the bond are payable solely from revenues pledged for their payment and are not an obligation of the state or of a political subdivision of the state.

(b) The chairman of the commission shall execute the bonds, and the secretary of the commission shall affix and attest the seal of the commission.

(c) Coupons attached to the bonds must bear the facsimile signature of the chairman of the commission.

As added by P.L.1-1995, SEC.6.

IC 14-13-1-34

Revenue bonds; authority to issue

Sec. 34. This chapter and IC 14-6-29 (before its repeal) constitute full and complete authority for the issuance of revenue bonds. A law, a procedure or proceeding, a publication, a notice, a consent, an approval, an order, an act, or a thing by the commission or any other

officer, department, agency, or instrumentality of the state, a county, or a municipality is not required to issue revenue bonds except as prescribed in this chapter or IC 14-6-29 (before its repeal).
As added by P.L.1-1995, SEC.6.

IC 14-13-1-35
Revenue bonds; legal investments

Sec. 35. Revenue bonds issued under this chapter or IC 14-6-29 (before its repeal) constitute legal investments for the following:

(1) Private trust money.

(2) The money of banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and any other financial institutions organized under Indiana law.

As added by P.L.1-1995, SEC.6.

IC 14-13-1-36
Revenue bonds; refunding bonds

Sec. 36. (a) The commission may issue refunding bonds before July 1, 2005, in the name of the commission for the following purposes:

(1) Refunding any bonds then outstanding and issued under this chapter or under IC 14-6-29 (before its repeal), including payment of redemption premium and interest accrued or to accrue to the date of redemption of the outstanding bonds.

(2) If considered advisable by the commission, constructing improvements, extensions, or enlargements of a facility, a betterment, or an improvement in connection with which the bonds to be refunded have been issued.

(b) The issuance of the refunding bonds, the maturity dates and other details, and all rights, duties, and obligations of the holders of the refunding bonds and of the commission with respect to the refunding bonds are subject to this chapter.
As added by P.L.1-1995, SEC.6. Amended by P.L.235-2005, SEC.184.

IC 14-13-1-37
Public purpose

Sec. 37. The exercise of the powers granted by this chapter is for the benefit of the people of Indiana and for the increase of their commerce, health, enjoyment, and prosperity. The operation, creation, development, and maintenance of the projects by the commission constitutes the performance of essential governmental functions.
As added by P.L.1-1995, SEC.6.

IC 14-13-1-38

Tax exemptions

Sec. 38. (a) The commission is not required to pay any taxes or assessments upon any of the following:

(1) A project of the commission.

(2) A facility, betterment, or improvement within a project.

(3) Property acquired or used by the commission under this chapter or IC 14-6-29 (before its repeal).

(4) The income or revenue from the property.

(b) The:

(1) bonds issued under this chapter or under IC 14-6-29 (before its repeal);

(2) interest on the bonds;

(3) proceeds received by a holder from the sale of the bonds to the extent of the holder's cost of acquisition;

(4) proceeds received upon redemption before maturity or proceeds received at maturity; and

(5) receipt of interest and proceeds;

are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

As added by P.L.1-1995, SEC.6. Amended by P.L.254-1997(ss), SEC.19.

IC 14-13-1-39

Applicability of IC 8-23-17

Sec. 39. IC 8-23-17 applies to activities conducted under this chapter.

As added by P.L.1-1995, SEC.6.

IC 14-13-1-40

Consideration of racial minorities

Sec. 40. It is the intent of the general assembly that consideration be given to the selection of persons who are members of racial minorities for the following:

(1) Appointment to the commission.

(2) Constructing, improving, developing, operating, or managing projects, facilities, or improvements of the commission.

(3) Entering into contracts or leases or receiving licenses to be awarded under this chapter.

As added by P.L.1-1995, SEC.6. Amended by P.L.197-2011, SEC.50.

IC 14-13-1-41

White River state park foundation

Sec. 41. (a) The commission may establish a nonprofit subsidiary corporation that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code, to solicit and accept private funding, gifts, donations, bequests, devises, and contributions.

(b) A subsidiary corporation established under this section:

(1) shall use money received under subsection (a) to carry out in any manner the purposes of and programs under this chapter;
(2) shall report to the budget committee each year concerning:
(A) the use of money received under subsection (a); and
(B) the balances in any accounts or funds established by the subsidiary corporation; and
(3) may deposit money received under subsection (a) in an account or fund that is:
(A) administered by the subsidiary corporation; and
(B) not part of the state treasury.

(c) A subsidiary corporation established under this section shall be governed by a board of directors comprised of:
(1) the members of the commission appointed under section 6 of this chapter; and
(2) any other directors that the members of the commission appoint.

(d) Employees of the commission shall provide administrative support for a subsidiary corporation established under this section.

(e) The state board of accounts shall audit a subsidiary corporation established under this section.

As added by P.L.51-2012, SEC.1. Amended by P.L.13-2013, SEC.49; P.L.181-2015, SEC.35.

IC 14-13-1-42
Adoption of rules

Sec. 42. The commission may adopt rules under IC 4-22-2 to carry out the purposes of this chapter.

As added by P.L.27-2014, SEC.1.

IC 14-13-2

Chapter 2. Little Calumet River Basin Development Commission

IC 14-13-2-1

"Burns Waterway"

Sec. 1. As used in this chapter, "Burns Waterway" means the dredged channel in Porter County, Indiana, that connects the east and west arms of the Little Calumet River with Lake Michigan.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-2

"Commission"

Sec. 2. As used in this chapter, "commission" refers to the Little Calumet River basin development commission created by this chapter.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-3

"Fund"

Sec. 3. As used in this chapter, "fund" refers to the Little Calumet River project development fund created by this chapter.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-3.3

"Parcel"

Sec. 3.3. As used in this chapter, "parcel" refers to a particular parcel identified by a unique parcel number as described in 50 IAC 26-2-31.

As added by P.L.160-2012, SEC.42. Amended by P.L.109-2015, SEC.33.

IC 14-13-2-3.5

"Taxable parcel"

Sec. 3.5. As used in this chapter, "taxable parcel" refers to a parcel that is not exempt from property taxation under IC 6-1.1-10.

As added by P.L.106-2012, SEC.4.

IC 14-13-2-3.8

"Watershed"

Sec. 3.8. As used in this chapter, "watershed" refers to the watershed of the Little Calumet River and Burns Waterway in Lake County.

As added by P.L.106-2012, SEC.5.

IC 14-13-2-4

Purposes of chapter

Sec. 4. The general purposes of this chapter are to do the

following:

(1) Promote the general health and welfare of citizens of Indiana.

(2) Provide for the creation, development, maintenance, administration, and operation of park, recreation, marina, flood control and other public works projects, including levees.

(3) Create a commission with the authority to carry out the purposes of this chapter.

(4) Create a commission capable of entering into and fulfilling the requirements of a nonfederal interest (as defined by 42 U.S.C. 1962d-5b).

As added by P.L.1-1995, SEC.6. Amended by P.L.106-2012, SEC.6.

IC 14-13-2-5
Creation of commission

Sec. 5. The Little Calumet River basin development commission is created as a public body corporate and politic.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-6
Territorial jurisdiction of commission

Sec. 6. (a) Except as provided in subsection (b) and sections 18.5 and 18.6 of this chapter, the commission may operate in the manner provided in this chapter only in the geographic area within and extending one (1) mile from the bank of the west arm of the Little Calumet River and Burns Waterway in Lake County and Porter County. However, to address flooding issues within this geographic area, the commission may operate in the manner provided in this chapter in areas that include tributaries to the Little Calumet River and Burns Waterway, including the Deep River watershed, within Lake County.

(b) The commission does not have the power of eminent domain for the construction of marina facilities north of U.S. Highway 12 or south of that point where the west arm of the Little Calumet River meets Burns Waterway. The commission's activities north of U.S. Highway 12 and within and adjacent to Burns Waterway are restricted to those activities that the commission determines to be necessary for the following:

(1) Channeling and maintenance.

(2) Construction of breakwaters.

As added by P.L.1-1995, SEC.6. Amended by P.L.106-2012, SEC.7; P.L.160-2012, SEC.43.

IC 14-13-2-7
Members

Sec. 7. (a) The commission has:

(1) before July 1, 2012, five (5) members appointed by the governor; and

(2) after June 30, 2012, nine (9) members appointed by the

governor.

(b) The following requirements apply to the governor's appointments under subsection (a)(1):

(1) One (1) member must be a representative of the department of natural resources. The member may not be an employee or elected official of a city, town, or county governmental unit.

(2) The remaining four (4) members must meet the following requirements:

(A) Four (4) members must reside in a:

(i) city;

(ii) town; or

(iii) township (if the member resides in an unincorporated area of the county);

that borders the Little Calumet River.

(B) At least three (3) of the members must have a background in:

(i) construction;

(ii) project management; or

(iii) flood control;

or a similar professional background.

(C) A member may not be an employee or elected official of a city, town, or county governmental unit.

(c) The following apply to the membership of the commission after June 30, 2012:

(1) Before August 1, 2012, the governor shall appoint four (4) additional members to the commission for four (4) year terms as follows:

(A) One (1) member nominated by the mayor of a city having a population of more than eighty thousand five hundred (80,500) but less than one hundred thousand (100,000).

(B) One (1) member nominated by the mayor of a city having a population of more than eighty thousand (80,000) but less than eighty thousand four hundred (80,400).

(C) Two (2) members nominated by the board of county commissioners of Lake County.

(2) Notwithstanding section 8 of this chapter, the term of the member described in subsection (b)(1) expires January 7, 2013. The governor shall appoint one (1) member nominated by the department of natural resources for a four (4) year term beginning January 7, 2013.

(3) Notwithstanding section 8 of this chapter, the terms of the members described in subsection (b)(2) expire January 1, 2014. The governor shall appoint for four (4) year terms beginning January 1, 2014, four (4) members, each of whom must have been nominated by the executive of a municipality located in the watershed other than a city described in subdivision (1).

(4) A member appointed to succeed a member appointed under subdivision (1) or (2) must be nominated by the nominating

authority that nominated the member's predecessor, and a member appointed to succeed a member appointed under subdivision (3) must be nominated by the executive of a municipality located in the watershed other than a city described in subdivision (1).

(d) The following apply to a member appointed under subsection (c) and to any member appointed to succeed a member appointed under subsection (c):

(1) After July 31, 2012, not more than five (5) members of the commission may belong to the same political party.

(2) Each member must have a background in:

(A) construction;

(B) project management;

(C) flood control; or

(D) a similar professional background.

(3) A member may not be an employee or elected official of a city, town, or county governmental unit.

(4) The members:

(A) appointed under subsection (c)(3); or

(B) appointed to succeed members appointed under subsection (c)(3);

must be from different municipalities.

(5) Neither the two (2) members appointed under subsection (c)(1)(C) nor any two (2) members appointed to succeed them may be from the same district created under IC 36-2-2-4(b).

As added by P.L.1-1995, SEC.6. Amended by P.L.181-2009, SEC.1; P.L.106-2012, SEC.8; P.L.160-2012, SEC.44.

IC 14-13-2-8

Term of members; eligibility for reappointment

Sec. 8. (a) The term of each member of the commission is four (4) years. However, if an appointee is appointed to serve an unexpired term, the appointee serves only until the end of the unexpired term.

(b) A member is eligible for reappointment.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-9

Officers

Sec. 9. (a) The commission shall elect the following officers:

(1) A chairman.

(2) A vice chairman.

(3) A secretary.

(4) A treasurer.

(b) The terms of the officers may not exceed one (1) year. Each officer is eligible for reelection.

(c) The commission may create and fill other offices that the commission determines necessary.

(d) Each of the officers shall perform the duties usually pertaining to the offices.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-10
Meetings

Sec. 10. (a) The commission shall meet:
(1) at least four (4) times per calendar year; and
(2) on call of any of the following:
(A) The chairman.
(B) The executive director.
(C) Any number of members that constitutes a quorum under subsection (b).

(b) The following number of members constitutes a quorum:
(1) Three (3) commission members before August 1, 2012.
(2) Five (5) commission members beginning August 1, 2012.

As added by P.L.1-1995, SEC.6. Amended by P.L.181-2009, SEC.2; P.L.106-2012, SEC.9.

IC 14-13-2-11
Per diem compensation and traveling expenses

Sec. 11. (a) Each commission member is entitled to reimbursement for traveling and other expenses as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each appointed commission member is entitled to the minimum salary per diem as provided in IC 4-10-11-2.1(b).

As added by P.L.1-1995, SEC.6.

IC 14-13-2-12
Acquisition of property by purchase or lease

Sec. 12. (a) The commission may acquire, by purchase or by lease:
(1) any land, property, rights, rights-of-way, franchises, easements, and other interests in real property, including land under water and riparian rights; and
(2) any existing facilities, betterments, and improvements;

that the commission considers necessary or convenient for the establishment, development, construction, improvement, or operation of any projects.

(b) The commission may also acquire land and other interest in real property by:
(1) gift; or
(2) bequest.

(c) The commission shall take and hold title to land and other interests in the name of the state of Indiana.

(d) When acquiring land under this section, the commission shall follow the procedures for the acquisition of land by the Indiana department of transportation.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-13

Eminent domain powers

Sec. 13. The commission may acquire by appropriation under Indiana eminent domain law:

(1) any land, property, rights, rights-of-way, franchises, easements, or other interests in real property, including land under water and riparian rights; or

(2) any existing facilities, betterments, and improvements, or other property;

necessary and proper for the creation, development, establishment, maintenance, or operation of a project or any part of a project.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-14

Acquisition of property from political subdivisions or public entities

Sec. 14. Each:

(1) county, city, town, township, and other political subdivision of the state; and

(2) public agency, department, and commission;

may, upon the terms and conditions that the proper authorities of the entity and the commission consider reasonable and appropriate, lease, lend, grant, or convey to the commission, at the commission's request, real or personal property, including an interest in the property, owned by the entity that is necessary or convenient to achieving the purposes of this chapter.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-15

Property improvements

Sec. 15. In establishing and developing projects, the commission may:

(1) construct, reconstruct, establish, build, repair, remodel, enlarge, extend, or add to facilities, betterments, and improvements; and

(2) clear and prepare any site for construction;

that the commission considers appropriate in furtherance of the purposes of this chapter.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-16

Conveyance of property to political subdivisions or public entities

Sec. 16. (a) The commission may sell, transfer, or convey to:

(1) a political subdivision of the state; or

(2) a public agency, department, or agency;

for the consideration and upon the terms that the commission considers appropriate real property, including a facility, a betterment, or an improvement, within the projects or acquired under this chapter, if the sale, transfer, or conveyance and ownership by the transferee furthers the purposes of this chapter.

(b) Transfer is subject to the restrictions that the commission considers appropriate in furtherance of the purposes of this chapter.
As added by P.L.1-1995, SEC.6.

IC 14-13-2-17
Management of projects; maintenance training

Sec. 17. (a) The commission may provide for the construction, improvement, development, operation, and management of projects, including any facilities, betterments, and improvements that are part of projects, in the manner that the commission considers appropriate in furtherance of the purposes of this chapter.

(b) The commission may enter into:

(1) a lease agreement as lessor or sublessor; or

(2) an operation or a license agreement;

with respect to all or part of a site, a facility, a betterment, or an improvement that is part of projects with at least one (1) public or private person or entity, including political subdivisions of the state and public agencies, departments, and agencies, on the terms and conditions that the commission considers appropriate in furtherance of the purposes of this chapter.

(c) The commission shall provide or provide for the training and instruction of persons who are responsible for maintaining any levees or other improvements related to flood control under this article. The training and instruction must be sufficient to enable those persons to properly maintain the levees or other improvements related to flood control.
As added by P.L.1-1995, SEC.6. Amended by P.L.181-2009, SEC.3.

IC 14-13-2-18
General powers of commission

Sec. 18. The commission may do the following:

(1) Adopt bylaws for the regulation of the commission's affairs and the conduct of the commission's business.

(2) Adopt an official seal, which may not be the seal of the state.

(3) Maintain a principal office and other offices that the commission designates.

(4) Sue and be sued in the name and style of "Little Calumet River Basin Development Commission", with service of process being made upon the chairman of the commission by leaving a copy at the principal office of the commission.

(5) Acquire by grant, purchase, gift, devise, lease, eminent domain, or otherwise and hold, use, sell, lease, or dispose of:

(A) real and personal property of every kind and nature; and

(B) any right and interest;

necessary for the full exercise or convenient or useful for the carrying on of any of the commission's powers under this chapter.

(6) Exercise within Indiana and in the name of the state of Indiana the power of eminent domain under Indiana law

governing the exercise of the power of eminent domain for any public purposes.

(7) Fix, collect, and review admission charges, entrance fees, tolls, and other user charges for the use of a facility within the projects owned or leased by the commission or dedicated to the commission by a political subdivision of the state or a public agency, department, or commission having jurisdiction of the facility.

(8) Acquire by fee or by lease, obtain option on, hold, and dispose of real and personal property reasonably necessary and proper to the exercise of the commission's powers and the performance of the commission's duties under this chapter.

(9) Make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of the commission's duties and the execution of the commission's powers under this chapter.

(10) Employ and fix the compensation of an executive director or manager, consulting engineers, superintendents, and other engineers, construction and accounting experts, attorneys, and other employees and agents necessary in the commission's judgment.

(11) Conduct studies of the financial feasibility of the flood control and park and recreational projects and facilities, betterments, and improvements within those projects.

(12) Avail itself of the services of professional and other personnel employed by an agency, a department, or a commission of the state for purposes of studying the feasibility of or designing, constructing, or maintaining the projects or a facility within those projects.

(13) Receive and accept:

(A) from the federal government or a federal agency or department grants for or in aid of the acquisition, construction, improvement, or development of any part of the projects of the commission; and

(B) aid or contributions from any source of money, property, labor, or other things of value;

to be held, used, and applied only for the purposes, consistent with the purposes of this chapter, for which the grants and contributions may be made.

(14) Hold, use, administer, and expend money that is appropriated or transferred to the commission.

(15) Assist or cooperate with a political subdivision or public agency, department, or commission, including the payment of money or the transfer of property to the political subdivision or public agency, department, or commission by the commission if the commission considers the assistance or cooperation appropriate in furtherance of the purposes of this chapter.

(16) Accept assistance and cooperation from a political subdivision or public agency, department, or commission,

including the acceptance of money or property by the commission from the political subdivision or public agency, department, or commission, if the commission considers the assistance or cooperation appropriate in furtherance of the purposes of this chapter.

(17) Do all acts and things necessary or proper to carry out the powers expressly granted in this chapter.

(18) Enter into and carry out the terms of a nonfederal interest (as defined by 42 U.S.C. 1962d-5b).

(19) Provide police protection for the commission's property and activities by:

(A) requesting assistance from state, city, or county police authorities; or

(B) having specified employees deputized as police officers.

(20) Make contracts and leases for facilities and services.

(21) Appoint the administrative officers and employees necessary to carry out the work of the commission, fix their duties and compensation, and delegate authority to perform ministerial acts in all cases except where final action of the commission is necessary.

(22) Engage in self-supporting activities.

(23) Contract for special and temporary services and for professional assistance.

(24) Invoke any legal, equitable, or special remedy for the enforcement of this chapter.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-18.5

Special assessments imposed

Sec. 18.5. (a) The area of the watershed described in subsection (b) is a political subdivision authorized by the general assembly to enable the commission to provide special benefits to taxpayers in the area by promoting public safety and economic development that is of public use and benefit.

(b) The commission shall impose an annual special assessment against each taxable parcel of real property that is within the watershed of the Little Calumet River and Burns Waterway in Lake County.

(c) The special assessment for each taxable parcel must be as follows:

(1) For a residential parcel of real property, forty-five dollars ($45).

(2) For an agricultural parcel of real property, ninety dollars ($90).

(3) For a commercial parcel of real property, one hundred eighty dollars ($180).

(4) For an industrial or public utility parcel of real property, three hundred sixty dollars ($360).

(d) The commission shall certify the list of assessments to the

auditor of Lake County.
As added by P.L.106-2012, SEC.10.

IC 14-13-2-18.6
Special assessment; uses; transfer to northwest Indiana regional development authority

Sec. 18.6. (a) Each year, the county treasurer shall add to the property tax statements of a person owning the taxable parcel affected by a special assessment imposed under section 18.5 of this chapter, designating the special assessment in a manner distinct from general taxes, and indicating that the full annual assessment is due in the year the statement is sent.

(b) An assessment imposed under section 18.5 of this chapter shall be collected in the same manner as other special assessments are collected under IC 6-1.1, except for the following:

(1) An assessment is not the personal obligation of the owner of the taxable parcel affected by the assessment, and only the taxable parcel actually affected by an assessment shall be sold for delinquency.

(2) An annual assessment shall be paid in full on or before the date the first installment of property taxes is due.

(c) At the time of each annual tax settlement, the county treasurer shall certify to the county auditor the amount of the special assessments collected.

(d) The county auditor shall pay special assessments collected by the county treasurer under this section to the commission.

(e) Special assessments collected under this section shall be deposited into a segregated account within the fund. Special assessments deposited into the account may not be transferred into other accounts within the fund. Money in the account may be used only for the following purposes:

(1) To pay expenses directly related to the acquisition, construction, or improvement of real property, a facility, a betterment, or an improvement constituting part of a project of the commission, including acquisition of the site for a project.

(2) To pay expenses directly related to the operation, repair, and maintenance of flood protection systems within the watershed.

(3) To repay bonds issued for the purposes described in subdivision (1).

(4) To make the transfers required by subsection (f).

(f) Subject to subsection (g), the commission shall transfer money from the segregated account referred to in subsection (e) to the northwest Indiana regional development authority established by IC 36-7.5-2-1 as follows:

(1) Two million four hundred thirty thousand dollars ($2,430,000) on July 1, 2013.

(2) One million four hundred sixty thousand dollars ($1,460,000) on July 1, 2014.

(3) Nine hundred twenty thousand dollars ($920,000) on July 1,

2015.

(4) Six hundred ninety thousand dollars ($690,000) on July 1, 2016.

(5) Five hundred thousand dollars ($500,000) on July 1, 2017.

(g) The commission may postpone or reduce the amount of a transfer required by subsection (f) by adopting a resolution, with at least two-thirds (2/3) of the members voting in the affirmative, declaring that an emergency exists. For purposes of this subsection, an emergency may include the following:

(1) A determination that the amount of assessments paid before July 1, 2013, is insufficient to make the transfer required under subsection (f)(1) on July 1, 2013.

(2) A demand from the Army Corps of Engineers for payment in an amount that would prevent the commission from complying with the transfer schedule set forth in subsection (f).

(h) The total amount to be transferred to the northwest Indiana regional development authority under the schedule set forth in subsection (f), as amended for the reasons specified in subsection (g), is six million dollars ($6,000,000).

As added by P.L.106-2012, SEC.11. Amended by P.L.160-2012, SEC.45.

IC 14-13-2-19

Creation of fund

Sec. 19. (a) The Little Calumet River project development fund is created. The commission shall make expenditures from the fund only to accomplish the purposes of this chapter.

(b) The commission shall do the following:

(1) Hold the fund in the name of the commission.

(2) Administer the fund.

(3) Make all expenditures from the fund.

(c) The money in the fund at the end of a fiscal year remains in the fund and does not revert to any other fund.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-20

Bonds payable from revenue and special assessments

Sec. 20. (a) The acquisition, construction, or improvement of real property, a facility, a betterment, or an improvement constituting part of a project of the commission, including acquisition of the site for a project, may be financed in whole or in part by the issuance of bonds payable:

(1) out of the net income received from the operation of the real property, facility, betterment, or improvement; or

(2) from special assessments collected under section 18.6 of this chapter.

(b) If the commission desires to finance an acquisition, a construction, or an improvement in whole or in part as provided in this section or sections 21 through 26 of this chapter, the commission

must adopt a resolution authorizing the issuance of bonds. The resolution must set forth the following:

(1) The date on which the principal of the bonds matures, not exceeding forty (40) years from the date of issuance.

(2) The maximum interest rate to be paid on the bonds.

(3) Other terms and conditions upon which the bonds are issued.

(c) The commission shall take all actions necessary to issue the bonds in accordance with the resolution. The commission may enter into a trust agreement with a trust company as trustee for the bondholders. An action to contest the validity of any bonds to be issued under this chapter may not be brought after the fifteenth day following the receipt of bids for the bonds.

As added by P.L.1-1995, SEC.6. Amended by P.L.106-2012, SEC.12.

IC 14-13-2-21

Bonds; not debt of state or other political subdivisions; payable solely from money pledged

Sec. 21. (a) Bonds issued under this chapter or under IC 14-6-29.5 (before its repeal) do not constitute any of the following:

(1) A debt of the state or of any other political subdivision of the state.

(2) A pledge of the faith and credit of the state or any other political subdivision of the state.

(b) The bonds are payable solely from the revenues pledged for their payment as authorized in this chapter or in IC 14-6-29.5 (before its repeal).

As added by P.L.1-1995, SEC.6. Amended by P.L.106-2012, SEC.13.

IC 14-13-2-22

Redemption and negotiability of bonds

Sec. 22. (a) Bonds issued under this chapter or under IC 14-6-29.5 (before its repeal) may be made redeemable before maturity at the option of the commission at the price and under the terms and conditions that are determined by the commission in the authorizing resolution. The commission shall do the following:

(1) Determine the form of the bonds, including any interest coupons to be attached to the bonds.

(2) Fix the denomination of the bonds.

(3) Fix the place of payment of principal and interest, which may be at any bank or trust company within or outside Indiana.

(b) Bonds have the qualities and incidents of negotiable instruments under Indiana law. Provision may be made for the registration of any of the bonds as to principal alone and also as to both principal and interest.

As added by P.L.1-1995, SEC.6. Amended by P.L.106-2012, SEC.14.

IC 14-13-2-23

Requirements for issuing bonds

Sec. 23. (a) Bonds issued under this chapter shall be issued in the

name of the commission and must recite on the face of each bond that the principal of and interest on the bond are payable solely from revenues pledged for their payment and are not an obligation of the state or of any other political subdivision of the state.

(b) The chairman of the commission shall execute the bonds, and the secretary of the commission shall affix and attest the seal of the commission.

(c) Coupons attached to the bonds must bear the facsimile signature of the chairman of the commission.

As added by P.L.1-1995, SEC.6. Amended by P.L.106-2012, SEC.15.

IC 14-13-2-24

Authority to issue bonds; application of other laws

Sec. 24. (a) This subsection applies only to the issuance of revenue bonds. This chapter and IC 14-6-29.5 (before its repeal) constitute full and complete authority for the issuance of revenue bonds. A law, a procedure or proceeding, a publication, a notice, a consent, an approval, an order, an act, or a thing by the commission or any other officer, department, agency, or instrumentality of the state, county, or a municipality is not required to issue revenue bonds except as prescribed in this chapter or in IC 14-6-29.5 (before its repeal).

(b) This subsection applies only to the issuance of bonds payable from special assessments collected under section 18.6 of this chapter. All laws relating to the giving of notice of the issuance of bonds, the giving of notice of a hearing on the appropriation of the proceeds of the bonds, the right of taxpayers to appear and be heard on the proposed appropriation, and the approval of the appropriation by the department of local government finance apply to all bonds issued under this chapter that are payable from special assessments.

As added by P.L.1-1995, SEC.6. Amended by P.L.106-2012, SEC.16.

IC 14-13-2-25

Bonds; legal investments; exempt from taxation

Sec. 25. (a) Bonds issued under this chapter or under IC 14-6-29.5 (before its repeal) constitute legal investments for the following:

(1) Private trust money.

(2) The money of banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and any other financial institutions organized under Indiana law.

(b) Bonds issued under this chapter and the interest on the bonds are exempt from taxation as prescribed by IC 6-8-5-1.

As added by P.L.1-1995, SEC.6. Amended by P.L.106-2012, SEC.17.

IC 14-13-2-26

Revenue bonds; refunding bonds

Sec. 26. (a) The commission may issue refunding bonds in the commission's name for the following purposes:

(1) Refunding any bonds then outstanding and issued under this chapter or under IC 14-6-29.5 (before its repeal), including payment of redemption premium and interest accrued or to accrue to the date of redemption of the outstanding bonds.

(2) If considered advisable by the commission, constructing improvements, extensions, or enlargements of a facility, a betterment, or an improvement in connection with which the bonds to be refunded have been issued.

(b) The issuance of the refunding bonds, the maturity dates and other details, and all rights, duties, and obligations of the holders of the refunding bonds and of the commission with respect to the refunding bonds are subject to this chapter.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-27

Public purpose

Sec. 27. The exercise of the powers granted by this chapter is for the benefit of the people of Indiana and for the increase of their commerce, health, enjoyment, and prosperity. The operation, creation, development, and maintenance of the projects by the commission constitutes the performance of essential governmental functions.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-28

Tax exemptions

Sec. 28. (a) The commission is not required to pay any taxes or assessments upon any of the following:

(1) A project of the commission.

(2) A facility, a betterment, or an improvement within a project.

(3) Property acquired or used by the commission under this chapter or under IC 14-6-29.5 (before its repeal).

(4) The income or revenue from the property.

(b) The:

(1) bonds issued under this chapter or under IC 14-6-29.5 (before its repeal);

(2) interest on the bonds;

(3) proceeds received by a holder from the sale of the bonds to the extent of the holder's cost of acquisition;

(4) proceeds received upon redemption before maturity or proceeds received at maturity; and

(5) receipt of interest and proceeds;

are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

As added by P.L.1-1995, SEC.6. Amended by P.L.254-1997(ss), SEC.20.

IC 14-13-2-29
Little Calumet River basin

Sec. 29. (a) As used in this section, "Little Calumet River basin" means the area and subareas that:

(1) drain into the western arm of the Little Calumet River; and
(2) are certified by the department after consultation with the following:
(A) The county surveyors.
(B) The United States Army Corps of Engineers.

(b) If a regulated drain situated within the Little Calumet River basin is included in a flood control project approved by the department:

(1) the drain ceases to be subject to IC 36-9-27; and
(2) the agency that constructs and maintains the project on the date the flood control project is approved has the same right-of-entry and right-of-way powers over and upon private land that is given the county surveyor or drainage board under IC 36-9-27-33.

(c) The construction, reconstruction, and maintenance of a drain described in subsection (b) are the responsibility of the agency that constructs and maintains the project.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-30
Deposits; audits

Sec. 30. The commission is responsible for the safekeeping and deposit of money the commission receives under this chapter. The state board of accounts shall:

(1) prescribe the methods and forms for the keeping of; and
(2) audit;

the accounts, records, and books of the commission and fund.

As added by P.L.181-2009, SEC.4. Amended by P.L.181-2015, SEC.36.

IC 14-13-2-31
Reports

Sec. 31. (a) Subject to subsection (c), before November 1 of each year, the commission shall make a report of the commission's activities to the following:

(1) The governor.
(2) The legislative council.
(3) The board of county commissioners of Lake County.

(b) A report made to the legislative council under this section must be in an electronic format under IC 5-14-6.

(c) The governor may require the commission to issue reports more frequently than would otherwise be required under subsection (a).

As added by P.L.181-2009, SEC.5. Amended by P.L.106-2012, SEC.18.

IC 14-13-2-32

Little Calumet River basin project advisory board

Sec. 32. (a) The Little Calumet River basin project advisory board is established.

(b) The advisory board consists of the following members:

(1) One (1) member appointed by the executive of each municipality located in the watershed.

(2) One (1) member appointed by the board of county commissioners of Lake County.

(c) Each member of the advisory board must have experience in:

(1) designing;

(2) constructing;

(3) maintaining; or

(4) managing;

drainage or flood control facilities in the watershed.

As added by P.L.106-2012, SEC.19.

IC 14-13-3
Repealed

(Repealed by P.L.197-2011, SEC.153.)

IC 14-13-4

Chapter 4. River Marina Development Commission

IC 14-13-4-1

"Commission" defined

Sec. 1. As used in this chapter, "commission" refers to the river marina development commission.

As added by P.L.1-1995, SEC.6.

IC 14-13-4-2

"Corridor" defined

Sec. 2. As used in this chapter, "corridor" means the strip of land in Indiana abutting the Ohio River and the immediate tributaries of the Ohio River.

As added by P.L.1-1995, SEC.6.

IC 14-13-4-3

Establishment of commission

Sec. 3. The river marina development commission is established.

As added by P.L.1-1995, SEC.6.

IC 14-13-4-4

Members

Sec. 4. The commission consists of the following members:

(1) One (1) resident of Vincennes appointed by the executive of Vincennes.

(2) One (1) resident of Mount Vernon appointed by the executive of Mount Vernon.

(3) One (1) resident of Tell City appointed by the executive of Tell City.

(4) One (1) resident of Clarksville appointed by the legislative body of Clarksville.

(5) One (1) resident of Lawrenceburg appointed by the executive of Lawrenceburg.

(6) One (1) resident of Aurora appointed by the executive of Aurora.

(7) One (1) resident of Rising Sun appointed by the executive of Rising Sun.

(8) One (1) resident of Jeffersonville appointed by the executive of Jeffersonville.

(9) One (1) resident of New Albany appointed by the executive of New Albany.

(10) One (1) resident of Evansville appointed by the executive of Evansville.

(11) One (1) resident of Madison appointed by the executive of Madison.

(12) One (1) resident of Terre Haute appointed by the executive of Terre Haute.

(13) One (1) resident of Vevay appointed by the legislative body of Vevay.
(14) The president of the Indiana economic development corporation or the president's designee, who is a nonvoting member.
(15) The director of the department or the director's designee, who is a nonvoting member.
(16) The director of the office of tourism development or the director's designee, who is a nonvoting member.

As added by P.L.1-1995, SEC.6. Amended by P.L.229-2005, SEC.11.

IC 14-13-4-5
Terms of members; eligibility for reappointment

Sec. 5. (a) The terms of the appointed members of the commission are four (4) years and shall be staggered so that the terms expire as follows:
(1) June 30, 1996, and thereafter, the members from Vincennes, Aurora, and Rising Sun.
(2) June 30, 1997, and thereafter, the members from Mount Vernon, Jeffersonville, and New Albany.
(3) June 30, 1998, and thereafter, the members from Tell City, Evansville, and Madison.
(4) June 30, 1999, and thereafter, the members from Clarksville, Lawrenceburg, Terre Haute, and Vevay.

(b) A member of the commission may be reappointed.

As added by P.L.1-1995, SEC.6.

IC 14-13-4-6
Filling of vacancies

Sec. 6. A vacancy on the commission shall be filled for the unexpired term in the same manner and under the same conditions as the original appointment.

As added by P.L.1-1995, SEC.6.

IC 14-13-4-7
Per diem compensation and traveling expenses

Sec. 7. Each appointed member of the commission is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). A member of the commission is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.1-1995, SEC.6.

IC 14-13-4-8
Quorum

Sec. 8. Seven (7) voting members constitute a quorum.

As added by P.L.1-1995, SEC.6.

IC 14-13-4-9
Officers

Sec. 9. (a) The commission shall elect the following officers from among the commission's members:

(1) A chairman.
(2) A vice chairman.
(3) A treasurer.

(b) Each officer serves a term of one (1) year beginning July 1 of each year.

As added by P.L.1-1995, SEC.6.

IC 14-13-4-10
Meetings

Sec. 10. (a) The commission:

(1) shall fix the time for regular meetings; and
(2) may hold special meetings on call of the chairman with seven (7) days written notice.

(b) A member may waive written notice of a specific meeting by a written notice filed with the commission.

As added by P.L.1-1995, SEC.6.

IC 14-13-4-11
Comprehensive plan; recommended legislation

Sec. 11. (a) The commission shall study various plans and recommendations that are proposed concerning marina development along the corridor. Based on these studies, the commission shall do the following:

(1) Prepare a comprehensive plan.
(2) Recommend state and local legislation for the development of marinas along the corridor.
(3) Coordinate the implementation of the plan and legislation.

(b) The commission may make grants of money to units of local government for the construction or improvement of a marina in the corridor if the grants are consistent with the plans, standards, and criteria established by the commission.

As added by P.L.1-1995, SEC.6.

IC 14-13-4-12
General powers

Sec. 12. (a) When necessary to accomplish the purposes of the commission, the commission may do the following:

(1) Conduct studies necessary for the performance of the commission's duties.
(2) Publicize, advertise, and distribute reports on the commission's purposes, objectives, and findings.
(3) Provide recommendations in matters related to the commission's functions and objectives to the following:
    (A) Political subdivisions in and adjacent to the corridor.
    (B) Other public and private agencies.

(4) When requested, act as a coordinating agency for programs and activities of other public and private agencies that are related to the commission's objectives.
(5) Acquire and dispose of real or personal property by grant, gift, purchase, lease, devise, or otherwise.
(6) Hold, use, improve, maintain, operate, own, manage, or lease as lessor or lessee:
(A) real or personal property; or
(B) any interest in real and personal property.
(7) Employ an executive director and other individuals necessary to carry out the commission's duties.
(b) The commission may contract for staff services with:
(1) qualified agencies or individuals; or
(2) a planning commission established under IC 36-7-7;
unless the commission employs the commission's own staff.
(c) It is the goal of marina projects under this chapter to create employment in the private sector.
As added by P.L.1-1995, SEC.6.

IC 14-13-4-13
Grants and appropriations; advisory committees
Sec. 13. (a) The commission may receive grants and appropriations from the following:
(1) Federal, state, and local governments.
(2) Individuals.
(3) Foundations.
(4) Other organizations.
(b) The commission may enter into agreements or contracts regarding the acceptance or use of these grants and appropriations for the purpose of carrying out the commission's activities under this chapter.
(c) The commission may appoint advisory committees, which may include representatives of the following:
(1) Municipal parks.
(2) County parks.
(3) National parks.
(4) Port authorities.
As added by P.L.1-1995, SEC.6.

IC 14-13-4-14
Annual reports
Sec. 14. Before November 1 of each year, the commission shall make a report of the commission's activities to each municipality that appointed a commission member. The commission shall also make an annual report to the following:
(1) The governor, upon request of the governor.
(2) The legislative council, upon request of the legislative council. The report must be in an electronic format under IC 5-14-6.

As added by P.L.1-1995, SEC.6. Amended by P.L.28-2004, SEC.128.

IC 14-13-4-15
Budgets

Sec. 15. (a) The commission shall prepare and adopt by majority vote an annual budget that shall be submitted to each county, municipality, or agency appropriating money for the use of the commission. After approval of the budget by the commission, money may be expended only as budgeted, unless a majority vote of the commission authorizes other expenditures. If money is appropriated by the commission for the use of a county, a municipality, or an agency, the money may not later be diverted from the county, municipality, or agency without the consent of the county, municipality, or agency.

(b) Appropriated money remaining unexpended or unencumbered at the end of the year becomes part of a nonreverting cumulative fund to be held in the name of the commission. The commission may authorize unbudgeted expenditures from this fund by a majority vote of the commission.

(c) The commission is responsible for money the commission receives under this chapter. The state board of accounts shall:

(1) prescribe the methods and forms for keeping; and

(2) periodically audit;

the accounts, records, and books of the commission.

(d) The treasurer of the commission may receive, disburse, and handle money belonging to the commission, subject to the following:

(1) Applicable statutes.

(2) Procedures established by the commission.

As added by P.L.1-1995, SEC.6.

IC 14-13-4-16
Powers of political subdivisions not limited

Sec. 16. This chapter does not limit the power of a participating municipal corporation or a port authority to develop or improve a port, terminal, or riverfront facility.

As added by P.L.1-1995, SEC.6.

IC 14-13-5

Chapter 5. Ohio River Greenway Development Commission

IC 14-13-5-1

"Commission" defined

Sec. 1. As used in this chapter, "commission" refers to the Ohio River greenway development commission established by this chapter.

As added by P.L.1-1995, SEC.6.

IC 14-13-5-2

"Corridor" defined

Sec. 2. As used in this chapter, "corridor" means the land:

(1) in and around Jeffersonville, Clarksville, and New Albany in Clark County and Floyd County;

(2) abutting or near the Ohio River and Silver Creek; and

(3) in which:

(A) roadways and other public thoroughfares;

(B) public areas; and

(C) other public improvements;

are located or planned.

As added by P.L.1-1995, SEC.6.

IC 14-13-5-3

Establishment of commission

Sec. 3. The Ohio River greenway development commission is established.

As added by P.L.1-1995, SEC.6.

IC 14-13-5-4

Members

Sec. 4. The commission consists of the following fifteen (15) members:

(1) Eight (8) members who serve four (4) year terms as follows:

(A) Two (2) residents of Jeffersonville appointed by the executive of Jeffersonville.

(B) Two (2) residents of Clarksville appointed by the executive of Clarksville.

(C) Two (2) residents of New Albany appointed by the executive of New Albany.

(D) One (1) resident of Clark County appointed by the governor.

(E) One (1) resident of Floyd County appointed by the governor.

(2) The executive of Jeffersonville.

(3) The executive of New Albany.

(4) The president of the legislative body of Clarksville.

(5) The director of the office of tourism development or the director's designee, who serves as a nonvoting member.

(6) The director of the department or the director's designee, who serves as a nonvoting member.
(7) The commissioner of the Indiana department of transportation or the commissioner's designee, who serves as a nonvoting member.
(8) The president of the Indiana economic development corporation or the president's designee, who serves as a nonvoting member.
As added by P.L.1-1995, SEC.6. Amended by P.L.229-2005, SEC.12.

IC 14-13-5-5
Terms of members; eligibility for reappointment
Sec. 5. (a) Upon the expiration of the term of an appointed member of the commission, the member's successor shall be appointed for a four (4) year term.
(b) A member may be reappointed.
As added by P.L.1-1995, SEC.6.

IC 14-13-5-6
Filling of vacancies
Sec. 6. If a vacancy occurs among the appointed membership of the commission, the vacancy shall be filled for the unexpired term in the same manner and under the same conditions as the original appointment.
As added by P.L.1-1995, SEC.6.

IC 14-13-5-7
Traveling expenses
Sec. 7. A member of the commission is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.
As added by P.L.1-1995, SEC.6.

IC 14-13-5-8
Quorum
Sec. 8. (a) Eight (8) voting members of the commission constitute a quorum.
(b) The affirmative vote of six (6) voting members of the commission is required for the commission to take any action.
As added by P.L.1-1995, SEC.6.

IC 14-13-5-9
Officers
Sec. 9. (a) Each year the commission shall elect the following from among the members of the commission:

(1) A chairman.
(2) A vice chairman.
(3) A treasurer.

(b) An individual elected as a chairman or a vice chairman:
(1) serves a term of one (1) year beginning July 1 following the date the individual is elected; and
(2) may be reelected.

As added by P.L.1-1995, SEC.6.

IC 14-13-5-10
Meetings

Sec. 10. (a) The commission:
(1) shall fix the time for regular meetings; and
(2) may hold special meetings on call of the chairman with seven (7) days written notice.

(b) A member may waive written notice of a specific meeting by filing a written notice with the commission.

(c) Written notice is considered to have been given under this section when the written notice is:
(1) placed in the United States mail, first class postage prepaid; and
(2) sent to the business address of the members of the commission.

As added by P.L.1-1995, SEC.6.

IC 14-13-5-11
Comprehensive plan; recommended legislation

Sec. 11. (a) The commission shall study various plans and recommendations that concern the development of the Ohio River along the corridor.

(b) Based on studies conducted under subsection (a), the commission shall:
(1) prepare a comprehensive plan; and
(2) recommend state and local legislation;

for development along the corridor.

(c) The commission may make grants of money to units of local government for the construction or improvement of the corridor if the grants are consistent with plans, standards, and criteria established by the commission.

As added by P.L.1-1995, SEC.6.

IC 14-13-5-12
General powers

Sec. 12. (a) If necessary to further the accomplishment of the commission's purposes, the commission may do the following:
(1) Conduct all studies necessary for the performance of the commission's duties.
(2) Publicize, advertise, and distribute reports on the commission's purposes, objectives, and findings.

(3) Provide recommendations in matters related to the commission's functions and objectives to political subdivisions in and adjacent to the corridor and to other public and private agencies.
(4) When requested, act as a coordinating agency for programs and activities of other public and private agencies that are related to the commission's objectives.
(5) Acquire and dispose of real property by grant, gift, purchase, lease, devise, or otherwise.
(6) Acquire and dispose of personal property by grant, gift, purchase, lease, devise, or otherwise.
(7) Hold, use, improve, maintain, operate, own, manage, or lease as lessor or lessee real or personal property, or any interest in that property.
(8) Contract for services relating to the design, construction, and maintenance of:
(A) roadways;
(B) bridges;
(C) walkways;
(D) trails;
(E) other public thoroughfares, park areas, and recreational sites; and
(F) any other public improvements;
necessary to accomplish the goals of the commission.
(9) Employ an executive director and other individuals necessary to carry out the commission's duties.
(b) The commission may contract for staff services with:
(1) qualified agencies or individuals; or
(2) a regional planning commission established under IC 36-7-7.
(c) It is the goal of a project under this chapter to create or enhance the following:
(1) Tourism.
(2) Transportation.
(3) Recreation.
(4) Development.
(5) Employment.
As added by P.L.1-1995, SEC.6.

IC 14-13-5-13
Grants and appropriations
Sec. 13. (a) The commission may receive grants and appropriations from the following:
(1) Federal, state, and local governments.
(2) Individuals.
(3) Foundations.
(4) Other organizations.
(b) The commission may enter into agreements or contracts regarding the acceptance or use of grants and appropriations for the purpose of carrying out the commission's activities under this chapter.

As added by P.L.1-1995, SEC.6.

IC 14-13-5-14
Advisory committees

Sec. 14. The commission may appoint advisory committees that may include representatives from the following:

(1) Transportation departments.
(2) Parks departments.
(3) The United States Army Corps of Engineers.
(4) Other departments of federal, state, and local government that may assist the commission.
(5) The private sector if the representative, because of the representative's expertise, may provide assistance or advice to the commission.

As added by P.L.1-1995, SEC.6.

IC 14-13-5-15
Annual reports

Sec. 15. Before November 1 of each year, the commission shall make a report of the commission's activities to the following:

(1) Each municipality that appointed a member of the commission.
(2) The governor.
(3) The general assembly. The report must be in an electronic format under IC 5-14-6.

As added by P.L.1-1995, SEC.6. Amended by P.L.28-2004, SEC.129.

IC 14-13-5-16
Budgets

Sec. 16. (a) The commission shall prepare and adopt by majority vote an annual budget that shall be submitted to each municipality or agency appropriating money for the use of the commission. After the commission approves the budget, money may be expended only as budgeted unless a majority vote of the commission authorizes other expenditures. If money is appropriated by the commission for the use of a county, a municipality, or an agency, the money may not later be diverted from the county, municipality, or agency without the consent of the county, municipality, or agency.

(b) Any appropriated amounts remaining unexpended or unencumbered at the end of the year may become part of a nonreverting cumulative fund to be held in the name of the commission.

(c) The commission may authorize unbudgeted expenditures from the nonreverting cumulative fund by a majority vote of the commission.

(d) The commission is responsible for money the commission receives under this chapter. The state board of accounts shall:

(1) prescribe the methods and forms for keeping; and
(2) periodically audit;

the accounts, records, and books of the commission.
As added by P.L.1-1995, SEC.6. Amended by P.L.116-2000, SEC.1.

IC 14-13-5-17
Powers of political subdivisions not limited

Sec. 17. This chapter does not limit the power of a participating municipal corporation to develop or improve the riverfront area of the municipal corporation independently of the commission.
As added by P.L.1-1995, SEC.6.

IC 14-13-6

Chapter 6. Wabash River Heritage Corridor Commission

IC 14-13-6-1

Applicability of chapter

Sec. 1. This chapter applies only to those counties that contain a part of the corridor.

As added by P.L.1-1995, SEC.6.

IC 14-13-6-2

"Commission" defined

Sec. 2. As used in this chapter, "commission" refers to the Wabash River heritage corridor commission established by this chapter.

As added by P.L.1-1995, SEC.6.

IC 14-13-6-3

"Corridor" defined

Sec. 3. As used in this chapter, "corridor" refers to the Wabash River heritage corridor.

As added by P.L.1-1995, SEC.6.

IC 14-13-6-4

"Wabash River" defined

Sec. 4. As used in this chapter, "Wabash River" includes the following:

(1) The Little River.

(2) The portage between the Little River and the Maumee River.

As added by P.L.1-1995, SEC.6.

IC 14-13-6-5

"Wabash River heritage corridor" defined

Sec. 5. As used in this chapter, "Wabash River heritage corridor" means the strip of land in Indiana abutting:

(1) the Wabash River;

(2) the Little River; and

(3) the portage between the Little River and the Maumee River.

As added by P.L.1-1995, SEC.6.

IC 14-13-6-6

Establishment of commission

Sec. 6. The Wabash River heritage corridor commission is established.

As added by P.L.1-1995, SEC.6.

IC 14-13-6-7

Members

Sec. 7. The members of the commission are the following:

(1) The director or the director's designee.

(2) One (1) individual appointed by the county executive of each county that:

(A) contains a part of the corridor; and

(B) chooses to support the activities of the commission by resolution adopted by the county executive.

(3) The director of the Indiana department of transportation, or the director's designee, who shall serve as a nonvoting member.

(4) The director of the division of historic preservation and archaeology of the department of natural resources, or the director's designee, who shall serve as a nonvoting member.

(5) The director of the department of environmental management, or the director's designee, who shall serve as a nonvoting member.

(6) The director of the office of tourism development or the director's designee, who shall serve as a nonvoting member.

(7) The president of the Indiana economic development corporation or the president's designee, who shall serve as a nonvoting member.

As added by P.L.1-1995, SEC.6. Amended by P.L.135-1997, SEC.3; P.L.229-2005, SEC.13.

IC 14-13-6-8

Duties of counties appointing members

Sec. 8. Each county that appoints a member to the commission shall do the following:

(1) Send a copy of the resolution to the director.

(2) Inform the director of the name of the county's appointee when the appointment is made.

As added by P.L.1-1995, SEC.6.

IC 14-13-6-9

Term of members; eligibility for reappointment

Sec. 9. (a) The term of an appointed member of the commission is two (2) years.

(b) A member of the commission may be reappointed.

As added by P.L.1-1995, SEC.6.

IC 14-13-6-10

Filling of vacancies

Sec. 10. A vacancy on the commission shall be filled for the remainder of the unexpired term in the same manner as an original appointment.

As added by P.L.1-1995, SEC.6.

IC 14-13-6-11

Designated member

Sec. 11. If a member of the commission is unable to attend a meeting of the commission, the member may designate an individual to act in the member's place at the meeting.

As added by P.L.1-1995, SEC.6.

IC 14-13-6-12
Designated director

Sec. 12. The director may designate an individual to act on the director's behalf under this chapter.
As added by P.L.1-1995, SEC.6.

IC 14-13-6-13
Compensation and expenses

Sec. 13. (a) Except as provided in subsection (b), a member of the commission appointed under section 7(2) of this chapter is not entitled to a salary per diem.

(b) While away from the member's home and regular place of business in the performance of services for the commission, a member of the commission appointed under section 7(2) of this chapter is entitled to reimbursement for:

(1) travel expenses, as provided under IC 4-13-1-4; and

(2) other expenses actually incurred in connection with the member's duties;

as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) A member of the commission appointed under section 7(2) of this chapter shall be reimbursed for other reasonable expenses that the member incurs in the performance of the member's duties under this chapter.
As added by P.L.1-1995, SEC.6. Amended by P.L.135-1997, SEC.4.

IC 14-13-6-14
Officers

Sec. 14. The commission shall select a president and vice president. The director shall act as secretary of the commission.
As added by P.L.1-1995, SEC.6.

IC 14-13-6-15
Meetings

Sec. 15. The commission shall meet:

(1) as the commission determines; or

(2) upon the call of the president or the director.

As added by P.L.1-1995, SEC.6.

IC 14-13-6-16
Promotion of conservation and development

Sec. 16. (a) The commission shall promote the conservation and development of the natural, cultural, and recreational resources in the corridor by the following:

(1) The exchange of information.

(2) The establishment of common goals.

(3) Cooperative action of the people and governmental units along the corridor.

(b) The commission does not have any power concerning the following:

(1) Land use control.

(2) The Wabash River.

As added by P.L.1-1995, SEC.6.

IC 14-13-6-17

Quorum

Sec. 17. A majority of the members appointed under section 7(2) of this chapter constitutes a quorum.

As added by P.L.135-1997, SEC.5.

IC 14-13-6-18

Bylaws

Sec. 18. The commission may adopt bylaws that the commission considers necessary for carrying out the functions of the commission under this chapter.

As added by P.L.135-1997, SEC.6.

IC 14-13-6-19

Wabash River heritage corridor commission fund

Sec. 19. (a) The Wabash River heritage corridor commission fund is established for the purpose of paying:

(1) reimbursement of the expenses of members under section 13 of this chapter;

(2) other administrative costs and expenses reasonably incurred under this chapter, including expenses for publications and postage; and

(3) costs incurred in fulfilling the directives of the Wabash River heritage corridor commission master plan, including multicounty projects and marketing and educational tools such as video tape productions, signs, and promotional literature.

(b) The fund shall be administered by the director under the direction of the commission.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The sources of money for the fund are:

(1) appropriations made to the fund; and

(2) any other funds obtained by the commission under section 22 of this chapter.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

As added by P.L.135-1997, SEC.7. Amended by P.L.118-2009, SEC.1.

IC 14-13-6-20
Use of fund

Sec. 20. The commission may use the Wabash River heritage corridor commission fund to pay:

(1) reimbursement of the expenses of members under section 13 of this chapter;

(2) other administrative costs and expenses reasonably incurred under this chapter, including expenses for publications and postage; and

(3) costs incurred in fulfilling the directives of the Wabash River heritage corridor commission master plan, including multicounty projects and marketing and educational tools such as video tape productions, signs, and promotional literature.

However, the commission may not use money in the fund for the upper Wabash River basin commission established by IC 14-30-4-6.
As added by P.L.135-1997, SEC.8. Amended by P.L.35-2001, SEC.6; P.L.118-2009, SEC.2.

IC 14-13-6-21
Administrative support services

Sec. 21. Upon request from the commission, the director shall provide the commission with reasonable administrative support services to aid in carrying out the purposes of this chapter.
As added by P.L.135-1997, SEC.9.

IC 14-13-6-22
Powers of commission; handling of funds received

Sec. 22. (a) The commission is authorized to do the following:

(1) Hold public hearings.

(2) Request the presence and participation at a commission meeting of representatives of any governmental or private entity that has an interest in natural resources, tourism, historic preservation, archaeology, or environmental issues.

(3) Enter into contracts, within the limit of available funds, with individuals, organizations, and institutions for services that further the purposes of this chapter.

(4) Enter into contracts, within the limit of available funds, with local and regional nonprofit corporations and associations for cooperative endeavors that further the purposes of this chapter.

(5) Enter with governmental and private entities into cooperative agreements that further the purposes of this chapter.

(6) Receive appropriations of federal funds.

(7) Accept gifts, contributions, and bequests of funds from any source.

(8) Apply for, receive, and disburse funds available from the state or federal government in furtherance of the purposes of this chapter, and enter into any agreements that may be required as a condition of obtaining the funds.

(9) Enter into any agreement and perform any act that is

necessary to carrying out the duties of the commission and the purposes of this chapter.

(b) The following conditions apply to the handling and disbursement of any funds that the commission receives under subsection (a)(8):

(1) The department shall provide accounting services pertaining to the funds.

(2) The commission may appoint an individual to act as treasurer of the commission for purposes of the handling and disbursement of the funds.

(3) All expenditures must be reviewed by the commission at a meeting of the commission.

(4) A claim against the funds may not be paid without the signature of the director or the director's designee.

As added by P.L.135-1997, SEC.10. Amended by P.L.27-2005, SEC.1.

IC 14-13-6-23

Fund established; administration; expenses

Sec. 23. (a) The Wabash River heritage corridor fund is established for the purpose of:

(1) providing grants to aid the sustainable development of property under the Wabash River heritage corridor commission master plan and purposes of the commission; and

(2) paying costs incurred in fulfilling the directives of the Wabash River heritage corridor commission master plan, including multicounty projects.

However, the commission may not use money in the fund for the upper Wabash River basin commission established by IC 14-30-4-6.

(b) The fund shall be administered by the director under the direction of the commission.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The fund consists of the following:

(1) Appropriations made by the general assembly.

(2) Interest as provided in subsection (e).

(3) Funds deposited under IC 14-38-1-13(d).

(4) Money donated to the fund.

(5) Money transferred to the fund from other funds.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(f) Money in the fund at the end of a fiscal year does not revert to the state general fund.

(g) Money in the fund is annually appropriated to the department of natural resources for its use in fulfilling the purposes of this section.

As added by P.L.118-2009, SEC.3. Amended by P.L.69-2009, SEC.2.

IC 14-13-7

Chapter 7. Lincoln Hills of Indiana

IC 14-13-7-1

"Lincoln Hills of Indiana" designated

Sec. 1. Perry County, Spencer County, Crawford County, and Harrison County are designated as "The Lincoln Hills of Indiana".

As added by P.L.1-1995, SEC.6.

IC 14-13-7-2

Recognition encouraged

Sec. 2. All state agencies and private organizations are invited and urged to give appropriate recognition to this area in a publication or other public relations media for the purpose of advancing the resource development undertaken by local effort in the counties.

As added by P.L.1-1995, SEC.6.

IC 14-13-8
Chapter 8. Conditions of State Support for Private Projects

IC 14-13-8-1
State support of marinas

Sec. 1. (a) This section applies to a marina located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) The state may not give money or other consideration to a marina unless the marina fulfills the following conditions:

(1) Provides a boat ramp without charge for access by Indiana residents to the waters served by the marina.

(2) Provides access to marina property without charge for fishing by Indiana residents in the waters served by the marina.

(3) Dedicates at least eight percent (8%) of the total number of parking spaces at the marina for parking of vehicles, including boat trailers, by Indiana residents without charge.

As added by P.L.1-1995, SEC.6.

IC 14-14

ARTICLE 14. RECREATIONAL DEVELOPMENT

IC 14-14-1

Chapter 1. Recreational Development Commission

IC 14-14-1-1

Purposes of chapter

Sec. 1. The general purposes of this chapter are the following:

(1) To provide for the general health and welfare of Indiana citizens by the acquisition, construction, improvement, and operation of public recreational facilities.

(2) To facilitate, support, and promote the development and use of the parks of the state.

As added by P.L.1-1995, SEC.7.

IC 14-14-1-2

Liberal construction

Sec. 2. This chapter is necessary for the welfare of Indiana and Indiana's inhabitants and shall be liberally construed to effect the purposes of this chapter.

As added by P.L.1-1995, SEC.7.

IC 14-14-1-2.5

Applicability to the Indiana finance authority

Sec. 2.5. This article:

(1) applies to the Indiana finance authority only when acting as the commission under this article for the purposes set forth in this article; and

(2) does not apply to the Indiana finance authority when acting under any other statute for any other purpose.

As added by P.L.235-2005, SEC.185.

IC 14-14-1-3

"Commission" defined

Sec. 3. As used in this chapter, "commission" means the Indiana finance authority established by IC 4-4-11-4.

As added by P.L.1-1995, SEC.7. Amended by P.L.235-2005, SEC.186.

IC 14-14-1-4

"Cost" defined

Sec. 4. As used in this chapter, "cost" as applied to a park or park project includes the following:

(1) The cost of construction, renovation, or improvement.

(2) The cost of acquisition of all land, rights in land, rights-of-way, property, rights, easements, and interests, including land under water and riparian rights acquired by the

commission for construction.

(3) The cost of demolishing or removing any buildings or structures on land acquired, including the cost of acquiring any land to which buildings or structures may be moved.

(4) The cost of relocating public roads, railroads, public utility facilities, including the cost of land or easements.

(5) The cost of all machinery and equipment, financing charges, and interest before and during construction.

(6) The cost of engineering and legal expenses, plans, specifications, surveys, estimates of use, and revenues.

(7) Other expenses necessary or incident to determining the feasibility or practicability of financing and constructing any project.

(8) Administrative expense.

(9) Other expenses that are necessary or incident to the construction of the project, the financing of construction, and the placing of the project in operation, including an initial bond service reserve.

As added by P.L.1-1995, SEC.7.

IC 14-14-1-5
"Park" defined

Sec. 5. (a) As used in this chapter, "park" includes any land suitable for public recreational facilities, including all parks, reservoirs, land, and water under the jurisdiction of the department.

(b) The term does not include park and park facilities of political subdivisions of the state.

As added by P.L.1-1995, SEC.7.

IC 14-14-1-6
"Park project" defined

Sec. 6. (a) As used in this chapter, "park project" includes facilities, renovations, improvements, adjuncts, and appurtenances necessary or proper to the operation of public parks, such as the following:

(1) Means of ingress and egress and interior arterial systems.

(2) Food and lodging facilities.

(3) Camping areas.

(4) Boating facilities.

(5) Public participation sports facilities.

(6) Parking lots.

(7) Garages.

(8) Trailer sites.

(9) Automotive service facilities.

(10) Communication systems.

(11) Sewers, drains, and other sanitary facilities for the treatment of sewage, garbage, and wastes.

(12) The furnishing of utility service necessary to serve the property under the jurisdiction or control of the commission.

(13) Other buildings and facilities whose acquisition and use are consistent with the purposes of this chapter.

(b) The term does not include the following:

(1) Park and park facilities of political subdivisions of the state.

(2) The acquisition of railroad rights-of-way.

As added by P.L.1-1995, SEC.7.

IC 14-14-1-7

Commission's exercise of powers an essential governmental function

Sec. 7. The exercise by the commission of the powers conferred by this chapter in the acquisition, construction, improvement, operation, and maintenance of a park project is an essential governmental function of the state. For purposes of this chapter, the commission is a tax supported institution within the meaning of "agency" for the purposes of IC 34-30-9.

As added by P.L.1-1995, SEC.7. Amended by P.L.1-1998, SEC.110; P.L.235-2005, SEC.187.

IC 14-14-1-8

Repealed

(As added by P.L.1-1995, SEC.7. Amended by P.L.291-2001, SEC.86. Repealed by P.L.235-2005, SEC.212.)

IC 14-14-1-9

Repealed

(As added by P.L.1-1995, SEC.7. Repealed by P.L.235-2005, SEC.212.)

IC 14-14-1-10

Repealed

(As added by P.L.1-1995, SEC.7. Repealed by P.L.235-2005, SEC.212.)

IC 14-14-1-11

Repealed

(As added by P.L.1-1995, SEC.7. Repealed by P.L.235-2005, SEC.212.)

IC 14-14-1-12

Repealed

(As added by P.L.1-1995, SEC.7. Repealed by P.L.235-2005, SEC.212.)

IC 14-14-1-13

Repealed

(As added by P.L.1-1995, SEC.7. Repealed by P.L.235-2005, SEC.212.)

IC 14-14-1-14
Repealed
(As added by P.L.1-1995, SEC.7. Amended by P.L.291-2001, SEC.87. Repealed by P.L.235-2005, SEC.212.)

IC 14-14-1-15
Repealed
(As added by P.L.1-1995, SEC.7. Repealed by P.L.235-2005, SEC.212.)

IC 14-14-1-15.5
Repealed
(As added by P.L.5-1996, SEC.14. Repealed by P.L.235-2005, SEC.212.)

IC 14-14-1-16
Acquisition of sites or improvements from department; agreements for use with department
Sec. 16. (a) The commission may acquire sites or improvements from the department.
(b) The commission may make improvements and enter into agreements for use with the department. The agreements:
(1) do not need to be approved by the attorney general; and
(2) must be approved by the:
(A) budget agency, after consulting with the budget committee; and
(B) governor;
before the department may execute the agreement.
As added by P.L.1-1995, SEC.7.

IC 14-14-1-17
Lease of property
Sec. 17. The commission may lease property to the department and others. A lease:
(1) may provide for the operation, maintenance, improvement, or renovation of the property;
(2) must contain standards for operation, quality of goods and services, and price of goods and services;
(3) need not be approved by the attorney general or the governor;
(4) may be executed by the:
(A) chairman or vice chairman of the commission; and
(B) public finance director; and
(5) is binding on the state after advertisement one (1) time a week for two (2) weeks in two (2) newspapers published in Indianapolis. The first publication must be at least fourteen (14) days before a public hearing by the commission, and the proposed lease must be on file in the department during the period of publication.

As added by P.L.1-1995, SEC.7. Amended by P.L.162-2007, SEC.34.

IC 14-14-1-18
General powers

Sec. 18. The commission may do the following:

(1) Make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of the commission's duties and the execution of the commission's powers under this chapter. If the cost of a contract for construction or for the purchase of equipment, materials, or supplies involves an expenditure of more than twenty thousand dollars ($20,000), the commission shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in Marion County, Indiana, and in other publications if the commission determines. The notice must state the general character of the work and the general character of the materials to be furnished, the place where the plans and specifications may be examined, and the time and place of receiving bids. Each bid must contain the full name of every person or company interested in the bid and must be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance of the bidder's proposal secured. The commission may reject any and all bids. A bond with good and sufficient surety approved by the commission is required of all contractors in an amount equal to at least fifty percent (50%) of the contract price conditioned upon the faithful performance of the contract.

(2) Employ employees, fix their compensation, and define their duties.

(3) Contract for the following:

(A) Services, including services of engineers, architects, accountants, attorneys, financial advisers, project or construction managers, consultants, and experts as well as other contract services.

(B) Construction.

(C) Materials.

(D) Supplies.

(4) Conduct studies of the financial feasibility of proposed park projects.

(5) Use the services of professional and other personnel employed by a department or an agency of the state for purposes of studying the feasibility of or designing, constructing, or maintaining a park project.

(6) Receive and accept:

(A) from a federal agency grants for or in aid of the acquisition, construction, improvement, or development of a park project; and

(B) aid or contributions from any source of money, property,

labor, or other things of value;

to be held, used, and applied only for the purposes, consistent with the purposes of this chapter, for which the grants and contributions may be made.

(7) Provide coverage for the commission's employees under IC 27-7-2 and IC 22-4.

(8) Do all acts and things necessary or proper to carry out the powers expressly granted in this chapter.

(9) Hold, use, administer, and expend the money appropriated or transferred to the commission, administer a general operating fund, the revolving fund created by this chapter, create and administer any other fund considered desirable, and enter into a covenant or pledge with respect to a fund created.

(10) Accept advances or grants from a state agency or fund authorized to make advances or grants and, for advances, enter into agreements concerning the repayment of the advance and repay the advances.

As added by P.L.1-1995, SEC.7. Amended by P.L.235-2005, SEC.188.

IC 14-14-1-19

Acquisition of interests in land; park projects

Sec. 19. (a) The commission may acquire by:

(1) departmental transfer;

(2) purchase; or

(3) lease;

for nominal or substantial consideration any interest in land (except railroad rights-of-way), including existing facilities, adjuncts, and appurtenances, that the commission considers necessary or convenient for the acquisition, construction, improvement, or development of a park project.

(b) The commission may:

(1) acquire that interest in land:

(A) upon the terms; and

(B) at a price or rental;

that the commission considers to be reasonable; and

(2) take title in the name of the commission.

(c) A park project undertaken by the commission must:

(1) comply with:

(A) the master plan for that property; or

(B) the Indiana outdoor recreation plan approved by the natural resources commission; or

(2) be specifically approved by the natural resources commission.

As added by P.L.1-1995, SEC.7.

IC 14-14-1-20

Eminent domain powers

Sec. 20. The commission may acquire by appropriation, under

Indiana eminent domain law, any interest in land necessary or proper for the construction or the efficient operation of a park project except land used for parks or park facilities owned by the state or a political subdivision of the state. Title to the property shall be taken in the name of the state for the use of the commission.
As added by P.L.1-1995, SEC.7.

IC 14-14-1-21
Agreements for use of park improvements

Sec. 21. (a) The commission and the department may enter into appropriate agreements setting forth the terms and conditions of use of park improvements and the money agreed to be paid at intervals for the use. The department is not obligated to continue the use and make payments under the agreement but shall vacate the improvements if it is shown that:

(1) the terms and conditions of the use and occupancy; and
(2) the amount to be paid;

are unjust and unreasonable considering the value of the improvements.

(b) In determining just and reasonable amounts to be paid for the use of improvements, the commission shall impose and collect money that in the aggregate will be sufficient to pay the expenses of operation, maintenance, and repair of the improvements to the extent that the expenses are not otherwise provided and leave a balance of net income of revenues from the improvements to pay the interest on the debentures as the interest is due and accomplish retirement of the debentures at or before maturity. If the department has made all payments provided in the agreements, the use of improvements covered by the agreements and the sites of the improvements revert to the department at the end of the terms of the agreement.
As added by P.L.1-1995, SEC.7.

IC 14-14-1-22
Bonding authority

Sec. 22. The commission may periodically provide by resolution for the issuance of bonds of the commission for the purpose of paying all or any part of the cost of at least one (1) park project. The principal of and the interest on the bonds is payable from:

(1) the park revenues; or
(2) any other revenues;

specifically pledged or committed by statute to the payment of the principal and interest.
As added by P.L.1-1995, SEC.7. Amended by P.L.96-2008, SEC.6.

IC 14-14-1-23
Revenue bonds; requirements

Sec. 23. (a) The bonds of each issue:

(1) must:
(A) be dated;

(B) bear interest at the rate or rates; and

(C) mature at the time or times not exceeding fifty (50) years;

as determined by the commission; and

(2) may be made redeemable before maturity, at the option of the commission, at the price or prices and under the terms and conditions fixed by the commission in the authorizing resolution.

(b) The commission shall determine the following:

(1) The form of the bonds, including any interest coupons to be attached.

(2) The denomination or denominations of the bonds.

(3) The place or places of payment of principal and interest, which may be at any bank or trust company within or outside Indiana.

(c) The bonds shall be signed in the name of the commission by:

(1) the chairman or vice chairman; or

(2) the facsimile signature of the chairman or vice chairman.

(d) The official seal of the commission or a facsimile of the seal shall be:

(1) affixed to the bonds; and

(2) attested by the public finance director.

(e) Any coupons attached to the bonds must bear the facsimile signature of the chairman of the commission.

(f) If an officer whose signature or a facsimile of whose signature appears on a bond or coupon ceases to be the officer before the delivery of the bonds, the signature or facsimile is still valid and sufficient for all purposes the same as if the officer had remained in office until delivery.

As added by P.L.1-1995, SEC.7. Amended by P.L.162-2007, SEC.35.

IC 14-14-1-24

Revenue bonds; negotiability

Sec. 24. All bonds issued under this chapter or under IC 14-3-12 (before its repeal) are negotiable instruments under the commercial law of Indiana.

As added by P.L.1-1995, SEC.7.

IC 14-14-1-25

Revenue bonds; form

Sec. 25. The bonds may be issued in coupon or in registered form, or both, as the commission determines, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

As added by P.L.1-1995, SEC.7.

IC 14-14-1-26

Revenue bonds; sale

Sec. 26. The bonds may be sold at public sale in accordance with IC 21-32-3 or by negotiated sale as the commission determines.
As added by P.L.1-1995, SEC.7. Amended by P.L.2-2007, SEC.168.

IC 14-14-1-27
Revenue bonds; not debt of state or subdivision; payable solely from money pledged

Sec. 27. (a) Park revenue bonds issued under this chapter or under IC 14-3-12 (before its repeal) are not:

(1) a debt of the state or of a political subdivision of the state; or
(2) a pledge of the faith and credit of the state or of any political subdivision.

The bonds are payable solely from the money pledged for their payment as authorized in this chapter or under IC 14-3-12 (before its repeal) unless the bonds are refunded by refunding bonds issued under this chapter or under IC 14-3-12 (before its repeal).

(b) Refunding bonds are payable solely from money pledged for their payment as authorized in this chapter or under IC 14-3-12 (before its repeal).

(c) Revenue bonds must contain on the face of the bonds a statement to the effect that the bonds, as to both principal and interest, are not an obligation of the state or of a political subdivision of the state, but are payable solely from revenues pledged for their payment.

(d) This chapter does not authorize the commission to incur indebtedness or liability on behalf of or payable by the state or a political subdivision of the state.
As added by P.L.1-1995, SEC.7.

IC 14-14-1-28
Revenue bonds; expenses of commission

Sec. 28. All expenses of the commission incurred in carrying out this chapter are payable solely from money provided under the authority of this chapter.
As added by P.L.1-1995, SEC.7.

IC 14-14-1-29
Revenue bonds; legal investments

Sec. 29. Revenue bonds issued by the commission under this chapter or under IC 14-3-12 (before its repeal) constitute legal investments for the following:

(1) Private trust funds.
(2) The money of banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and any other financial institutions organized under Indiana law.

As added by P.L.1-1995, SEC.7.

IC 14-14-1-30
Revenue bonds; use of proceeds

Sec. 30. The proceeds of revenue bonds shall be used solely for the payment of the cost of the park project for which the bonds have been issued. The proceeds shall be disbursed in the manner and under the restrictions, if any, that the commission provides in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds.
As added by P.L.1-1995, SEC.7.

IC 14-14-1-31
Revenue bonds; deficit from sale

Sec. 31. If the proceeds of the bonds of an issue, by error of estimates or otherwise, are less than the cost, additional bonds may in like manner be issued to provide the amount of the deficit. Unless otherwise provided in the resolution authorizing the issuance of bonds or in the trust agreement securing the bonds, the bonds are considered to be of the same issue and are entitled to payment from the same fund without preference or priority of the bonds first issued.
As added by P.L.1-1995, SEC.7.

IC 14-14-1-32
Revenue bonds; surplus from sale

Sec. 32. If the proceeds of the bonds of an issue exceed the cost of the park project for which the bonds have been issued, the surplus shall be deposited to the credit of the sinking fund for the bonds.
As added by P.L.1-1995, SEC.7.

IC 14-14-1-33
Revenue bonds; interim receipts or temporary bonds

Sec. 33. Before the preparation of definite bonds, the commission may, under the same restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when the bonds have been executed and are available for delivery.
As added by P.L.1-1995, SEC.7.

IC 14-14-1-34
Revenue bonds; replacement

Sec. 34. The commission may provide for the replacement of any bonds that have been mutilated, destroyed, or lost.
As added by P.L.1-1995, SEC.7.

IC 14-14-1-35
Revenue bonds; conditions for issuance and disbursement of proceeds

Sec. 35. Bonds may be issued and the proceeds disbursed under this chapter without:

(1) obtaining the consent of an officer, a department, a division, a commission, a board, a bureau, or an agency of the state; and
(2) any other proceedings or the happening of any other conditions or things than the proceedings, conditions, or things specifically required by this chapter.

As added by P.L.1-1995, SEC.7.

IC 14-14-1-36
Revenue bonds; refunding bonds

Sec. 36. (a) The commission may provide by resolution for the issuance of park revenue refunding bonds of the state payable solely from revenues for the following:

(1) The purpose of refunding bonds then outstanding that have been issued under this chapter or under IC 14-3-12 (before its repeal), including the payment of redemption premium and interest accrued or to accrue to the date of redemption of the bonds.
(2) If considered advisable by the commission, for the additional purpose of constructing improvements, extensions, or enlargements of a park project in connection with which the bonds to be refunded have been issued.

(b) The:

(1) issuance of the bonds;
(2) maturities and other details;
(3) rights of the holders; and
(4) rights, duties, and obligations of the commission concerning the bonds;

are governed by this chapter.

As added by P.L.1-1995, SEC.7.

IC 14-14-1-37
Revenue bonds; trust agreements

Sec. 37. (a) The commission may secure bonds issued under this chapter or under IC 14-3-12 (before its repeal) by a trust agreement between the commission and a corporate trustee, which may be a trust company or bank having the powers of a trust company within Indiana. A resolution adopted by the commission providing for the issuance of bonds and a trust agreement under which the bonds are issued may pledge or assign all or any part of the revenues received or to be received by the commission except the part necessary to:

(1) pay the cost of the commission's administrative expenses and the obligations, if any, of the commission for operation, maintenance, and repair of a park project; and
(2) provide reserves and depreciation reserves;

as required by a bond resolution adopted or trust agreement executed by the commission.

(b) In authorizing the issuance of bonds for a park project, the commission may:

(1) limit the amount of the bonds that may be issued as a first

lien and charge against the revenues pledged to the payment of the bonds; or

(2) authorize the issuance periodically of additional bonds secured by the same lien to provide money:

(A) for the completion of the park project for which the original bonds were issued;

(B) to pay the cost of additional park projects undertaken in connection with the development of the park; or

(C) for both purposes.

(c) Additional bonds shall be issued on terms and conditions provided in the bond resolution adopted by the commission and in the trust agreement or a supplemental agreement and may be secured equally and ratably without preference, priority, or distinction with the original issue of bonds or may be made junior to the original issue.

(d) A pledge or an assignment made by the commission under this section or under IC 14-3-12-15 (before its repeal) is valid and binding from the time that the pledge or assignment is made. Revenue so pledged and received by the commission is immediately subject to the lien of the pledge or assignment without physical delivery or further act. The lien of the pledge or assignment is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the commission irrespective of whether the parties have notice.

(e) The resolution and a trust agreement by which a pledge is created or an assignment is made do not need to be filed or recorded except in the records of the commission.

(f) A trust agreement or resolution providing for the issuance of bonds may contain provisions for protecting and enforcing the rights and remedies of the bondholders that are reasonable and proper and not in violation of law, including the following:

(1) Covenants setting forth the duties of the commission relating to the following:

(A) The acquisition of interests in property.

(B) The construction, improvement, maintenance, repair, operation, and insurance of the park project for which the bonds have been authorized.

(2) The rates of fees, tolls, rentals, entrance fees, or other charges to be collected for use of any park project.

(3) The custody, safeguarding, and application of all money.

(4) Provisions for the employment of consulting engineers in connection with the construction or operation of the project.

(g) A bank or trust company incorporated under Indiana law that acts as depository of the proceeds of bonds or other money of the commission may:

(1) furnish indemnifying bonds; or

(2) pledge securities;

as required by the commission.

(h) A trust agreement may:

(1) set forth the rights and remedies of the bondholders and of the trustee;
(2) restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of private corporations; and
(3) contain other provisions that the commission considers reasonable and proper for the security of the bondholders.

All expenses incurred in carrying out a trust agreement may be treated as a part of the cost of the operation of the park project.
As added by P.L.1-1995, SEC.7.

IC 14-14-1-38
Other revenue powers of commission

Sec. 38. In addition to other powers of the commission to issue revenue bonds, the commission may also do the following:
(1) Make temporary borrowings in anticipation of the issuance of revenue bonds or notes and issue revenue bonds or notes to refund the temporary borrowings.
(2) Negotiate a loan and issue a note for the loan.
(3) Pledge and assign:
(A) leases or use agreements; or
(B) interests in and rentals from leases or use agreements.

As added by P.L.1-1995, SEC.7.

IC 14-14-1-39
Money to be held in trust

Sec. 39. All money received under this chapter or under IC 14-3-12 (before its repeal), whether:
(1) as proceeds from the sale of bonds;
(2) from revenues; or
(3) from any other source;

is considered to be trust money to be held and applied solely as provided in this chapter. However, before the time when the money is needed for use the money may be invested to the extent and in the manner provided for entities subject to IC 5-13-10.5.
As added by P.L.1-1995, SEC.7. Amended by P.L.18-1996, SEC.29.

IC 14-14-1-40
Money to be kept in depositories

Sec. 40. Money shall be kept in depositories designated as depositories for money of the state as selected by the commission, in the manner provided by IC 5-13. The resolution authorizing the issuance of bonds or the trust agreement securing the bonds must provide that:
(1) an officer to whom; or
(2) a bank or trust company to which;

the money is entrusted shall act as trustee of the money and shall hold and apply the money for the purposes of this chapter, subject to this chapter and the authorizing resolution or trust agreement.

As added by P.L.1-1995, SEC.7.

IC 14-14-1-41
Rights of holders

Sec. 41. A holder of bonds issued under this chapter or under IC 14-3-12 (before its repeal) or any of the coupons, and the trustee under a trust agreement, except to the extent the rights may be restricted by the authorizing resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceedings:

(1) protect and enforce any right:
  (A) under Indiana law; or
  (B) granted under:
    (i) this chapter or under IC 14-3-12 (before its repeal);
    (ii) a trust agreement; or
    (iii) the resolution authorizing the issuance of bonds; and

(2) enforce and compel the performance of all duties required by:
  (A) this chapter;
  (B) a trust agreement; or
  (C) the resolution;

to be performed by the commission or by any officer of the commission, including the fixing, charging, and collecting of fees, tolls, rentals, entrance fees, or other charges for the use of park projects.

As added by P.L.1-1995, SEC.7.

IC 14-14-1-42
Surcharge on fees; special fund

Sec. 42. (a) The natural resources commission may levy a surcharge not exceeding ten percent (10%), as established by the natural resources commission, on any of the following:

(1) Admission fees.
(2) Commission rentals.
(3) Boat registrations.
(4) Launching fees.
(5) Mooring fees.

(b) The receipts from a surcharge shall be deposited in a special fund to be used only to pay rent to the commission and maintenance of facilities covered by use agreements with the commission as provided in a use agreement entered into between the department and the commission. The special fund may be spent for that purpose without appropriation.

(c) During the life of a use agreement, a surcharge that has been imposed may not be rescinded or reduced so that the amount in the special fund and the receipts for one (1) year are less than one and two-tenths (1.2) times the anticipated rental payment and maintenance expense of facilities covered by a use agreement.

(d) The money in the special fund does not revert to the state

general fund.
As added by P.L.1-1995, SEC.7.

IC 14-14-1-43
Special revolving fund

Sec. 43. (a) A special revolving fund is created to be used only for the planning of projects, including the hiring of architects, engineers, consultants, and other experts and the doing of any work preliminary to the actual construction of a project.

(b) The money in the special revolving fund does not revert to the state general fund.

(c) The amount of money in the special revolving fund may not exceed five hundred thousand dollars ($500,000).

(d) The commission may do the following:

(1) Transfer to the special revolving fund other money in the commission's possession not otherwise committed or needed.

(2) Place a gift or grant to the commission not limited in character in the special revolving fund.

As added by P.L.1-1995, SEC.7.

IC 14-14-1-44
Audits

Sec. 44. (a) The:

(1) commission shall have an audit of the commission's books and accounts to be made at least one (1) time each year by certified public accountants; and

(2) state board of accounts shall audit the accounts, books, and records of the commission.

(b) The cost of the audits may be treated as a part of the administrative expense of the commission.

As added by P.L.1-1995, SEC.7. Amended by P.L.181-2015, SEC.37.

IC 14-14-1-45
Records

Sec. 45. The commission shall keep a written record of all final actions of the commission. The record must be open to public inspection at all reasonable times.

As added by P.L.1-1995, SEC.7.

IC 14-14-1-46
Public purpose; tax exemptions

Sec. 46. (a) The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of Indiana and for the increase of their commerce, health, enjoyment, and prosperity. The operation and maintenance of a park project by the commission will constitute the performance of essential governmental functions.

(b) The commission is not required to pay taxes or assessments upon a park project or property acquired or used by the commission under this chapter or IC 14-3-12 (before its repeal) or upon the

income from the property. The following are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1:

(1) Bonds issued under this chapter or under IC 14-3-12 (before its repeal).

(2) Interest on the bonds.

(3) Proceeds:

(A) received by a holder from the sale of bonds to the extent of the holder's cost of acquisition;

(B) received upon redemption before maturity; or

(C) received at maturity.

(4) Receipt of the interest and proceeds.

As added by P.L.1-1995, SEC.7. Amended by P.L.254-1997(ss), SEC.21.

IC 14-14-1-47

Termination, renewal, or default of lease

Sec. 47. (a) Property leased by the commission to another entity other than the department, at the termination of the lease or a renewal of the lease, may be leased to the same or other persons upon the terms the commission determines after following the procedure in section 17 of this chapter. If the commission does not so lease the property, the property reverts to the control of the department for the department's use and operation. The commission may not operate the property.

(b) If the commission is entitled to take over the operation of property because of a default in an agreement, the commission may operate the property through the commission's employees or contract with others for the operation of the property. The contract for operation may be with the department if the department is not a defaulting party.

As added by P.L.1-1995, SEC.7.

IC 14-14-2

Chapter 2. Federal Recreation Plan

IC 14-14-2-1

Assent to federal land and water conservation fund law

Sec. 1. (a) Indiana assents to 16 U.S.C. 460l-4 et seq. For the purposes of 16 U.S.C. 460l-4 et seq., the department:

(1) may prepare, maintain, and keep up to date a comprehensive plan for the development of the outdoor recreation resources of Indiana; and

(2) shall coordinate the department's activities with and represent the interests of all agencies of the state, county, city, and other governmental units.

(b) To accomplish the activities described in subsection (a), the department may enter into and administer contracts and agreements with the United States or an appropriate agency of the United States for the planning and the acquisition of development projects involving participating federal aid money on behalf of a state, a county, a city, or other governmental unit.

As added by P.L.1-1995, SEC.7.

IC 14-14-2-2

Duties of director

Sec. 2. The director shall do the following:

(1) Perform the acts for the state that are necessary to conduct the establishment of cooperative outdoor recreation projects in compliance with 16 U.S.C. 460l-4 et seq. and regulations adopted by the United States Secretary of the Interior under 16 U.S.C. 460l-4 et seq.

(2) Accept and administer money paid to the state by the federal government for the purposes defined in 16 U.S.C. 460l-4 et seq. if money accruing to the state is not diverted for any other purpose than the purpose for which the money was received.

As added by P.L.1-1995, SEC.7.

IC 14-15

ARTICLE 15. REGULATION OF WATER RECREATION

IC 14-15-1

Chapter 1. General Provisions

IC 14-15-1-1

Applicability of article

Sec. 1. This article applies to the following:

(1) All public waters.

(2) All watercraft navigated or moving on public waters.

As added by P.L.1-1995, SEC.8.

IC 14-15-2
Chapter 2. Watercraft Equipment

IC 14-15-2-1
Unlawful operation without proper equipment

Sec. 1. A person may not operate a motorboat upon public water if the motorboat is not equipped with the equipment required by this chapter. The equipment must be:

(1) in good repair and operating condition; and
(2) ready for use;

at all times.

As added by P.L.1-1995, SEC.8.

IC 14-15-2-2
Bilge ventilators

Sec. 2. The following must be equipped with at least two (2) bilge ventilators fitted with cowls, or the equivalent, and designed and constructed to permit the safe diffusion into the air of all inflammable or explosive gases:

(1) An inboard motorboat that uses motor fuel having a flash point of not more than one hundred ten degrees (110°) Fahrenheit, as determined by a tagliabue or equivalent closed cup test device.
(2) The greater part of the bilge of a motorboat that is not at all times open and exposed to the air.

As added by P.L.1-1995, SEC.8.

IC 14-15-2-3
Carburetor backfire arrest device

Sec. 3. The carburetor on an inboard motorboat must be equipped with a stock factory device:

(1) designed and constructed to arrest backfire; and
(2) of a make or type approved by the United States Coast Guard.

As added by P.L.1-1995, SEC.8.

IC 14-15-2-4
Mufflers; underwater exhaust

Sec. 4. (a) This section does not apply to a motorboat competing in and during a motorboat race for which a permit has been issued by the department.

(b) A person may not operate a motorboat on Indiana water unless the boat motor is equipped with:

(1) a muffler;
(2) an underwater exhaust; or
(3) other device;

that muffles or suppresses the sound of the exhaust.

As added by P.L.1-1995, SEC.8. Amended by P.L.195-2014, SEC.2.

IC 14-15-2-5
Muffler cutouts; bypass

Sec. 5. (a) This section does not apply to a motorboat competing in and during a motorboat race for which a permit has been issued by the department.

(b) A person may not operate a motorboat on Indiana water if the boat motor is equipped with any of the following:

(1) A muffler cutout.

(2) A bypass.

(3) Any device similar to a muffler cutout or bypass.

As added by P.L.1-1995, SEC.8.

IC 14-15-2-6
Personal flotation devices

Sec. 6. (a) This section does not apply to the following:

(1) A sailboard or windsurfing board.

(2) A manually propelled boat, such as a racing shell, rowing scull, or racing kayak:

(A) that is recognized by national or international racing associations for use in competitive racing;

(B) in which all occupants row, scull, or paddle, with the exception of a coxswain if a coxswain is provided; and

(C) that is designed to carry and carries equipment only for competitive racing.

(b) All boats must be equipped with the number and type of personal flotation devices listed in this subsection. A person may not operate a boat unless the boat contains:

(1) for each person on board, one (1) personal flotation device that meets the requirements for designation by the United States Coast Guard as a Type I, Type II, Type III, or Type V personal flotation device; and

(2) for a boat, except a canoe or kayak, at least sixteen (16) feet in length and in addition to the requirements of subdivision (1), one (1) personal flotation device that meets the requirements for designation by the United States Coast Guard as a Type IV personal flotation device.

(c) The director may waive the requirements of this section for a boat during competition in a boat race for which a permit has been issued by the department if the following conditions are met:

(1) The sponsor of the boat race has informed the director of the precautions the sponsor will take to minimize the safety hazards that exist due to noncompliance with the requirements of this section.

(2) The sponsor files with the director a document under which the sponsor assumes all liability that may result from the use of a boat under the waiver.

As added by P.L.1-1995, SEC.8. Amended by P.L.38-2000, SEC.2; P.L.24-2001, SEC.1.

IC 14-15-2-7
Holding tanks; sewage disposal

Sec. 7. (a) As used in this section, "sewage" means human body wastes.

(b) A person may not keep, maintain, or operate upon public water a boat that is equipped with a water closet or toilet unless the water closet or toilet is equipped with a holding tank with the capacity to store wastes for subsequent disposal at:

(1) an approved shoreside facility or incinerator; or

(2) a treatment system approved by the department of environmental management according to rules adopted by the environmental rules board.

(c) A person may not dispose of sewage accumulated in a holding tank or any other container on a watercraft in a manner that the sewage reaches or may reach public waters, except through a sewage disposal facility approved by the department of environmental management according to rules adopted by the environmental rules board.

As added by P.L.1-1995, SEC.8. Amended by P.L.113-2014, SEC.95.

IC 14-15-2-8
Littering

Sec. 8. (a) As used in this section, "litter" means bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, rubbish, plastic, or similar refuse.

(b) In the operation or use of watercraft, a person may not throw, dump, place, deposit, or cause or permit to be thrown, dumped, placed, or deposited:

(1) any litter, filth, or putrid or unwholesome substance; or

(2) the contents of a water closet or toilet, catch basin, or grease trap;

in or upon public water or the banks of public water.

As added by P.L.1-1995, SEC.8.

IC 14-15-2-9
Gas or flammable liquids

Sec. 9. (a) This section does not apply to motor fuel or fuel used in pocket cigarette, cigar, or pipe lighters.

(b) A person may not carry in a boat that is:

(1) kept, maintained, or operated upon public water; and

(2) used to carry passengers for hire;

gas, liquefied gas, or an inflammable liquid capable of being used for cooking, heating, or lighting.

As added by P.L.1-1995, SEC.8.

IC 14-15-2-10
Lights

Sec. 10. A person may not operate a boat upon public water during the period between sunset and sunrise that is not equipped with a

light required by this chapter. The light must be:

(1) in good repair and operating condition; and

(2) displayed and lighted or burning except as otherwise permitted.

As added by P.L.1-1995, SEC.8.

IC 14-15-2-11

White light aft

Sec. 11. Motorboats and auxiliary sailboats must be equipped with at least one (1) white light aft, casting a light visible three hundred sixty degrees (360°) for a distance of at least two (2) miles, under the following conditions:

(1) Except as provided in section 13 of this chapter, motorboats and auxiliary sailboats, whether under power and sail or power alone, must display one (1) of the following:

(A) An all-round white light aft.

(B) A combination of one (1) stern light visible through an arc of twelve (12) points or one hundred thirty-five degrees (135°) to the stern and at least one (1) masthead light visible twenty (20) points or two hundred twenty-five degrees (225°) so as to complete the white light arc over the horizon.

(2) Sailboats more than twenty-two (22) feet in length and operating under sail alone must display one (1) of the following:

(A) An all-round white light aft visible three hundred sixty degrees (360°).

(B) A white stern light visible through an arc of twelve (12) points or one hundred thirty-five degrees (135°) to the stern.

As added by P.L.1-1995, SEC.8.

IC 14-15-2-12

Combination starboard and port lights

Sec. 12. All:

(1) motorboats and auxiliary sailboats equipped with a motor or engine rated at least fifteen (15) horsepower; and

(2) sailboats more than twenty-two (22) feet in length;

must be equipped with combination lights forward showing green to starboard and red to port visible for a distance of at least one (1) mile and affixed or attached so as to throw light from dead ahead to two (2) points abaft the beam of the respective sides. The lights shall be affixed or attached to the bow of the boat, except that sailboats operating under sail alone may combine the red and green lights with the stern light at the uppermost point of the mast.

As added by P.L.1-1995, SEC.8.

IC 14-15-2-13

Hand lanterns or flashlights

Sec. 13. (a) This section applies to the following:

(1) Nonpowered boats including canoes and kayaks.

(2) Sailboats not more than twenty-two (22) feet in length under

sail alone.

(3) Boats powered only by electric motor on lakes restricted to propulsion solely by oars, paddles, or electric motors.

(4) Any boat using an electric motor for positioning purposes only.

(b) A boat must be equipped with a hand portable lantern or flashlight not affixed or attached to any part of the boat and capable of throwing a white light visible for a distance of at least two (2) miles. The operator of the boat shall display the same or the white light aft, if available, in sufficient time to avoid a collision with any other boat that is being operated in accordance with this article.

As added by P.L.1-1995, SEC.8.

IC 14-15-2-14

Pontoon boat lights

Sec. 14. All flat bottomed boats supported by floats, commonly called pontoon boats, must display a fixed combination red and green light forward and a fixed white light aft, according to standards prescribed by the department.

As added by P.L.1-1995, SEC.8.

IC 14-15-2-15

Violations

Sec. 15. (a) A person who violates section 1, 2, 3, 4, 5, 6, 7(b), 9, 10, 12, 13, or 14 of this chapter commits a Class C infraction.

(b) A person who violates section 7(c) or 8 of this chapter commits a Class A infraction. Notwithstanding IC 34-28-5-4(a), a judgment of at least one thousand dollars ($1,000) shall be imposed for each Class A infraction committed in violation of section 7(c) or 8 of this chapter.

As added by P.L.1-1995, SEC.8. Amended by P.L.137-2007, SEC.32; P.L.195-2014, SEC.3.

IC 14-15-3

Chapter 3. Watercraft Operation

IC 14-15-3-1

"Small lake" defined

Sec. 1. As used in this chapter, "small lake" means a body of public water having a surface area that does not exceed three hundred (300) acres, excluding the following in determining the surface area:

(1) An adjoining channel.

(2) Any other small lake connected to the body of public water by a natural or manmade channel less than five hundred (500) feet wide at the narrowest point.

As added by P.L.1-1995, SEC.8.

IC 14-15-3-2

Unlawful operation prohibited

Sec. 2. A person may not operate a boat upon public waters:

(1) in any manner;

(2) under any circumstances; or

(3) at any rate of speed;

prohibited by this article.

As added by P.L.1-1995, SEC.8.

IC 14-15-3-3

Careful and prudent operation

Sec. 3. A person operating a boat shall operate the boat in a careful and prudent manner, having due regard for the following:

(1) The rights, safety, and property of other persons.

(2) The conditions and hazards, actual and potential, then existing, including weather and density of traffic.

(3) Possible injury to the person or property of other persons.

As added by P.L.1-1995, SEC.8.

IC 14-15-3-4

Repealed

(Repealed by P.L.57-1995, SEC.11.)

IC 14-15-3-5

Operation of unsafe boats prohibited

Sec. 5. A person may not operate a boat if all or part of the boat is:

(1) designed or constructed in a manner; or

(2) in a condition or state of repair;

that endangers the person or property of any other person.

As added by P.L.1-1995, SEC.8.

IC 14-15-3-6

Dangerous operation prohibited

Sec. 6. A person may not operate a boat in a manner that does any

of the following:

(1) Unnecessarily endangers the person or property of another person.

(2) Unnecessarily interferes with the safe and lawful use of public waters by another person.

(3) Unnecessarily interferes with or obstructs a special event sanctioned or otherwise legally permitted by the department, another state, or the United States.

As added by P.L.1-1995, SEC.8.

IC 14-15-3-7

Speeding

Sec. 7. A person may not operate a boat at a rate of speed greater than:

(1) is reasonable and prudent, having due regard for the conditions and hazards, actual and potential, then existing, including weather and density of traffic; or

(2) will permit the person, in the exercise of reasonable care, to bring the boat to a stop within the assured clear distance ahead.

As added by P.L.1-1995, SEC.8.

IC 14-15-3-8

Night speed limit

Sec. 8. Subject to section 9 of this chapter, a person may not operate a boat during the period between sunset and sunrise at a speed greater than ten (10) miles per hour.

As added by P.L.1-1995, SEC.8.

IC 14-15-3-9

Restrictions on operation on boundary lakes

Sec. 9. (a) This section applies only to lakes of more than four hundred (400) acres but less than one thousand (1,000) acres lying on the boundary of Indiana and another state.

(b) Between 6:30 p.m. and 10 a.m., a person may not do any of the following:

(1) Operate a boat at a speed greater than ten (10) miles per hour.

(2) Tow an object with a boat, except a disabled motor boat or an object incidental to fishing.

(3) Obtain or be issued a permit under IC 14-15-5 for an activity described in subdivision (1) or (2).

As added by P.L.1-1995, SEC.8.

IC 14-15-3-10

Small lakes; speed limit

Sec. 10. Subject to section 11 of this chapter, a person may not operate a motorboat upon a small lake at a speed greater than ten (10) miles per hour.

As added by P.L.1-1995, SEC.8.

IC 14-15-3-11

Small lakes; exemption from speed limit

Sec. 11. (a) The commission may adopt rules under IC 4-22-2 to exempt a small lake containing more than seventy (70) acres from section 10 of this chapter if the following conditions exist:

(1) A majority of the abutting property owners petitions the commission as provided in this section.

(2) An unreasonable hazard to persons would not result.

(3) An unreasonable harm to fish, wildlife, or botanical resources would not result.

(b) A petition under this section must specify one (1) of the following periods for exemption from section 10 of this chapter:

(1) Each day of the week (Sunday through Saturday) from 1 p.m. to 4 p.m. (local time prevailing).

(2) Monday, Thursday, and Saturday from 1 p.m. to 4 p.m. (local time prevailing).

(3) Saturday from 1 p.m. to 4 p.m. (local time prevailing).

(4) Each day of the week (Sunday through Saturday) from sunrise to sunset if the small lake is owned, leased, or operated in whole or in part by a political subdivision (as defined in IC 36-1-2-13).

(5) Each day of the week (Sunday through Saturday) from sunrise to sunset if the small lake is connected by a natural channel to a lake having a surface area of more than three hundred (300) acres.

(c) The commission may not establish a period that deviates from the period requested in the petition. However, the commission may adopt rules to establish restrictions for the safe operation of watercraft if unusual conditions or hazards would otherwise result by granting the exemption.

(d) The commission may adopt rules under IC 4-22-2 to rescind or amend an exemption granted under subsection (a) if:

(1) a majority of the abutting property owners of a small lake that has been exempted under this section petitions the commission in substantial accordance with the appropriate corresponding requirements of subsection (f) to rescind the exemption; or

(2) the commission determines that because of the exemption:

(A) there is an unreasonable hazard to persons; or

(B) unreasonable harm to fish, wildlife, or botanical resources is occurring.

(e) Before the adoption of a rule under subsection (a), the commission must certify that the petition represents a majority of the abutting property owners. A determination under this subsection is subject to IC 4-21.5.

(f) A petition under this section must be in the following form:

To the State of Indiana

Department of Natural Resources

The undersigned, all owners of abutting property to (name of lake)

and situated in _____ County, Indiana, petition the department to post time periods exempting (name of lake) from speed limits as specified in IC 14-15-3-10 as follows:

(Petition to specify one (1) of the time periods listed above.)

We certify that, according to land and water acreage maps on file with the department or certified survey attached, (name of lake) is less than three hundred (300) acres and more than seventy (70) acres, as specified in IC 14-15-3 and that the signatures listed on this petition represent a majority of bona fide property owners of abutting property of (name of lake), as recorded in the office of the county recorder of (name of county). The department may verify the validity of the signatures. We also understand and agree that this petition, when certified, may not be changed or altered within two (2) years from the date of the certification.

_____ _____

Signed Lake Property Address

_____

Date

As added by P.L.1-1995, SEC.8.

IC 14-15-3-12

Small lakes; rescission or amendment of exemption from speed limit

Sec. 12. (a) A petition filed by a majority of the abutting property owners of a small lake continues in effect and may not be rescinded by a subsequent petition to amend, alter, or abolish for two (2) years from the date of certification of the last filed petition.

(b) To amend, alter, or abolish an existing certified petition a majority of the abutting property owners of the small lake must petition the department.

(c) The commission may adopt rules under IC 4-22-2 to rescind or amend an exemption granted under section 11 of this chapter if:

(1) a majority of the abutting property owners of a small lake that has been exempted under section 11 of this chapter petitions the commission in substantial accordance with the appropriate corresponding requirements of subsection (d) to rescind the exemption; or

(2) the commission determines that because of the exemption:

(A) there is an unreasonable hazard to persons; or

(B) unreasonable harm to fish, wildlife, or botanical resources is occurring.

(d) A petition under this section must be in the following form:

To the State of Indiana

Department of Natural Resources

The undersigned, all owners of abutting property to (name of lake) and situated in _____ County, Indiana, petition the department to (amend) (abolish) an existing petition as follows:

(Insert desired action)

We certify that the signatures listed on this petition represent a

majority of the bona fide property owners of abutting property of (name of lake), as recorded in the office of the county recorder of (name of county). The county auditor of the county in which the property is located shall verify the validity of the signatures before the petition is presented to the department. We also understand and agree that this petition, superseding all existing and prior petitions, when certified, takes effect immediately, and a subsequent petition may not be filed for two (2) years from the date of certification.

_____ _____
Signed Lake Property Address

_____
Date

(e) Upon rescission of a prior petition, the department, as soon as practicable, shall remove all existing postings on the lake.

(f) It is the intent of this section to avoid confusion to lake users that might result from frequent changes in posting and unnecessary expense to the department in erecting and removing postings more often than every two (2) years.

As added by P.L.1-1995, SEC.8.

IC 14-15-3-12.5
Effect of certain exemptions to motorboat speed limits

Sec. 12.5. Notwithstanding sections 10, 11, and 12 of this chapter, any exemption to the motorboat speed limit that was:

(1) granted by the department in response to a petition from a majority of abutting property owners; and

(2) in effect on August 31, 1985;

remains in effect. However, if a majority of abutting property owners petition the department to rescind or amend the exemption, the department may rescind or amend the exemption.

As added by P.L.16-2009, SEC.22.

IC 14-15-3-13
Exemption from boat speed limits

Sec. 13. Notwithstanding any of the provisions of this chapter, a person operating a boat competing in and during:

(1) a boat race;

(2) a water ski event; or

(3) any other organized boating activity;

over a fixed and marked course for which a permit has been issued by the department under this article may attempt to attain any speed of which the boat is capable.

As added by P.L.1-1995, SEC.8. Amended by P.L.21-2005, SEC.1.

IC 14-15-3-14
Traffic rules

Sec. 14. A person operating a boat shall observe the following traffic rules when applicable:

(1) When two (2) boats are approaching each other "head and

head", or nearly so, each boat shall bear to the right and pass the other boat on the boat's left side.

(2) When two (2) boats are approaching each other obliquely or at right angles, the boat on the right has the right-of-way. However, when:

(A) one (1) boat is under sail or is nonmotorized, the sailboat or nonmotorized boat has the right-of-way; and

(B) two (2) boats are under sail or are nonmotorized, the boat on the right has the right-of-way.

(3) A boat operated on a river or a channel shall bear to the right.

(4) A boat may overtake and pass another boat on either side if the passing can be done with safety and within the assured clear distance ahead, but the boat overtaken has the right-of-way.

(5) A boat leaving a dock, a pier, a wharf, or the shore has the right-of-way over all boats approaching the dock, pier, wharf, or shore.

As added by P.L.1-1995, SEC.8. Amended by P.L.69-2009, SEC.3.

IC 14-15-3-15

Hazardous wake or wash prohibited

Sec. 15. A person operating a motorboat may not approach or pass another boat:

(1) in such a manner; or

(2) at such a rate of speed;

as to create a hazardous wake or wash.

As added by P.L.1-1995, SEC.8.

IC 14-15-3-16

Circular operation of motorboats around fishers or swimmers prohibited

Sec. 16. A person may not operate a motorboat in a circular course around any of the following:

(1) Another boat with an occupant engaged in fishing.

(2) A person swimming.

As added by P.L.1-1995, SEC.8.

IC 14-15-3-17

Minimum distance from shore lines

Sec. 17. (a) A person operating a motorboat may not approach or pass within two hundred (200) feet of the shore line of a lake or channel of the lake at a place or point where the lake or channel is at least five hundred (500) feet in width, except for the purpose of trolling or for the purpose of approaching or leaving a dock, pier, or wharf or the shore of the lake or channel.

(b) Except as provided in subsection (c), a person operating a motorboat may not approach or pass within two hundred (200) feet of the shore line of a lake or channel of the lake at a speed greater than idle speed.

(c) This subsection applies to lakes formed by hydroelectric dams

in a county having a population of:

(1) more than twenty-four thousand five hundred (24,500) but less than twenty-five thousand (25,000); or

(2) more than twenty thousand (20,000) but less than twenty thousand five hundred (20,500).

A person operating a motorboat may not approach or pass within fifty (50) feet of the shore line at a speed greater than idle speed. However, on tributaries of lakes described in this subsection that are formed by hydroelectric dams, a person operating a motor boat may not approach or pass within two hundred (200) feet of the shore line of the tributary at a speed greater than idle speed. For the purposes of this chapter, tributaries on lakes formed by hydroelectric dams do not include the principal body of water flowing into the lakes.

As added by P.L.1-1995, SEC.8. Amended by P.L.38-2000, SEC.3; P.L.170-2002, SEC.93; P.L.119-2012, SEC.119.

IC 14-15-3-18

Adoption of rules regarding state or federally financed lakes and reservoirs

Sec. 18. (a) The department may adopt rules under IC 4-22-2 to:

(1) establish speed limits for watercraft; and

(2) prescribe areas for special use;

on those lakes and reservoirs financed either wholly or in part with state or federal money.

(b) The rules adopted under subsection (a) may do the following:

(1) Establish zoning of lakes for the protection of users.

(2) Establish quiet areas in which the use of watercraft may be limited or prohibited for the purposes of fish and wildlife management.

(3) Provide that special use areas be marked with buoys and marking devices approved by the United States Coast Guard.

(c) A rule adopted under subsection (a) may not interfere with, prohibit, or deprive owners of land adjoining or abutting upon the lakes or reservoirs and their guests of access, ingress, and egress to the land by means of motorized watercraft.

As added by P.L.1-1995, SEC.8.

IC 14-15-3-19

Applicability of chapter to towed persons or objects

Sec. 19. Provisions of this chapter concerning the operation of boats or motorboats apply as follows:

(1) Whether or not the boat or motorboat is towing a water ski, a watersled, an aquaplane, or a similar object, including a person on the water ski, watersled, aquaplane, or similar object.

(2) To each object and person.

As added by P.L.1-1995, SEC.8.

IC 14-15-3-20

Towing of persons or objects

Sec. 20. A person operating a motorboat may not tow a water ski, a watersled, an aquaplane, or a similar object, including a person on the waterski, watersled, aquaplane, or similar object, unless:

(1) the motorboat is occupied by at least one (1) other person who is giving the person's entire attention to watching the object or person towed; and

(2) the person operating the boat is giving the person's entire attention to the operation of the boat.

As added by P.L.1-1995, SEC.8.

IC 14-15-3-21
Repealed

(As added by P.L.1-1995, SEC.8. Repealed by P.L.195-2014, SEC.4.)

IC 14-15-3-22
Sirens

Sec. 22. A person other than a law enforcement officer may not operate or sound a siren.

As added by P.L.1-1995, SEC.8.

IC 14-15-3-23
Load and horsepower safe capacity

Sec. 23. A person may not operate or permit operation of a watercraft if a reasonably prudent person would believe the total load aboard or the total horsepower of any motor or engine of the watercraft presents a risk of physical harm to persons or property, having due regard for the following:

(1) The type, construction, and condition or state of repair of the boat.

(2) The conditions and hazards, actual and potential, then existing, including weather and density of traffic.

As added by P.L.1-1995, SEC.8. Amended by P.L.289-2013, SEC.2.

IC 14-15-3-24
Occupants on gunwales or bow decking prohibited

Sec. 24. (a) A person operating a motorboat may not permit an occupant to sit, stand, or lie on the gunwales.

(b) A person operating a motorboat less than twenty-one (21) feet in length may not permit an occupant to sit, stand, or lie on the bow decking of the motorboat, except for any of the following purposes:

(1) Anchoring.

(2) Mooring.

(3) Casting off.

(4) Other necessary purpose.

As added by P.L.1-1995, SEC.8.

IC 14-15-3-25
Mooring to or tampering with navigational aids

Sec. 25. A person may not:

(1) moor or attach a boat to; or

(2) move, remove, displace, tamper with, damage, or destroy;

a buoy, beacon, light marker, stake, flag, or other aid to safe operation placed upon public water by or by others under the authority of the United States or the state.

As added by P.L.1-1995, SEC.8.

IC 14-15-3-26

Anchoring so as to interfere with traffic

Sec. 26. A person may not anchor a boat in the traveled part of a river or channel so as to:

(1) prevent;

(2) impede; or

(3) interfere with;

the safe passage of another boat through the river or channel.

As added by P.L.1-1995, SEC.8.

IC 14-15-3-27

Boat races

Sec. 27. A person may not participate or compete in a boat race unless:

(1) the race is over a fixed and marked course; and

(2) a permit for the race has been issued by the department under this article.

As added by P.L.1-1995, SEC.8.

IC 14-15-3-28

Permitting unlawful operation

Sec. 28. A person who is:

(1) the owner of a boat;

(2) in possession of a boat; or

(3) entitled to the possession of a boat, whether by reason of legal title, lease, license, rental arrangement, lease with option to purchase, contract of conditional sale, or otherwise;

may not authorize or knowingly permit a person to operate the boat upon public water in violation of this article.

As added by P.L.1-1995, SEC.8.

IC 14-15-3-29

Unauthorized possession or operation

Sec. 29. A person may not:

(1) take possession of;

(2) assume control of; or

(3) operate upon public water;

a boat of which any other person is entitled to the possession, whether by reason of legal title, lease, license, rental arrangement, lease with option to purchase, contract of conditional sale, or otherwise, without the prior express consent of the other person.

As added by P.L.1-1995, SEC.8.

IC 14-15-3-30
Abandoned watercraft

Sec. 30. (a) A person may not abandon a watercraft at any time on Indiana water. A watercraft found unattended in a sunken, beached, or drifting condition is considered to have been abandoned by the owner. In the interest of public safety, such a watercraft may be removed and impounded for safekeeping and disposal in accordance with the following:

(1) Abandoned watercraft may be impounded by any law enforcement officer of the department when located on public water.

(2) The owner of an impounded watercraft, if determined and located, shall be notified. The owner may redeem the boat by payment of the storage fee, if any, plus any expenses incurred by the department in the removal of the watercraft.

(3) If the owner of an impounded watercraft cannot be found, the impounded watercraft shall be held at a place of safekeeping for at least ninety (90) days.

(4) A watercraft unclaimed by the owner at the expiration of the period prescribed by subdivision (3) shall be destroyed or sold at public auction.

(5) All money received from the sale at public auction of a watercraft under subdivision (4) shall be deposited in the fish and wildlife fund.

(b) The department and the department's employees are not liable for any damages caused by an abandoned watercraft or incurred to the watercraft during or after the removal of the watercraft from public water.

As added by P.L.1-1995, SEC.8.

IC 14-15-3-31
Violations

Sec. 31. (a) A person who violates section 2, 3, 5, 7, 8, 9, 10, 14, 15, 16, 17, 20, 22, 23, 24, 25, 26, 27, 28, 29, or 30 of this chapter commits a Class C infraction.

(b) A person who knowingly or intentionally violates section 6 of this chapter commits a Class C misdemeanor.

As added by P.L.1-1995, SEC.8. Amended by P.L.195-2014, SEC.5.

IC 14-15-4

Chapter 4. Watercraft Accidents

IC 14-15-4-1

Duties of operators

Sec. 1. The operator of a boat involved in an accident or a collision resulting in injury to or death of a person or damage to a boat or other property shall do the following:

(1) Stop the boat immediately and as close as possible to the scene of the accident.

(2) Return to the scene of the accident and remain there until the operator has complied with this section.

(3) Give:

(A) the operator's name and address;

(B) a full identification of the boat operated; and

(C) the name and address of the owner;

to the operator of each other boat and each person injured.

(4) Upon request, exhibit the operator's license to the operator of each other boat and each person injured.

(5) Provide reasonable assistance to each person injured, including carrying or arranging for carrying each injured person to a physician, surgeon, or hospital for medical or surgical treatment if:

(A) it is apparent that treatment is necessary; or

(B) the injured person so requests.

As added by P.L.1-1995, SEC.8.

IC 14-15-4-2

Notice; reports

Sec. 2. (a) The operator of a boat involved in an accident or a collision resulting in:

(1) injury to or death of a person; or

(2) damage to a boat or other property to an apparent extent of at least seven hundred fifty dollars ($750);

shall provide the information required under subsection (b).

(b) An operator of a boat subject to subsection (a) shall do the following:

(1) Give notice of the accident to:

(A) the office of the sheriff of the county;

(B) the nearest state police post; or

(C) the nearest conservation office;

immediately and by the quickest means of communication.

(2) Mail to the department a written report of the accident or collision within twenty-four (24) hours of the accident or collision.

As added by P.L.1-1995, SEC.8. Amended by P.L.210-2001, SEC.3.

IC 14-15-4-3

Duties of other occupants

Sec. 3. (a) If the operator of a boat is physically incapable of performing a duty imposed by sections 1 and 2 of this chapter, each other occupant of the boat shall perform the duty or see that the duty is performed.

(b) If a person to whom the operator of a boat is required to furnish information under section 1 of this chapter is physically incapable of receiving the information, the operator shall furnish the information to another occupant of the same boat.

As added by P.L.1-1995, SEC.8.

IC 14-15-4-4

Violations

Sec. 4. A person who knowingly or intentionally violates section 1, 2, or 3 of this chapter commits a Class C misdemeanor. However, the offense is:

(1) a Class A misdemeanor if the accident or collision results in an injury to a person;

(2) a Level 6 felony if:

(A) the accident or collision results in serious bodily injury to a person; or

(B) within the five (5) years preceding the commission of the offense, the person had a previous conviction of any of the offenses listed in IC 9-30-10-4(a), IC 35-46-9-6, or IC 14-15-8-8 (before its repeal); or

(3) a Level 5 felony if the accident or collision results in the death of a person.

As added by P.L.1-1995, SEC.8. Amended by P.L.97-2002, SEC.1; P.L.40-2012, SEC.13; P.L.158-2013, SEC.199; P.L.195-2014, SEC.6.

IC 14-15-5
Chapter 5. Race and Event Permits

IC 14-15-5-1
Permit requirement

Sec. 1. A person may not sponsor, conduct, or hold a boat race or water ski event upon public water, including ice, unless a permit for a boat race or water ski event has been issued by the department. A person who has been issued a permit may not violate or fail to comply with a condition upon which the permit has been issued.

As added by P.L.1-1995, SEC.8.

IC 14-15-5-2
Investigations; issuance of permit

Sec. 2. Before issuing a permit for a motorboat race or water ski event, the department shall investigate as necessary. If the department finds that a motorboat race or water ski event can be conducted and held with safety and without undue interference with the lawful use of public water by other persons, the department shall issue the permit with the conditions the department finds necessary to accomplish these objectives. The department shall:

(1) state the conditions in; or

(2) attach the conditions to;

the permit.

As added by P.L.1-1995, SEC.8.

IC 14-15-5-3
Violations

Sec. 3. A person who violates section 1 of this chapter commits a Class C infraction.

As added by P.L.1-1995, SEC.8. Amended by P.L.195-2014, SEC.7.

IC 14-15-6

Chapter 6. Passenger Boats

IC 14-15-6-0.2

Application of certain amendments to prior law

Sec. 0.2. The amendments made to IC 14-1-1-48 (before its repeal, now codified at section 2 of this chapter) apply to boating years beginning after December 31, 1989.

As added by P.L.220-2011, SEC.294.

IC 14-15-6-1

Certificate of inspection and registration; requirement

Sec. 1. (a) A person may not operate a boat upon public water to carry passengers for hire unless the following conditions are met:

(1) The department has inspected and registered the boat.

(2) A certificate of inspection and registration issued by the department is affixed to the boat in a prominent place within the clear view of the passengers.

(b) A certificate of inspection and registration expires one (1) calendar year after the date on which the watercraft was inspected. However, the department may extend the expiration date for not more than thirty (30) days if conditions exist that would prevent the inspection of the watercraft before the first anniversary of the previous inspection.

As added by P.L.1-1995, SEC.8. Amended by P.L.136-1997, SEC.4.

IC 14-15-6-2

Certificate of inspection and registration; issuance

Sec. 2. (a) Before issuing a certificate of inspection and registration for a passenger boat, the department shall have the boat, including all motors, machinery, and equipment, thoroughly and carefully inspected by a competent person.

(b) If the department finds that:

(1) the boat, including motors, machinery, and equipment, is:

(A) of a suitable design and construction for the service in which the boat is or is to be employed; and

(B) in a good, safe, and sound operating condition and state of repair that warrants the belief that the boat can be operated with safety in the service;

(2) the boat, including motors, machinery, and equipment, is in compliance with this article and the rules adopted under this article; and

(3) property tax under IC 6-1.1 is not owed on the boat, as evidenced by the tax receipt for payment from the appropriate county treasurer;

the department shall register the boat and issue a certificate.

(c) If the department does not find the conditions in subsection (b), the department shall immediately notify the owner of the boat why

the boat fails to meet the requirements.
As added by P.L.1-1995, SEC.8.

IC 14-15-6-3
Fees

Sec. 3. (a) The department shall charge and collect a fee for the following:

(1) Each annual dockside inspection.

(2) Each dry dock inspection, which shall be conducted at least one (1) time every sixty (60) months.

(b) The following fees shall be charged:

(1) All watercraft, except sailboats, carrying not more than six (6) passengers for hire on navigable water of Indiana:

(A) Dockside inspection..... $ 50

(B) Dry dock inspection..... $ 75

(2) All watercraft, except sailboats, carrying not more than six (6) passengers for hire on inland water of Indiana:

(A) Dockside inspection..... $ 30

(B) Dry dock inspection..... $ 30

(3) All watercraft, except sailboats, carrying more than six (6) passengers for hire on inland water of Indiana:

(A) Dockside inspection..... $ 75

(B) Dry dock inspection..... $100

(4) All watercraft propelled primarily by sail that carry passengers for hire on navigable or inland water of Indiana:

(A) Dockside inspection..... $ 50

(B) Dry dock inspection..... $ 75

As added by P.L.1-1995, SEC.8.

IC 14-15-6-4
Inspections; taking or suspension of certificate

Sec. 4. (a) The department may:

(1) periodically; and

(2) with or without notice;

inspect a registered passenger boat.

(b) If the department finds from the inspection that the boat would not be entitled to registration if registration were sought at that time, the department shall immediately notify the owner of the boat the reason the boat fails to meet the requirements. The department may:

(1) take possession of a certificate of inspection and registration issued for the boat; and

(2) suspend the operation of the certificate of inspection and registration;

pending the correction of the deficiencies.
As added by P.L.1-1995, SEC.8.

IC 14-15-6-5
Operation during suspension of certificate prohibited

Sec. 5. The owner of a passenger boat whose registration has been

suspended under section 4 of this chapter may not use the boat or permit the boat to be used to carry passengers for hire until:

(1) the deficiencies have been corrected; and

(2) the certificate of inspection and registration has been issued or restored.

As added by P.L.1-1995, SEC.8.

IC 14-15-6-6

Contents of certificate

Sec. 6. Each certificate of inspection and registration must certify that the inspection has been made and must set forth, among other things, the following:

(1) The date of inspection.

(2) A description of the boat, including motors, machinery and equipment.

(3) The age of the boat.

(4) The maximum weight, including both passengers and property, that may safely be carried on the boat.

As added by P.L.1-1995, SEC.8.

IC 14-15-6-7

Display of maximum weight

Sec. 7. A person may not operate a passenger boat unless there is painted on the outside of the boat, both to starboard and to port and in a conspicuous place, the maximum weight, including passengers and property, that may safely be carried on the boat, as set forth in the certificate.

As added by P.L.1-1995, SEC.8.

IC 14-15-6-8

Operation in excess of maximum weight prohibited

Sec. 8. A person may not operate a passenger boat with persons or property on board in excess of the maximum weight, including passengers and property, that may safely be carried on the boat, as set forth in the certificate.

As added by P.L.1-1995, SEC.8.

IC 14-15-6-9

Procedure upon sale of boat

Sec. 9. (a) Upon the sale of a passenger boat, the purchaser shall within ten (10) days do the following at the same time:

(1) Give notice in writing to the department of the sale and the date of the sale.

(2) Surrender the certificate to the department for cancellation.

(b) The department shall, upon receipt, issue a new certificate of inspection and registration to the purchaser. The department shall charge and collect a fee of five dollars ($5) for issuing the certificate.

As added by P.L.1-1995, SEC.8.

IC 14-15-6-10
Violations

Sec. 10. A person who violates section 1, 5, 7, 8, or 9 of this chapter commits a Class C infraction.

As added by P.L.1-1995, SEC.8. Amended by P.L.195-2014, SEC.8.

IC 14-15-7
Chapter 7. Powers and Duties of Department

IC 14-15-7-1
Duties of department

Sec. 1. The department shall do the following:

(1) Prescribe the form of accident reports, permits, and certificates required by this article and the form of applications for permits and certificates.

(2) Carry on a campaign of education with respect to safety in the operation of watercraft and in the use and enjoyment of public waters and with respect to Indiana laws relating to public waters.

(3) Carry out and enforce this article and in connection with these duties provide and maintain conservation officers and patrol boats upon public waters.

(4) Locate, establish, and place, and authorize the location, establishment, and placing by others on behalf of the department, buoys, beacons, lights, markers, stakes, flags, and other aids to the safe operation of watercraft upon public waters. Each safety device must be approved by the United States Coast Guard and recommended by the United States Coast Guard as a uniform waterway marking system.

As added by P.L.1-1995, SEC.8.

IC 14-15-7-2
Reciprocal agreements with foreign nations or states

Sec. 2. The department may enter into reciprocal agreements with foreign nations and other states in areas concerning the operation and inspection of boats carrying passengers for hire from foreign nations and other states that operate in Indiana water.

As added by P.L.1-1995, SEC.8.

IC 14-15-7-3
Adoption of rules

Sec. 3. (a) The department may adopt rules under IC 4-22-2 to implement this article concerning the following:

(1) Applications for and the issuance of permits and certificates required by this article.

(2) The conduct of watercraft races.

(3) Standards of safety for boats used to carry passengers for hire, the determination of the maximum weight that may safely be carried on boats, and the inspection of boats.

(4) The safe operation of watercraft upon public water where unusual conditions or hazards exist, such as any of the following:

(A) An obstruction in or along public water.

(B) Watercraft traffic congestion.

(C) A beach, boat launch, marina, dam, spillway, or other recreational facility on or adjacent to public water.

(5) The placement, location, and maintenance of the following structures upon public water:

(A) Buoys.

(B) Markers.

(C) Flags.

(D) Devices that are used for the purposes of swimming or extending the use of water skis, water sleds, or aquaplanes.

(6) The establishment of zones where the use of watercraft may be limited or prohibited for the following purposes:

(A) Fish, wildlife, or botanical resource management.

(B) The protection of users.

(7) The regulation of watercraft engaged in group or organized activities or tournaments.

(b) In a rule adopted under subsection (a)(4) or (a)(6), the department may establish a zone where:

(1) the operation of all or some types of watercraft is prohibited;

(2) particular activities are restricted or prohibited; or

(3) a limitation is placed on the speed at which a watercraft may be operated.

As added by P.L.1-1995, SEC.8. Amended by P.L.38-2000, SEC.4.

IC 14-15-7-4

Hearings on rules

Sec. 4. In adopting rules under IC 4-22-2, a required hearing with respect to a rule adopted under section 3(a)(4) or 3(a)(5) of this chapter shall be held in the affected locality. A notice of the time and place of the hearing shall be published in a newspaper of general circulation in the county in which the hearing is to be held.

As added by P.L.1-1995, SEC.8.

IC 14-15-7-5

Rules regarding waters under concurrent jurisdiction

Sec. 5. The department may adopt rules under IC 4-22-2 that vary from equipment and operational standards specified in this article with respect to water over which Indiana has concurrent jurisdiction with the United States or another state.

As added by P.L.1-1995, SEC.8.

IC 14-15-7-6

Repealed

(As added by P.L.1-1995, SEC.8. Repealed by P.L.195-2014, SEC.9.)

IC 14-15-8
Repealed
(Repealed by P.L.40-2012, SEC.14.)

IC 14-15-9
Chapter 9. Divers

IC 14-15-9-1
"Diver" defined

Sec. 1. As used in this chapter, "diver" means an individual who is:

(1) wholly or partially submerged in any water of Indiana; and
(2) equipped with:
(A) a face mask and snorkel; or
(B) an underwater breathing apparatus.

As added by P.L.1-1995, SEC.8.

IC 14-15-9-2
"Divers down flag" defined

Sec. 2. As used in this chapter, "divers down flag" means a flag that:

(1) is at least twelve (12) inches wide by twelve (12) inches high;
(2) is square or rectangular, approximately four (4) units high by five (5) units long; and
(3) has a white diagonal stripe on a red background that begins at the top staff side of the flag and extends diagonally to the opposite lower corner.

As added by P.L.1-1995, SEC.8.

IC 14-15-9-3
"Underwater breathing apparatus" defined

Sec. 3. As used in this chapter, "underwater breathing apparatus" means an apparatus, whether:

(1) self contained; or
(2) connected to a distant source of air or other gas;

that enables an individual wholly or partially submerged in water to obtain or reuse air or any other gas for breathing without returning to the surface of the water.

As added by P.L.1-1995, SEC.8.

IC 14-15-9-4
Display of divers down flag

Sec. 4. (a) A diver shall prominently display a divers down flag in the area in which the diving occurs, except when diving in an area customarily used for swimming only.

(b) The divers down flag:

(1) must be free flying; and
(2) shall be lowered when all divers are aboard or ashore.

As added by P.L.1-1995, SEC.8.

IC 14-15-9-5

Operation of watercraft within 150 feet of divers down flag; objects in water within 100 feet of divers down flag; supporting watercraft

Sec. 5. (a) A person may not operate a watercraft within one hundred fifty (150) feet of a divers down flag unless the watercraft is directly involved in supporting the diver who is displaying the flag.

(b) A person may not put an object in the water within one hundred (100) feet of a divers down flag unless the object is used in supporting a diver who is displaying the flag.

(c) A watercraft that is involved in supporting the diver who is displaying the divers down flag shall remain within one hundred (100) feet of the flag.

As added by P.L.1-1995, SEC.8.

IC 14-15-9-6

Diving within 150 feet of anchored watercraft

Sec. 6. A diver may not dive or display a divers down flag within one hundred fifty (150) feet of an anchored watercraft unless the watercraft is directly involved in supporting the diver.

As added by P.L.1-1995, SEC.8.

IC 14-15-9-7

Surfacing within 100 feet of divers down flag

Sec. 7. (a) Except during an emergency, a diver shall surface within one hundred (100) feet of the divers down flag displayed for the diver.

(b) If:

(1) a diver surfaces at a distance greater than one hundred (100) feet from the divers down flag displayed for the diver; and

(2) the diver is injured by a watercraft while surfacing;

the operator of the watercraft is not liable for the injury to the diver unless the operator was negligent in the operation of the watercraft.

As added by P.L.1-1995, SEC.8.

IC 14-15-9-8

Violations

Sec. 8. A person who violates section 4, 5, 6, or 7(a) of this chapter commits a Class C infraction.

As added by P.L.1-1995, SEC.8. Amended by P.L.195-2014, SEC.10.

IC 14-15-10
Chapter 10. Enforcement

IC 14-15-10-1
Enforcement powers of law enforcement officers

Sec. 1. Indiana law enforcement officers shall enforce the following:

(1) This article.

(2) Rules adopted by the department under this article.

As added by P.L.1-1995, SEC.8.

IC 14-15-10-2
Enforcement powers of attorney general and prosecuting attorneys

Sec. 2. The attorney general and prosecuting attorneys have concurrent power to approve, file, and prosecute an affidavit charging a violation of the following:

(1) This article.

(2) The rules adopted under this article.

As added by P.L.1-1995, SEC.8.

IC 14-15-10-3
Juveniles tried as adults

Sec. 3. A person at least sixteen (16) years of age and less than eighteen (18) years of age who violates this article may be prosecuted and tried in a court having jurisdiction over adults who violate this article.

As added by P.L.1-1995, SEC.8.

IC 14-15-11

Chapter 11. Requirements for Motorboat Operators

IC 14-15-11-1

"Bureau"

Sec. 1. As used in this chapter, "bureau" refers to the bureau of motor vehicles established by IC 9-14-1-1.

As added by P.L.57-1995, SEC.8.

IC 14-15-11-2

"Department"

Sec. 2. As used in this chapter, "department" refers to the department of natural resources created by IC 14-9-1-1.

As added by P.L.57-1995, SEC.8.

IC 14-15-11-3

"Driver's license"

Sec. 3. As used in this chapter, "driver's license" means:

(1) an Indiana driver's license; or

(2) a license to operate a motor vehicle issued under the laws of a jurisdiction other than Indiana.

As added by P.L.57-1995, SEC.8.

IC 14-15-11-4

"Indiana driver's license"

Sec. 4. As used in this chapter, "Indiana driver's license" means:

(1) an operator's license;

(2) a chauffeur's license; or

(3) a public passenger chauffeur's license;

that is issued to an individual by the bureau of motor vehicles under IC 9-24.

As added by P.L.57-1995, SEC.8. Amended by P.L.125-2012, SEC.401.

IC 14-15-11-5

"Individual"

Sec. 5. As used in this chapter, "individual" means an individual human being.

As added by P.L.57-1995, SEC.8.

IC 14-15-11-6

"Motorboat"

Sec. 6. (a) As used in this chapter, "motorboat" means a watercraft that is:

(1) equipped with an internal combustion, a steam, or an electrical motor or engine that is inboard or outboard; or

(2) propelled by any mechanical means.

(b) The term includes a personal watercraft.

(c) The term includes a sailboat that is equipped with a motor or an engine described in subsection (a)(1) when in operation, whether or not the sails are hoisted.

(d) The term does not include a boat that is propelled by only one (1) motor or engine if the motor or engine is rated at not more than ten (10) horsepower.

As added by P.L.57-1995, SEC.8.

IC 14-15-11-7
"Personal watercraft"

Sec. 7. As used in this chapter, "personal watercraft" has the meaning set forth in IC 14-8-2-202.5.

As added by P.L.57-1995, SEC.8.

IC 14-15-11-8
"Public waters"

Sec. 8. As used in this chapter, "public waters" has the meaning set forth in IC 14-8-2-226.

As added by P.L.57-1995, SEC.8.

IC 14-15-11-9 Version a
License requirements

Note: This version of section effective until 1-1-2016. See also following version of this section, effective 1-1-2016.

Sec. 9. (a) Except as provided in subsections (b) and (c), an individual may not operate a motorboat on public waters unless the individual holds a valid driver's license.

(b) An individual who is at least fifteen (15) years of age and who does not hold a valid driver's license may operate a motorboat on public waters if the individual:

(1) has been issued an identification card by the bureau under IC 9-24-16; and

(2) has successfully completed a boating education course approved by the department for the purposes of this chapter.

(c) An individual who:

(1) is at least twenty-one (21) years of age; and

(2) does not hold:

(A) a valid driver's license; or

(B) a driver's license that is suspended or revoked;

may operate a motorboat on public waters if the individual is issued an identification card by the bureau under IC 9-24-16 before January 1, 1996.

As added by P.L.57-1995, SEC.8.

IC 14-15-11-9 Version b
Motorboat operating authority

Note: This version of section effective 1-1-2016. See also preceding version of this section, effective until 1-1-2016.

Sec. 9. (a) Except as provided in subsections (b) and (c), an

individual may not operate a motorboat on public waters unless the individual holds a valid driver's license.

(b) An individual who is at least fifteen (15) years of age and who does not hold a valid driver's license may operate a motorboat on public waters if the individual:

(1) has been issued an identification card by the bureau under IC 9-24-16 or a photo exempt identification card under IC 9-24-16.5; and

(2) has successfully completed a boating education course approved by the department for the purposes of this chapter.

(c) An individual who:

(1) is at least twenty-one (21) years of age; and

(2) does not hold:

(A) a valid driver's license; or

(B) a driver's license that is suspended or revoked;

may operate a motorboat on public waters if the individual is issued an identification card by the bureau under IC 9-24-16 before January 1, 1996.

As added by P.L.57-1995, SEC.8. Amended by P.L.197-2015, SEC.15.

IC 14-15-11-10

Knowing or intentional violations

Sec. 10. (a) Except as provided in section 11 of this chapter, an individual who knowingly or intentionally operates a motorboat on public waters in violation of section 9 of this chapter commits a Class C infraction.

(b) In a proceeding to enforce this section, the burden is on the defendant to prove by a preponderance of the evidence that, at the time of the alleged offense, the defendant held a valid driver's license or identification card.

As added by P.L.57-1995, SEC.8.

IC 14-15-11-11

Operation of motorboat while license is suspended or revoked

Sec. 11. (a) Except as provided in subsection (b), a person who operates a motorboat upon public waters while the person's Indiana driver's license is suspended or revoked commits a Class A infraction. However, if:

(1) a person knowingly or intentionally violates this subsection; and

(2) less than ten (10) years have elapsed between the date a judgment was entered against the person for a prior unrelated violation of this subsection, IC 9-1-4-52 (repealed July 1, 1991), IC 9-24-18-5 (repealed July 1, 2000), or IC 9-24-19 and the date the violation described in subdivision (1) was committed;

the person commits a Class A misdemeanor.

(b) If:

(1) a person operates a motorboat upon public waters while the

person's Indiana driver's license is suspended or revoked; and

(2) the person's suspension or revocation was a result of the person's conviction of an offense (as defined in IC 35-31.5-2-215);

the person commits a Class A misdemeanor. However, notwithstanding IC 35-50-3-2, a person who violates this subsection shall be imprisoned for a fixed term of not less than sixty (60) days and not more than one (1) year. Notwithstanding IC 35-50-3-1, the court may not suspend any part of the sentence except that part of the sentence exceeding sixty (60) days.

(c) In addition to any other penalty imposed for a conviction under this section, the court may recommend that the person's privileges to operate a motorboat upon public waters be suspended for a fixed period of not more than two (2) years.

(d) The bureau, upon receiving a record of conviction of a person on a charge of operating a motorboat while the person's driver's license was suspended, shall extend the period of suspension in accordance with the recommendation of the court that entered the conviction.

(e) In a prosecution under this section, the burden is on the defendant to prove by a preponderance of the evidence that, at the time of the alleged offense, the defendant held a valid Indiana driver's license.

As added by P.L.57-1995, SEC.8. Amended by P.L.32-2000, SEC.8; P.L.114-2012, SEC.36; P.L.217-2014, SEC.181.

IC 14-15-11-12

Unlawful authorization to operate motorboat

Sec. 12. (a) A person may not authorize or knowingly permit a motorboat that is:

(1) owned by the person; or

(2) under the person's control;

to be driven by a person whose operation of the motorboat violates this chapter.

(b) A person who violates this section commits a Class C infraction.

As added by P.L.57-1995, SEC.8.

IC 14-15-11-13

Rules

Sec. 13. (a) The bureau of motor vehicles and the natural resources commission established by IC 14-10-1-1 shall adopt rules under IC 4-22-2 to administer this chapter.

(b) The bureau of motor vehicles shall adopt rules concerning the following matters:

(1) The suspension of a motorboat operator's license under section 14 of this chapter.

(2) The assessment of points under section 17 of this chapter against a person who commits a misdemeanor by operating a

motorboat.

(c) The natural resources commission shall adopt rules concerning the following matters:

(1) The duties of the department under this chapter.

(2) The information that a boating education course must offer in order to be approved by the department for purposes of this chapter.

As added by P.L.57-1995, SEC.8.

IC 14-15-11-14

Suspension or revocation of driver's license by court; notification to bureau

Sec. 14. (a) A court may suspend or revoke the driver's license of a person upon the conviction of the person of a crime based on a violation of IC 14-15-3, IC 14-15-8 (before its repeal), IC 35-46-9, or IC 14-15-12.

(b) In suspending or revoking a driver's license under this section, the court shall notify the bureau of the driver's license suspension or revocation, and the bureau shall follow the procedure set forth in IC 9-30-4.

As added by P.L.57-1995, SEC.8. Amended by P.L.40-2012, SEC.15; P.L.217-2014, SEC.182.

IC 14-15-11-15

Suspension or revocation of driver's license on recommendation of court

Sec. 15. (a) A court in which an individual is convicted of a crime based on a violation of IC 14-15-3, IC 35-46-9, IC 14-15-8 (before its repeal), or IC 14-15-12 relating to the operation of a motorboat shall forward a certified abstract of the record of the conviction to the bureau.

(b) If, in the opinion of the court, an individual referred to in subsection (a) should be deprived of the privilege of operating a vehicle or motorboat, the court shall recommend the suspension of the Indiana driver's license issued to the individual for a fixed period. The period of the suspension shall be established by the court but may not exceed one (1) year.

(c) Upon receiving the recommendation of the court under subsection (b), the bureau shall suspend the individual's license for the period recommended by the court.

(d) A certified abstract forwarded to the bureau under subsection (a):

(1) must be in the form prescribed by the bureau; and

(2) shall be accepted by an administrative agency or a court as prima facie evidence of the conviction and all other action stated in the abstract.

As added by P.L.57-1995, SEC.8. Amended by P.L.40-2012, SEC.16.

IC 14-15-11-16

Boating education course

Sec. 16. (a) If a person's Indiana driver's license is suspended under section 15 of this chapter, the court that recommends the suspension of the person's driver's license may require the person, as a prerequisite to the ending of the suspension, to successfully complete a boating education course approved by the department for the purposes of this chapter.

(b) A court that makes the ending of the suspension of a person's Indiana driver's license conditional upon the person's completion of the boating education course under subsection (a) may also order the refunding to the person of part or all of the fine paid by the person upon conviction of the crime for which the person's license was suspended, upon the person's completion of the boating education course.

As added by P.L.57-1995, SEC.8.

IC 14-15-11-17

Assessment of points for motorboat violations

Sec. 17. (a) For purposes of the point system for Indiana traffic convictions operated by the bureau under 140 IAC 1-4.5, the bureau shall assess points against a person who commits a crime by operating a motorboat in violation of:

(1) IC 14-15-3;

(2) IC 35-46-9 (or IC 14-15-8 before its repeal); or

(3) IC 14-15-12.

(b) The bureau shall assess points against a person under this section for each crime referred to in subsection (a) that is committed by the person.

(c) The point study committee appointed by the commissioner under 140 IAC 1-4.5-3, in consultation with the department, shall determine the number of points assessed under subsection (a) for each type of criminal violation of IC 14-15-3, IC 14-15-8 (before its repeal), IC 35-46-9, or IC 14-15-12 based on the evaluation by the committee of the danger to human life, human physical safety, and property posed by the violation.

As added by P.L.57-1995, SEC.8. Amended by P.L.40-2012, SEC.17.

IC 14-15-12

Chapter 12. Regulation of Personal Watercraft

IC 14-15-12-1

"Individual" defined

Sec. 1. As used in this chapter, "individual" means an individual human being.

As added by P.L.57-1995, SEC.9.

IC 14-15-12-2

"Person" defined

Sec. 2. As used in this chapter, "person" has the meaning set forth in IC 14-8-2-202(a).

As added by P.L.57-1995, SEC.9.

IC 14-15-12-3

"Personal watercraft" defined

Sec. 3. As used in this chapter, "personal watercraft" has the meaning set forth in IC 14-8-2-202.5.

As added by P.L.57-1995, SEC.9.

IC 14-15-12-4

"Public waters" defined

Sec. 4. As used in this chapter, "public waters" has the meaning set forth in IC 14-8-2-226.

As added by P.L.57-1995, SEC.9.

IC 14-15-12-5

Additional requirements and prohibitions

Sec. 5. The requirements and prohibitions set forth in this chapter concerning personal watercraft are in addition to the requirements and prohibitions set forth in IC 14-15-3, IC 35-46-9, and IC 14-15-8 (before its repeal).

As added by P.L.57-1995, SEC.9. Amended by P.L.40-2012, SEC.18.

IC 14-15-12-6

Operation while facing rear prohibited

Sec. 6. A person shall not operate a personal watercraft on public waters while facing the rear of the personal watercraft.

As added by P.L.57-1995, SEC.9.

IC 14-15-12-7

Restrictions on water activities

Sec. 7. A personal watercraft shall not be used on public waters to tow individuals engaged in waterskiing, aquaplaning, or similar activities, unless:

(1) the personal watercraft is at least nine (9) feet long;

(2) the personal watercraft is designed to seat at least three (3)

individuals;

(3) an individual other than the operator of the personal watercraft is aboard the personal watercraft, acting as an observer; and

(4) the total number of persons on the watercraft and being towed is not more than the capacity of the watercraft.

As added by P.L.57-1995, SEC.9. Amended by P.L.28-1998, SEC.1; P.L.289-2013, SEC.3.

IC 14-15-12-8
Personal flotation devices

Sec. 8. A person shall not operate a personal watercraft on public waters unless every individual:

(1) operating;

(2) riding on; or

(3) being towed by;

the personal watercraft is wearing a personal flotation device that meets the requirements for designation by the United States Coast Guard as a Type I, Type II, Type III, or Type V personal flotation device, if applicable.

As added by P.L.57-1995, SEC.9. Amended by P.L.38-2000, SEC.5; P.L.24-2001, SEC.2.

IC 14-15-12-9
Self-circling capability

Sec. 9. A personal watercraft that does not have self-circling capability shall not be operated on public waters unless:

(1) the personal watercraft is equipped with a lanyard type engine cutoff switch; and

(2) the lanyard is attached to the person, clothing, or personal flotation device of the operator.

As added by P.L.57-1995, SEC.9.

IC 14-15-12-10
Reasonable and prudent operation

Sec. 10. (a) A personal watercraft operated on public waters must at all times be operated in a reasonable and prudent manner.

(b) A person shall not operate a personal watercraft on public waters in a way that endangers human life, human physical safety, or property.

(c) A person shall not do any of the following while operating a personal watercraft on public waters:

(1) Weave through congested watercraft traffic in a way that endangers human life, human physical safety, or property.

(2) Follow a watercraft that is towing an individual on:

(A) water skis;

(B) a surf board; or

(C) another water sport device;

in a way that endangers human life, human physical safety, or

property.
(3) Jump the wake of another watercraft in a way that endangers human life, human physical safety, or property.
(4) Cut between a boat and the individual or individuals being towed by the boat.
(5) Cross paths with another watercraft when visibility around the other watercraft is so obstructed as to endanger human life, human physical safety, or property.
(6) Steer a personal watercraft toward an object or individual in the water and turn sharply at close range in a way that endangers human life, human physical safety, or property.
As added by P.L.57-1995, SEC.9.

IC 14-15-12-11
Unlawful authorization to operate watercraft
Sec. 11. A person who:
(1) owns a personal watercraft; or
(2) has charge over or control of a personal watercraft;
shall not authorize or knowingly permit the personal watercraft to be operated in violation of this chapter.
As added by P.L.57-1995, SEC.9.

IC 14-15-12-12
Nonapplicability
Sec. 12. Sections 6, 7, 8, 9, and 10 of this chapter do not apply to:
(1) a performer engaged in a professional exhibition; or
(2) a person participating in a regatta, a race, a marine parade, a tournament, or an exhibit;
that is held in compliance with rules adopted by the natural resources commission.
As added by P.L.57-1995, SEC.9.

IC 14-15-12-13
Violations
Sec. 13. (a) A person who intentionally, knowingly, or recklessly violates section 10 of this chapter commits a Class C misdemeanor.
(b) A person who violates section 6, 7, 8, 9, or 11 of this chapter commits a Class C infraction.
As added by P.L.57-1995, SEC.9.

IC 14-15-12-14
Implementation
Sec. 14. The natural resources commission may adopt rules under IC 4-22-2 to implement this chapter.
As added by P.L.57-1995, SEC.9.

IC 14-15-13
Chapter 13. Motorboat Watersports

IC 14-15-13-1
Application of chapter
Sec. 1. This chapter does not apply when a motorboat is moored, anchored, docked, or aground.
As added by P.L.165-2011, SEC.7.

IC 14-15-13-2
Additional requirements and prohibitions
Sec. 2. The requirements and prohibitions set forth in this chapter are in addition to the requirements and prohibitions set forth in IC 14-15-2, IC 14-15-3, IC 14-15-4, 14-15-8 (before its repeal), IC 35-46-9, and IC 14-15-12.
As added by P.L.165-2011, SEC.7. Amended by P.L.40-2012, SEC.19.

IC 14-15-13-3
Prohibited acts
Sec. 3. An individual may not do the following:
(1) Operate a motorboat inboard or have the inboard engine of a motorboat run idle while an individual is holding onto the swim platform, swim deck, swim step, swim ladder or any part of the exterior of the transom of a motorboat while the motorboat is underway at any speed.
(2) Operate a motorboat powered by an outboard motor or equipped with an outdrive unit while an individual is:
(A) holding onto the swim platform, swim deck, swim step, swim ladder or any portion of the exterior of the transom of a motorboat while the motorboat is underway at any speed;
(B) swimming, or floating on or in the wake directly behind a motorboat that is underway; or
(C) floating on a board on or in the wake directly behind a motorboat that is underway using the wake itself as the means of propulsion.
(3) Operate a motorboat with the number of individual riders on a towed device that exceeds the listed capacity on the towed device or the owner's manual.
As added by P.L.165-2011, SEC.7.

IC 14-15-13-4
Violations
Sec. 4. An individual who violates section 3 of this chapter commits a Class C infraction.
As added by P.L.165-2011, SEC.7. Amended by P.L.195-2014, SEC.11.

IC 14-16

ARTICLE 16. REGULATION OF LAND RECREATION

IC 14-16-1

Chapter 1. Off-Road Vehicles

IC 14-16-1-1

Legislative intent

Sec. 1. It is the general intent and purpose of the general assembly in enacting this chapter to promote:

(1) safety for persons and property;

(2) responsible enjoyment in and connected with the use and operation of off-road vehicles and snowmobiles; and

(3) understanding consistent with the rights of all the citizens of Indiana.

As added by P.L.1-1995, SEC.9. Amended by P.L.186-2003, SEC.35.

IC 14-16-1-1.5

"Alcoholic beverage" defined

Sec. 1.5. As used in this chapter, "alcoholic beverage" has the meaning set forth in IC 7.1-1-3-5.

As added by P.L.219-2005, SEC.16.

IC 14-16-1-1.8

"Collector snowmobile"

Sec. 1.8. (a) This section expires January 1, 2017.

(b) As used in this chapter, "collector snowmobile" means a snowmobile that is:

(1) at least twenty-five (25) years old; and

(2) owned and operated as a collector snowmobile for participation in special events of limited duration, including races, parades, and other group events.

As added by P.L.86-2010, SEC.5. Amended by P.L.259-2013, SEC.30.

IC 14-16-1-2

"Dealer"

Sec. 2. As used in this chapter, "dealer" means a person engaged in the commercial sale of off-road vehicles or snowmobiles.

As added by P.L.1-1995, SEC.9. Amended by P.L.186-2003, SEC.36.

IC 14-16-1-3

Repealed

(As added by P.L.1-1995, SEC.9. Amended by P.L.14-1998, SEC.1; P.L.186-2003, SEC.37. Repealed by P.L.225-2005, SEC.25.)

IC 14-16-1-4

"Operate"

Sec. 4. As used in this chapter, "operate" means to:

(1) ride in or on; and

(2) be in actual physical control of the operation of;

a vehicle.

As added by P.L.1-1995, SEC.9. Amended by P.L.225-2005, SEC.11.

IC 14-16-1-5

"Operator"

Sec. 5. As used in this chapter, "operator" means an individual who:

(1) operates; or

(2) is in actual physical control of;

an off-road vehicle or a snowmobile.

As added by P.L.1-1995, SEC.9. Amended by P.L.186-2003, SEC.38.

IC 14-16-1-6

"Owner"

Sec. 6. As used in this chapter, "owner" means a person, other than a lienholder, who:

(1) has the property in or title to; and

(2) is entitled to the use or possession of;

an off-road vehicle or a snowmobile.

As added by P.L.1-1995, SEC.9. Amended by P.L.186-2003, SEC.39.

IC 14-16-1-7

"Vehicle"

Sec. 7. As used in this chapter, "vehicle" refers to an off-road vehicle or a snowmobile.

As added by P.L.1-1995, SEC.9. Amended by P.L.186-2003, SEC.40.

IC 14-16-1-8

Registration; requirement; exemptions

Sec. 8. (a) Except as otherwise provided, the following may not be operated on public property unless registered:

(1) An off-road vehicle.

(2) A snowmobile (including a collector snowmobile).

(b) Except as provided under subsection (c), the following must be registered under this chapter:

(1) A vehicle that is purchased after December 31, 2003.

(2) A collector snowmobile.

(c) Registration is not required for the following vehicles:

(1) An off-road vehicle that is exclusively operated in a special event of limited duration that is conducted according to a prearranged schedule under a permit from the governmental unit having jurisdiction.

(2) A vehicle being operated by a nonresident of Indiana as authorized under section 19 of this chapter.

(3) A vehicle being operated for purposes of testing or

demonstration with temporary placement of numbers as set forth in section 16 of this chapter.

(4) A vehicle the operator of which has in the operator's possession a bill of sale from a dealer or private individual that includes the following:

(A) The purchaser's name and address.

(B) A date of purchase that is not more than thirty-one (31) days preceding the date that the operator is required to show the bill of sale.

(C) The make, model, and vehicle number of the vehicle provided by the manufacturer as required by section 13 of this chapter.

(5) A vehicle that is owned or leased and used for official business by:

(A) the state;

(B) a municipal corporation (as defined in IC 36-1-2-10); or

(C) a volunteer fire department (as defined in IC 36-8-12-2).

(d) This section expires January 1, 2017.

As added by P.L.1-1995, SEC.9. Amended by P.L.186-2003, SEC.41; P.L.225-2005, SEC.12; P.L.86-2010, SEC.6; P.L.25-2011, SEC.1; P.L.259-2013, SEC.31.

IC 14-16-1-9

Registration; application, issuance, and certificate

Sec. 9. (a) The owner of each vehicle required to be registered under this chapter must do the following every three (3) years:

(1) File an application for registration with the department on forms provided by the department.

(2) Sign the application.

(3) If the off-road vehicle is purchased after December 31, 2003, include a copy of:

(A) the bill of sale; or

(B) the certificate of title;

for the off-road vehicle.

(4) Include a signed affidavit in which the applicant swears or affirms that the information set forth in the application by the applicant is correct.

(5) Pay a fee of thirty dollars ($30).

(b) Upon receipt of an application in approved form, the department shall enter the application upon the department's records and issue to the applicant the following:

(1) A certificate of registration containing the following:

(A) The number awarded to the vehicle.

(B) The name and address of the owner.

(C) Other information that the department considers necessary.

(2) Two (2) decals indicating the vehicle's registration number and the year in which the registration will expire that must be attached to the vehicle as provided in section 11.5 of this

chapter.

(c) A certificate of registration must:

(1) be pocket size;

(2) accompany the vehicle; and

(3) be made available for inspection upon demand by a law enforcement officer.

(d) When the registration under this chapter of an off-road vehicle or snowmobile expires after December 31, 2013, the owner of the vehicle must register the off-road vehicle or snowmobile under IC 9-18-2.5.

(e) This section expires January 1, 2017.

As added by P.L.1-1995, SEC.9. Amended by P.L.186-2003, SEC.42; P.L.25-2011, SEC.2; P.L.259-2013, SEC.32.

IC 14-16-1-9.5

Registration; certificate of title for off-road vehicle

Sec. 9.5. (a) This section expires January 1, 2017.

(b) Registration under this chapter does not relieve an owner of an off-road vehicle from any requirement to obtain a certificate of title for the off-road vehicle under IC 9-17-2.

As added by P.L.219-2005, SEC.17. Amended by P.L.259-2013, SEC.33.

IC 14-16-1-10

Use of revenues

Sec. 10. (a) The revenues obtained under this chapter shall be deposited into the off-road vehicle and snowmobile fund under IC 14-16-1-30.

(b) This section expires January 1, 2017.

As added by P.L.1-1995, SEC.9. Amended by P.L.186-2003, SEC.43; P.L.259-2013, SEC.34.

IC 14-16-1-11

Display of registration decals; registration expiration

Sec. 11. (a) The department may adopt rules for the size and placement of registration decals upon vehicles.

(b) Not earlier than ninety (90) days before the expiration date of a certificate, a registration renewal decal or other device may be issued indicating that the certificate of registration is in full force and effect. The department shall adopt rules under IC 4-22-2 prescribing the display of the decal or other device.

(c) An initial certificate of registration and a renewal of a certificate awarded under this chapter expires three (3) years from the date of purchase of the certificate unless the certificate is canceled.

(d) The department may:

(1) award a certificate of number directly; or

(2) authorize a person to act as the department's agent for the awarding.

(e) This section expires January 1, 2017.

As added by P.L.1-1995, SEC.9. Amended by P.L.186-2003, SEC.44; P.L.259-2013, SEC.35.

IC 14-16-1-11.5
Decal placement; decal replacement

Sec. 11.5. (a) The owner of a vehicle shall attach the decals issued under section 9 of this chapter on the forward half of the vehicle. All decals shall be maintained in a legible condition and displayed only for the period for which the registration is valid.

(b) If a registration decal is lost or destroyed, the owner may apply for a duplicate on forms provided by the department. An application submitted under this subsection must be accompanied by a fee established by the department for each decal. Upon receipt of a proper application and the required fee, the department shall issue a duplicate registration decal to the owner.

(c) This section expires January 1, 2017.

As added by P.L.186-2003, SEC.45. Amended by P.L.259-2013, SEC.36.

IC 14-16-1-12
Public records

Sec. 12. Records of the department made or kept under this chapter are public records except as otherwise provided.

As added by P.L.1-1995, SEC.9.

IC 14-16-1-13
Vehicle number

Sec. 13. (a) This section expires January 1, 2017.

(b) A manufacturer of a vehicle shall stamp into the frame of the vehicle the vehicle number, which is an identifying number unique to the vehicle. The number shall be stamped where the number is easily visible with a minimum of physical effort. A manufacturer shall furnish to a requesting police agency or the department information as to the location of vehicle numbers on vehicles the manufacturer produces. The vehicle number shall be printed on the registration certificate issued by the department to the vehicle owner.

As added by P.L.1-1995, SEC.9. Amended by P.L.259-2013, SEC.37.

IC 14-16-1-14
Surrender and transfer of certificate

Sec. 14. (a) The owner of a vehicle required to be registered under this chapter shall notify the department within fifteen (15) days if any of the following conditions exist:

(1) The vehicle is destroyed or abandoned.

(2) The vehicle is sold or an interest in the vehicle is transferred wholly or in part to another person.

(3) The owner's address no longer conforms to the address appearing on the certificate of registration.

(b) The notice must consist of a surrender of the certificate of

registration on which the proper information shall be noted on a place to be provided.

(c) If the surrender of the certificate is required because the vehicle is destroyed or abandoned, the department shall cancel the certificate and enter that fact in the records. The number then may be reassigned.

(d) If the surrender is required because of a change of address on the part of the owner, the department shall record the new address. Upon payment of a fee established by the commission, a certificate of registration bearing the new information shall be returned to the owner.

(e) The transferee of a vehicle registered under this chapter shall, within fifteen (15) days after acquiring the vehicle, make application to the department for transfer to the transferee of the certificate of registration issued to the vehicle. The transferee shall provide the transferee's name and address and the number of the vehicle and pay to the department a fee established by the department. Upon receipt of the application and fee, the department shall transfer the certificate of registration issued for the vehicle to the new owner. Unless the application is made and the fee paid within fifteen (15) days, the vehicle is considered to be without a certificate of registration and a person may not operate the vehicle until a certificate is issued.

(f) This section expires January 1, 2017.

As added by P.L.1-1995, SEC.9. Amended by P.L.186-2003, SEC.46; P.L.246-2005, SEC.117; P.L.259-2013, SEC.38.

IC 14-16-1-15

Duplicate certificates

Sec. 15. (a) This section expires January 1, 2017.

(b) If a certificate of registration is lost, mutilated, or illegible, the owner of the vehicle may obtain a duplicate of the certificate upon application and payment of a fee established by the commission.

As added by P.L.1-1995, SEC.9. Amended by P.L.186-2003, SEC.47; P.L.246-2005, SEC.118; P.L.259-2013, SEC.39.

IC 14-16-1-16

Certificates for testing or demonstrating vehicles

Sec. 16. (a) A dealer or manufacturer may obtain certificates of registration for use in the testing or demonstrating of vehicles upon the following:

(1) Application to the department upon forms provided by the department.

(2) Payment of a fee established by the department for each of the first two (2) registration certificates. Additional certificates that the dealer requires may be issued for a fee established by the commission.

(b) An applicant may use a certificate issued under this section only in the testing or demonstrating of vehicles by temporary placement of the numbers on the vehicle being tested or

demonstrated. A certificate issued under this section may be used on only one (1) vehicle at any given time. The temporary placement of numbers must conform to the requirements of this chapter or rules adopted under this chapter.

(c) A certificate issued under this section is valid for three (3) years.

(d) This section expires January 1, 2017.

As added by P.L.1-1995, SEC.9. Amended by P.L.186-2003, SEC.48; P.L.246-2005, SEC.119; P.L.259-2013, SEC.40.

IC 14-16-1-17
Expired

(As added by P.L.1-1995, SEC.9. Amended by P.L.259-2013, SEC.41. Expired 1-1-2014 by P.L.259-2013, SEC.41.)

IC 14-16-1-18
Duties of dealers

Sec. 18. (a) A dealer shall maintain in safe operating condition all vehicles rented, leased, or furnished by the dealer. The dealer or the dealer's agents or employees shall explain the operation of a vehicle being rented, leased, or furnished. If the dealer or the dealer's agent or employee believes the person to whom the vehicle is to be rented, leased, or furnished is not competent to operate the vehicle with safety to the person or others, the dealer or the dealer's agent or employee shall refuse to rent, lease, or furnish the vehicle.

(b) A dealer renting, leasing, or furnishing a vehicle shall carry a policy of liability insurance subject to minimum limits, exclusive of interest and costs, with respect to the vehicle as follows:

(1) Twenty thousand dollars ($20,000) for bodily injury to or death of one (1) person in any one (1) accident.

(2) Subject to the limit for one (1) person, forty thousand dollars ($40,000) for bodily injury to or death of at least two (2) persons in any one (1) accident.

(3) Ten thousand dollars ($10,000) for injury to or destruction of property of others in any one (1) accident.

(c) In the alternative, a dealer may demand and must be shown proof that the person renting, leasing, or being furnished a vehicle carries a liability policy of at least the type and coverage specified in subsection (b).

(d) A dealer:

(1) shall prepare an application for a certificate of title as required by IC 9-17-2-1.5 for a purchaser of an off-road vehicle and shall submit the application for the certificate of title in the format required by IC 9-17-2-2 to the bureau of motor vehicles; and

(2) may charge a processing fee for this service that may not exceed ten dollars ($10).

(e) This subsection does not apply to an off-road vehicle that is at least five (5) model years old. After January 1, 2008, a dealer may

not have on its premise an off-road vehicle that does not have a certificate of:

(1) origin from its manufacturer; or

(2) title issued by;

(A) the bureau of motor vehicles or its equivalent in another state; or

(B) a foreign country.

As added by P.L.1-1995, SEC.9. Amended by P.L.219-2005, SEC.18.

IC 14-16-1-19

Vehicles registered in foreign nation or state

Sec. 19. A vehicle registered in another state or country to a nonresident of Indiana may be operated within Indiana under authority of the registration for a period not to exceed twenty (20) days in one (1) year.

As added by P.L.1-1995, SEC.9.

IC 14-16-1-20

Operation on highways and roads

Sec. 20. (a) Except as provided in IC 9-21-1-3(a)(14) and IC 9-21-1-3.3, an individual may not operate a vehicle required to be registered under this chapter or under IC 9-18-2.5 upon a public highway, street, or rights-of-way thereof or on a public or private parking lot not specifically designated for the use of vehicles, except under the following conditions:

(1) A vehicle may be operated on the public right-of-way adjacent to the traveled part of the public highway, except a limited access highway, if there is sufficient width to operate at a reasonable distance off and away from the traveled part and in a manner so as not to endanger life or property.

(2) The operator of a vehicle may cross a public highway, other than a limited access highway, at right angles for the purpose of getting from one (1) area to another when the operation can be done in safety. The operator shall bring the vehicle to a complete stop before proceeding across a public highway and shall yield the right-of-way to all traffic.

(3) Notwithstanding this section, a vehicle may be operated on a highway in a county road system outside the corporate limits of a city or town if the highway is designated for this purpose by the county highway department having jurisdiction.

(4) A law enforcement officer of a city, town, or county or the state may authorize use of a vehicle on the public highways, streets, and rights-of-way within the officer's jurisdiction during emergencies when conventional motor vehicles cannot be used for transportation due to snow or other extreme highway conditions.

(5) A vehicle may be operated on a street or highway for a special event of limited duration conducted according to a prearranged schedule only under permit from the governmental

unit having jurisdiction. The event may be conducted on the frozen surface of public waters only under permit from the department.

(b) An individual less than fourteen (14) years of age may not operate a vehicle without immediate supervision of an individual at least eighteen (18) years of age, except on land owned or under the control of the individual or the individual's parent or legal guardian.

(c) An individual may not operate a vehicle on a public highway without a valid motor vehicle driver's license.

(d) A vehicle may not be used to hunt, pursue, worry, or kill a wild bird or a domestic or wild animal.

As added by P.L.1-1995, SEC.9. Amended by P.L.259-2013, SEC.42.

IC 14-16-1-21
Lights and brakes

Sec. 21. (a) A vehicle may not be operated between sunset and sunrise unless the vehicle has at least one (1) headlight and one (1) taillight.

(b) A vehicle may not be operated at any time unless the vehicle has adequate brakes capable of producing deceleration at fourteen (14) feet a second on level ground at a speed of twenty (20) miles per hour.

As added by P.L.1-1995, SEC.9. Amended by P.L.14-1998, SEC.2.

IC 14-16-1-22
Local ordinances

Sec. 22. A county, city, or town may pass an ordinance regulating the operation of vehicles if the ordinance meets substantially the minimum requirements of this chapter. However, a county, city, or town may not adopt an ordinance that does any of the following:

(1) Imposes a fee for a license.

(2) Specifies accessory equipment to be carried on the vehicles.

(3) Requires a vehicle operator to possess a driver's license issued under IC 9-24-11 while operating an off-road vehicle or snowmobile.

(4) Imposes a dry weight limitation of less than two thousand (2,000) pounds.

As added by P.L.1-1995, SEC.9. Amended by P.L.186-2003, SEC.49; P.L.86-2010, SEC.7.

IC 14-16-1-23
Restrictions on operation; exceptions

Sec. 23. (a) An individual shall not operate a vehicle under any of the following conditions:

(1) At a rate of speed greater than is reasonable and proper having due regard for existing conditions or in a manner that unnecessarily endangers the person or property of another.

(2) While:

(A) under the influence of an alcoholic beverage; or

(B) unlawfully under the influence of a narcotic or other habit forming or dangerous depressant or stimulant drug.

(3) During the hours from thirty (30) minutes after sunset to thirty (30) minutes before sunrise without displaying a lighted headlight and a lighted taillight.

(4) In a forest nursery, a planting area, or public land posted or reasonably identified as an area of forest or plant reproduction and when growing stock may be damaged.

(5) On the frozen surface of public waters within:

(A) one hundred (100) feet of an individual not in or upon a vehicle; or

(B) one hundred (100) feet of a fishing shanty or shelter;

except at a speed of not more than five (5) miles per hour.

(6) Unless the vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke.

(7) Within one hundred (100) feet of a dwelling between midnight and 6:00 a.m., except on the individual's own property or property under the individual's control or as an invited guest.

(8) On any property without the consent of the landowner or tenant.

(9) While transporting on or in the vehicle a firearm, unless the firearm is:

(A) unloaded; and

(B) securely encased or equipped with and made inoperative by a manufactured keylocked trigger housing mechanism.

(10) On or across a cemetery or burial ground.

(11) Within one hundred (100) feet of a slide, ski, or skating area, except for the purpose of servicing the area.

(12) On a railroad track or railroad right-of-way, except railroad personnel in the performance of duties.

(13) In or upon a flowing river, stream, or creek, except for the purpose of crossing by the shortest possible route, unless the river, stream, or creek is of sufficient water depth to permit movement by flotation of the vehicle at all times.

(14) An individual shall not operate a vehicle while a bow is present in or on the vehicle if the nock of an arrow is in position on the string of the bow.

(b) Subsection (a)(9) does not apply to a person who is carrying a firearm:

(1) if:

(A) the firearm is a handgun; and

(B) the person has been issued an unlimited handgun license to carry a handgun under IC 35-47-2;

(2) if:

(A) the firearm is a handgun; and

(B) the person is not required to possess a license to carry a handgun under IC 35-47-2-2; or

(3) if the person carrying the firearm is operating the vehicle on

property that the person:

(A) owns;

(B) has a contractual interest in;

(C) otherwise legally possesses; or

(D) has permission from a person described in clauses (A) through (C) to possess a firearm on.

As added by P.L.1-1995, SEC.9. Amended by P.L.181-1995, SEC.2; P.L.186-2003, SEC.50; P.L.219-2005, SEC.19; P.L.35-2011, SEC.1.

IC 14-16-1-24

Duties in case of accident

Sec. 24. (a) The operator of a vehicle involved in an accident resulting in serious bodily injury to or death of an individual or property damage in an estimated amount of at least seven hundred fifty dollars ($750) shall immediately, by the quickest means of communication, notify at least one (1) of the following:

(1) A state police officer or conservation officer.

(2) The sheriff's office of the county where the accident occurred.

(3) The office of the police department of the municipality where the accident occurred.

(b) The police agency receiving the notice shall do the following:

(1) Complete a report of the accident on forms prescribed by the director.

(2) Forward the report to the director.

As added by P.L.1-1995, SEC.9. Amended by P.L.186-2003, SEC.51.

IC 14-16-1-25

Enforcement powers

Sec. 25. (a) All law enforcement officers in Indiana shall enforce this chapter.

(b) The attorney general and prosecuting attorneys have concurrent power to approve, file, and prosecute an affidavit charging a violation of this chapter.

As added by P.L.1-1995, SEC.9. Amended by P.L.186-2003, SEC.52.

IC 14-16-1-26

Duties of department; trail land purchases

Sec. 26. (a) Notwithstanding any other law, the department may purchase land for off-road vehicle and snowmobile trails only from a willing seller of the land.

(b) The department shall do the following:

(1) Prescribe the form of accident reports.

(2) Conduct a campaign of education with respect to safety in the operation of vehicles in connection with the use and enjoyment of the public and private land of Indiana and with respect to Indiana laws relating to vehicles.

(3) Construct and maintain off-road vehicle trails on public and private land consistent with the intent of this chapter.

As added by P.L.1-1995, SEC.9. Amended by P.L.186-2003, SEC.53; P.L.259-2013, SEC.43; P.L.5-2015, SEC.41.

IC 14-16-1-27
Operation on public property

Sec. 27. An individual may not operate a vehicle:

(1) on public property without the consent of the state or an agency of the state; or

(2) in a United States forest without the consent of the United States Forest Service.

As added by P.L.1-1995, SEC.9.

IC 14-16-1-28
Duties of landowners and tenants

Sec. 28. (a) Except as provided in subsection (e), landowners and tenants of land do not owe a duty of care to do any of the following:

(1) Keep their premises safe for entry or use by persons operating, using, or riding in vehicles for recreational purposes.

(2) Give a warning of a dangerous condition, use, structure, or activity on their premises to such persons.

(b) Except as provided in subsection (d), a landowner or tenant who invites or permits a person to operate, use, or ride in a vehicle for recreational purposes on the landowner's or tenant's property does not do any of the following:

(1) Make any representation or extend any assurances that the premises are safe for any purpose.

(2) Confer upon the person the legal status of invitee or licensee to whom a duty of care is owed.

(3) Assume responsibility for or incur liability for any injury to a person or property caused by an act or omission of the person.

(c) Unless otherwise agreed in writing, this section is considered applicable to the duties and liabilities of:

(1) an owner of land leased to; or

(2) the owner of an interest or a right in land transferred to or the subject of an agreement with;

the United States or an agency or a subdivision of the United States or the state or an agency or a subdivision of the state.

(d) This section does not do the following:

(1) Limit in any way any liability that otherwise exists.

(2) Apply to the following:

(A) Willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity.

(B) Deliberate, willful, or malicious injury to a person or property.

(C) Injury suffered in any case where the owner of land or tenant charges a fee or admission charge or other valuable consideration to a person who enters or uses the land with a vehicle for the purpose of using the vehicle for recreational purposes.

However, if land or an interest or a right in land is leased or transferred to or the subject of an agreement with the United States or an agency or a subdivision of the United States or to the state or an agency or subdivision of the state, any consideration received by the holder of the lease, interest, right, or agreement is not considered a charge under this section.

(e) This section does not do any of the following:

(1) Create or increase a duty of care or ground of liability for injury to a person or property.

(2) Relieve a person using a vehicle for recreational purposes upon the land of another from an obligation that the person may have in the absence of this section to exercise care in the use of the land and the person's activities on the land or from the legal consequences of failure to employ care.

As added by P.L.1-1995, SEC.9.

IC 14-16-1-29
Violations

Sec. 29. (a) A person who violates section 8, 9, 11.5, 13, 14, 20, 21, 23(a)(3) through 23(a)(14), or 27 of this chapter commits a Class C infraction.

(b) A person who knowingly or intentionally violates section 17, 18(a), 18(b), 18(c), 23(a)(1), 23(a)(2), or 24 of this chapter commits a Class B misdemeanor.

(c) A person who violates section 18(d) or 18(e) of this chapter commits a Class A infraction.

As added by P.L.1-1995, SEC.9. Amended by P.L.181-1995, SEC.3; P.L.155-2002, SEC.5 and P.L.158-2002, SEC.4; P.L.186-2003, SEC.54; P.L.225-2005, SEC.13; P.L.219-2005, SEC.20; P.L.1-2006, SEC.210; P.L.195-2014, SEC.12.

IC 14-16-1-30
Off-road vehicle and snowmobile fund

Sec. 30. (a) As used in this section, "fund" refers to the off-road vehicle and snowmobile fund established by subsection (b).

(b) The off-road vehicle and snowmobile fund is established. The fund shall be administered by the department.

(c) The fund consists of the revenues obtained under this chapter and IC 9-18-2.5, appropriations, and donations. Money in the fund shall be used for the following purposes:

(1) Enforcement and administration of this chapter.

(2) Constructing and maintaining off-road vehicle trails.

(3) Constructing and maintaining snowmobile trails.

(4) Paying the operational expenses of properties:

(A) that are managed by the department; and

(B) on which are located off-road vehicle or snowmobile trails.

(5) Costs incurred by the bureau of motor vehicles to operate and maintain the off-road vehicle and snowmobile registration

program established under IC 9-18-2.5.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(e) Money in the fund at the end of the state fiscal year does not revert to the state general fund.

As added by P.L.186-2003, SEC.55. Amended by P.L.25-2011, SEC.3; P.L.259-2013, SEC.44.

IC 14-16-1-31

Dry weight limitation of less than 2,000 pounds

Sec. 31. The department may not adopt a rule, regulation, or guideline that, with respect to an off-road vehicle, imposes a dry weight limitation of less than two thousand (2,000) pounds.

As added by P.L.86-2010, SEC.8.

IC 14-16-2
Repealed
(Repealed by P.L.186-2003, SEC.81.)

IC 14-17

ARTICLE 17. PROPERTY ACQUISITION

IC 14-17-1

Chapter 1. Acquisition at Tax Sale

IC 14-17-1-1

Purpose of acquisition

Sec. 1. The department may buy real property at a real property tax sale for any purpose for which the department is authorized to acquire real property.

As added by P.L.1-1995, SEC.10.

IC 14-17-1-2

Money used for acquisition

Sec. 2. The department may acquire real property under this chapter with any money appropriated or available to the department for the acquisition of real property.

As added by P.L.1-1995, SEC.10.

IC 14-17-1-3

Applicability of IC 4-20.5

Sec. 3. The department may take any action not inconsistent with IC 4-20.5 to acquire real property under this chapter.

As added by P.L.1-1995, SEC.10.

IC 14-17-2

Chapter 2. Acquisition of Tax Delinquent Land for Conservation Purposes

IC 14-17-2-1

Designation of conservation land

Sec. 1. (a) If:

(1) a state lien for delinquent taxes, penalties, or interest exists upon real property outside a city or town that:

(A) has been offered for sale for delinquent taxes, interest, and penalty by the treasurer of the county for two (2) successive years; and

(B) has not been sold at tax sale for all or a part of the taxes, penalties, or interest; and

(2) the real property can, in the opinion of the commission, be used for conservation or land use purposes;

the commission may, subject to subsection (b), designate the real property as conservation land.

(b) Real property upon which delinquent taxes are being paid in installments according to law may not be designated as conservation land unless an installment is due and unpaid.

As added by P.L.1-1995, SEC.10.

IC 14-17-2-2

List of conservation land

Sec. 2. The commission shall supply each county auditor with a list of all real property designated as conservation land within the county.

As added by P.L.1-1995, SEC.10.

IC 14-17-2-3

Duties of county auditors

Sec. 3. (a) Each county auditor who receives a list of real property designated as conservation land shall note the designation upon the auditor's register of sales for taxes in a manner similar to that in which tax sales of real property are noted. The designated real property:

(1) shall continue to be carried upon the tax duplicate;

(2) is subject to taxation until title is created in the state as provided in this chapter; and

(3) unless redeemed within the time provided in this chapter, may not be offered for sale at a tax sale.

(b) Each county auditor shall provide the commission with all information pertaining to the assessment, collection, and redemption of real property in the county that is necessary to administer this chapter.

As added by P.L.1-1995, SEC.10.

IC 14-17-2-4
Redemption of property

Sec. 4. At any time within two (2) years from the first day of the next tax sale following the designation of real property as conservation land, the owner, occupant, or other person having an interest in the real property may redeem the real property by paying an amount that would be required by law to redeem the real property if the real property had been sold for taxes on the first day of the tax sale when the real property was last offered for sale to pay all the delinquent taxes, interest, and charges on the real property.
As added by P.L.1-1995, SEC.10.

IC 14-17-2-5
Fee simple title created in the state

Sec. 5. If real property designated as conservation land has not been redeemed at the end of the two (2) year period, a fee simple title to the real property, unencumbered in any way except by the liens for school fund mortgages that are prior to the lien of the state for taxes, is created ipso facto in the state. All existing tax liens of the state upon the real property are considered terminated, and the county auditor shall so certify to the Indiana department of administration.
As added by P.L.1-1995, SEC.10.

IC 14-17-2-6
Certificate of title

Sec. 6. (a) A certificate of title shall be:

(1) recorded in the office of the county recorder of the county in which the real property lies; and

(2) filed with the state land office division of the Indiana department of administration.

(b) A certificate of title constitutes prima facie evidence of all matters essential to the validity of the title.

(c) After a certificate of title is recorded, the state is considered to be in actual possession of all real property not occupied by the holder of the record title or a party holding under the holder of the record title. The possession continues until the state:

(1) voluntarily relinquishes possession by an instrument in writing; or

(2) is dispossessed by a court.

As added by P.L.1-1995, SEC.10.

IC 14-17-2-7
Title in the state not invalidated by certain irregularities

Sec. 7. A title of the state created under this chapter or under IC 4-17-11 (before its repeal) may not be considered invalid because of an irregularity, informality, or omission in:

(1) a proceeding under this chapter or under IC 4-17-11 (before its repeal); or

(2) any of the processes of taxation.

As added by P.L.1-1995, SEC.10.

IC 14-17-2-8
Action to invalidate title in the state

Sec. 8. (a) Except as provided in subsections (b) and (c):

(1) an action alleging that the title created in the state is invalid must be commenced; and

(2) a defense to the action must be used;

within one (1) year from the time the certificate of title is filed for record in the office of the county recorder. This limitation does not exempt from its bar actions involving jurisdictional defects.

(b) The limitations prescribed by subsection (a) do not run if any of the following conditions exist:

(1) While the real property in question is in the actual possession of the holder of the record title.

(2) If the real property in question was redeemed during the redemption period.

(3) If all taxes supposedly delinquent when the real property in question was designated were in fact paid and were not then delinquent.

(4) If the real property in question was exempt under the tax exemption statute from all taxes delinquent when the real property was designated.

(5) If all levies of taxes delinquent when the real property in question was designated were made by taxing officers absolutely without jurisdiction ab initio to do so.

(c) A person who was under a legal disability when a cause of action accrued may bring the action within two (2) years after the disability is removed.

(d) Within one (1) year from the time the certificate of title is filed for record in the office of the county recorder, and at no other time, an action:

(1) for the recovery of; or

(2) to quiet title to;

any of the designated conservation land may be commenced naming the state as defendant.

As added by P.L.1-1995, SEC.10.

IC 14-17-2-9
State considered in possession of unoccupied conservation land

Sec. 9. If for sixty (60) consecutive days conservation land designated under this chapter is not occupied by a party in possession under the record title, the state is considered in immediate actual possession of the real property for the purpose of protecting and conserving the real property's value and natural resources. Unless the real property is redeemed and all taxes due and unpaid have been paid in full, the department shall administer the real property and may maintain an action in the name of the state to recover the possession of the real property.

As added by P.L.1-1995, SEC.10.

IC 14-17-2-10
Payment in lieu of redemption required upon judgment invalidating title in the state

Sec. 10. (a) A decree or judgment holding a title of the state invalid must provide that the successful party pay to the court an amount determined by the court to be approximately the amount that the party would be required to pay to redeem the real property on the date of the judgment or decree if the real property had continued to be:

(1) delinquent in taxes while in the possession of the state; and
(2) taxable while in the possession of the state;

plus the reasonable value of improvements, costs of administration, fire protection, and other benefits conferred upon the real property by the state after the expiration of the redemption period.

(b) A statute enacted granting redemption concessions to taxpayers does not apply to the computation of the amount prescribed by subsection (a) unless the statute specifically states that the statute applies.

(c) Upon payment of the amount, the amount shall be distributed to interested parties and taxing agencies according to their interests and as provided by the decree or judgment.

As added by P.L.1-1995, SEC.10.

IC 14-17-2-11
Use of conservation land

Sec. 11. The department shall administer and use conservation land to which the state acquires title under this chapter for conservation or land use purposes.

As added by P.L.1-1995, SEC.10.

IC 14-17-2-12
Disposition of conservation land

Sec. 12. (a) Subject to subsection (b), the commission may sell, exchange, lease, or otherwise dispose of, with or without a consideration, any property acquired under this chapter under the terms and conditions that the commission considers will best accomplish proper use and conservation of the conservation land.

(b) The commission may sell or grant property acquired under this chapter only:

(1) to public authorities and agencies; and
(2) on condition that the property is used for public purposes.

As added by P.L.1-1995, SEC.10.

IC 14-17-2-13
Forms

Sec. 13. The commission shall prescribe and furnish all forms required by this chapter.

As added by P.L.1-1995, SEC.10.

IC 14-17-2-14
Conflict of laws

Sec. 14. If this chapter is inconsistent with any other law, this chapter controls.

As added by P.L.1-1995, SEC.10.

IC 14-17-3

Chapter 3. Eminent Domain

IC 14-17-3-1

General eminent domain powers

Sec. 1. (a) The commission may exercise the power of eminent domain as necessary or proper to carry out the following:

(1) IC 14-19-1-1.
(2) IC 14-22-3.
(3) IC 14-23-1-1.
(4) IC 14-25-10.
(5) IC 14-31-1.
(6) IC 14-26-1-4.
(7) IC 14-26-1-5.
(8) IC 14-28-1-11.

(b) The department may exercise the power of eminent domain as necessary or proper to carry out the following:

(1) IC 14-29-6-13.
(2) IC 14-34-19-6.
(3) IC 14-36-2-6.

As added by P.L.1-1995, SEC.10.

IC 14-17-3-2

Resolutions

Sec. 2. If the commission considers it necessary or proper to appropriate real property or acquire a right under this chapter, the commission shall do the following:

(1) Adopt an appropriate resolution that states the following:
  (A) A specific description of the real property or right.
  (B) The purpose for which the real property or right is to be used.
  (C) Other facts that are necessary for the proper preparation of a complaint for the condemnation of the real property or right.
(2) Refer the resolution to the attorney general.

As added by P.L.1-1995, SEC.10.

IC 14-17-3-3

Duties of attorney general

Sec. 3. The attorney general shall do the following:

(1) In the proper court, file an action in the name of the state of Indiana on the relation of the commission for the condemnation of the real property or right.
(2) Proceed under IC 32-24 to condemn the real property or right under this chapter.

As added by P.L.1-1995, SEC.10. Amended by P.L.2-2002, SEC.59.

IC 14-17-3-4

Expenses

Sec. 4. Expenses incurred in conducting condemnation proceedings and in acquiring real property or rights by condemnation under this chapter shall be paid out of money appropriated or otherwise available for the use of the department and not otherwise expended in the work of the department as provided in this article.
As added by P.L.1-1995, SEC.10.

IC 14-17-3-5

Lease or purchase of land by person from whom land acquired

Sec. 5. (a) This section applies if the department:

(1) acquired land under:

(A) this chapter; or

(B) IC 14-3-1-19 (before its repeal);

after September 1, 1983; and

(2) decides to lease or sell the land for use in a manner identical or similar to that for which the land was used before the acquisition.

(b) The person from whom the department acquired the land may, at the person's option, lease or purchase the land under the same conditions that the land will be leased or sold by the department if the person does not exercise the option.
As added by P.L.1-1995, SEC.10.

IC 14-17-4

Chapter 4. Acquisition of Real Property by the United States for Certain Purposes

IC 14-17-4-1

State consent to acquisition by federal government

Sec. 1. (a) The state consents to the acquisition by the United States of real property in Indiana for any of the following purposes:

(1) The acquisition, establishment, maintenance, or development of fish hatcheries, wildlife preserves, or forest preserves.

(2) Agricultural, recreational, or experimental uses.

(b) The United States may acquire real property under this chapter by purchase, gift, or eminent domain.

As added by P.L.1-1995, SEC.10.

IC 14-17-4-2

Powers of federal government

Sec. 2. Except as provided in this chapter, the United States may act as necessary to maintain, develop, control, and administer real property acquired under this chapter through either of the following:

(1) The officers, agents, or employees of the United States.

(2) Cooperative agreement with the department.

As added by P.L.1-1995, SEC.10.

IC 14-17-4-3

Acceptance of property acquired by federal government

Sec. 3. Subject to IC 4-20.5-3, the department may accept any real property acquired by the United States under this chapter in the same manner as the department acquires real property owned in Indiana by an individual.

As added by P.L.1-1995, SEC.10.

IC 14-17-4-4

Agreements with federal government

Sec. 4. The department may enter into an agreement with the United States or an agency of the United States for the acquisition, maintenance, development, control, and administration of real property acquired by the United States under this chapter.

As added by P.L.1-1995, SEC.10.

IC 14-17-4-5

Concurrent jurisdiction

Sec. 5. The state retains concurrent jurisdiction with the United States in and over real property acquired under this chapter, so that civil process and criminal process issued under the authority of the state against a person charged with the commission of an offense can be executed on the real property.

As added by P.L.1-1995, SEC.10.

IC 14-17-4-6
State retaining exclusive right to regulate birds and wildlife

Sec. 6. The state retains the exclusive right to regulate the taking, killing, or hunting of wild birds (except migratory birds) or wild animals on real property acquired by the United States under this chapter in the same manner and to the same extent as the state may regulate the taking, killing, or hunting of wild birds or wild animals on land owned by the state and used for conservation purposes.
As added by P.L.1-1995, SEC.10.

IC 14-17-4-7
Cession of concurrent criminal jurisdiction to federal government

Sec. 7. (a) This section applies to real property acquired by the United States under this chapter and in which the United States does not have concurrent criminal jurisdiction.

(b) Upon application of an officer of the United States who has authority and control over the real property, the governor may, by executive order, cede to the United States concurrent criminal jurisdiction.

(c) The application must include an accurate description and a plat of the real property within which concurrent criminal jurisdiction would be exercised.

(d) The application may include a request to exercise concurrent criminal jurisdiction over recreational real property owned by the state if the recreational real property is located adjacent to or within the boundaries of the real property of the United States described in the application.

(e) The application must show to the satisfaction of the governor that the cession of concurrent criminal jurisdiction is necessary for the public safety and the proper maintenance and control of the real property.
As added by P.L.1-1995, SEC.10.

IC 14-17-4-8
Open fires

Sec. 8. (a) A person must have a written permit from the supervisor in charge of real property acquired by the United States under a statute to:

(1) burn brush, grass, or debris; or
(2) set or kindle an open fire;

within one-half (1/2) mile of the real property.

(b) The permit described in subsection (a) must be issued under rules considered necessary for the protection of the real property from uncontrolled fire in consideration of the weather conditions.

(c) A person who knowingly violates subsection (a) commits a Class B misdemeanor.
As added by P.L.1-1995, SEC.10.

IC 14-18

ARTICLE 18. STATE LAND

IC 14-18-1

Chapter 1. Capital Development Plan

IC 14-18-1-1

Adoption and publication of plan

Sec. 1. The department shall, with the advice and approval of the appropriate advisory committee, prepare, formally adopt, and publish a projected ten (10) year plan for the following:

(1) Land acquisition.

(2) Capital improvement.

(3) The development of facilities of the department.

As added by P.L.1-1995, SEC.11.

IC 14-18-1.5
Chapter 1.5. State Land Office

IC 14-18-1.5-1
Establishment
Sec. 1. The state land office is established as a division of the department.
As added by P.L.151-2012, SEC.9.

IC 14-18-1.5-2
Organization and management
Sec. 2. The director shall provide for the organization and management of the state land office.
As added by P.L.151-2012, SEC.9.

IC 14-18-1.5-3
State repository
Sec. 3. (a) This section does not apply to the following:
(1) An instrument or a document of either of the following:
(A) The Indiana department of transportation.
(B) A state educational institution.
(2) A lease of property for a term of four (4) years or less.
(b) The state land office shall serve as the repository for any instrument relating to past or current ownership or possession of property by the state.
As added by P.L.151-2012, SEC.9.

IC 14-18-1.5-4
Maps and plats
Sec. 4. (a) The state land office shall prepare and maintain property record maps and plats of property owned by the state, whether owned in the past or currently owned.
(b) The maps and plats maintained by the state land office must include the following information:
(1) Maps showing each county and the boundaries of each county.
(2) Plats of each parcel of property owned by the state, showing the metes and bounds of the parcel.
The maps and plats must show the appropriate townships, ranges, sections, parts of sections, and other appropriate geographic information.
(c) The state land office may maintain appropriate materials to assist the state land office in developing and maintaining the property records required by this section, including the following:
(1) Aerial photography.
(2) United States Geographical Survey maps.
(3) Commercial and governmental plat books.
(4) Survey plats and notes prepared for agencies by registered

land surveyors.
As added by P.L.151-2012, SEC.9.

IC 14-18-1.5-5
Copies of records; charges

Sec. 5. (a) Subject to IC 5-14-3, the state land office shall provide copies of records maintained by the state land office.

(b) The director shall establish a reasonable copying charge for copies of records that are not standard-sized documents (as defined by IC 5-14-3-2) provided by the state land office.
As added by P.L.151-2012, SEC.9.

IC 14-18-1.5-6
Rules

Sec. 6. The commission may adopt rules under IC 4-22-2 to implement this chapter.
As added by P.L.151-2012, SEC.9.

IC 14-18-1.5-7
Transfer of rules, powers, property, and employees

Sec. 7. (a) The rules adopted by the Indiana department of administration before July 1, 2012, concerning the state land office are considered, after June 30, 2012, rules of the commission. A reference to the state land office within the Indiana department of administration in a statute, rule, or other document before July 1, 2012, is considered a reference to the state land office within the department.

(b) All powers, duties, assets, liabilities, records, property, appropriations, and employees of the state land office within the Indiana department of administration on June 30, 2012, are transferred to the state land office within the department.
As added by P.L.151-2012, SEC.9.

IC 14-18-2

Chapter 2. Leasing of State Property

IC 14-18-2-1

Legislative intent

Sec. 1. (a) It is the intent and purpose of this chapter to do the following:

(1) Provide means for the construction and operation of adequate water resources, food, lodging, and the outdoor recreation or service facilities that the department considers appropriate without the expenditure of state money.

(2) Solicit and encourage the use of private and public capital to provide food and lodging facilities.

(3) Provide more adequate water resources and attractive recreational facilities.

(b) This chapter supersedes any conflicting law to the extent of the conflict.

As added by P.L.1-1995, SEC.11.

IC 14-18-2-2

Lease and contract powers of department

Sec. 2. (a) The department may do the following:

(1) Lease state owned land that is under the management and control of the department to a local governmental unit or a political subdivision of the state or local government.

(2) Lease federally owned land that is under the control and management of the department.

(3) Contract for the construction and operation of lodging, food, and other outdoor recreation, water resources, or service facilities that the department considers appropriate on the land.

(b) If the department determines that action permitted by subsection (a) would be in the best interests of the citizens of Indiana, a lease and contract may be negotiated and executed in the manner prescribed by this chapter in addition to the methods permitted by other statutes.

As added by P.L.1-1995, SEC.11.

IC 14-18-2-3

Contents of leases and contracts

Sec. 3. (a) As used in this section, "inn" means a public facility that has the following:

(1) At least twenty (20) rooms for the accommodation of overnight guests.

(2) A dining room that offers table service for at least forty (40) individuals at one (1) time during normal dining hours.

(b) A lease and contract authorized by this chapter must include in its terms the following provisions and conditions:

(1) The legal description of the leasehold. A survey for the

description is not required.

(2) The term of the lease. The term may not exceed forty (40) years with two (2) additional options to renew of thirty (30) years each.

(3) Provision for the submission of complete plans and specifications to the department for review and written approval before beginning any construction.

(4) The manner of payment of rental.

(5) The facilities provided will be available to the public without discrimination and at charges designed to make the facilities available to a maximum number of the citizens of Indiana.

(6) That the rates and fees charged for goods and services on the leased area will be in accord with those charged at similar developments in the area.

(7) The disposition of the leasehold and improvements at the termination of the lease.

(8) Except as provided in subsections (c) and (e), if the lease and contract concerns state owned land under the management and control of the department, including state parks, a prohibition on the sale or public display of alcoholic beverages on the premises.

(c) A lease and contract authorized by this chapter may permit in its terms the retail sale of alcoholic beverages for consumption on the licensed premises of an inn if the lessee or concessionaire applies for and secures the necessary permits required by IC 7.1.

(d) A lease and contract authorized by this chapter may permit in its terms the retail sale of alcoholic beverages for consumption on the licensed premises of a public golf course if:

(1) the lease and contract concerns federally owned land that is:

(A) under the control and management of the department; and

(B) located on Brookville Reservoir; and

(2) the lessee or concessionaire applies for and secures the necessary permits required by IC 7.1.

(e) A lease and contract authorized by this chapter may permit in its terms the retail sale of alcoholic beverages for consumption on the licensed premises of:

(1) a pavilion located within Indiana Dunes State Park, and within one hundred (100) feet of the pavilion and the pavilion parking lot; or

(2) a marina located:

(A) within the Newton-Stewart State Recreational Area; and

(B) within Orange County;

if the lessee or concessionaire applies for and secures the necessary permits required by IC 7.1.

(f) The retail sale of alcoholic beverages on licensed premises described in subsections (c), (d), and (e) is subject to any other applicable alcoholic beverage provisions under the Indiana Code and any rule adopted to implement any other applicable alcoholic

beverage provisions under the Indiana Code.

(g) A lease and contract may prescribe other terms and conditions that the department considers necessary and advisable to carry out the intent and purposes of this chapter.

As added by P.L.1-1995, SEC.11. Amended by P.L.71-2012, SEC.10; P.L.70-2014, SEC.6; P.L.121-2015, SEC.3; P.L.196-2015, SEC.23.

IC 14-18-2-4

Statement of intent

Sec. 4. (a) This section does not apply to leases to units of local government.

(b) The department shall draft a statement of intent and shall publicize the statement through appropriate media. The statement must do the following:

(1) Describe the facilities that the department desires to provide.

(2) Set up a procedure for the submission of proposals for providing the facilities.

(c) The publication must consist of at least three (3) legal advertisements appearing at ten (10) day intervals during a thirty (30) day period in five (5) daily newspapers of wide and general circulation in Indiana.

As added by P.L.1-1995, SEC.11.

IC 14-18-2-5

Submission of proposals

Sec. 5. (a) This section does not apply to leases to units of local government.

(b) After public notice as required by section 4 of this chapter, a sixty (60) day period shall be allowed for the preparation and submission of proposals.

As added by P.L.1-1995, SEC.11.

IC 14-18-2-6

Approval of proposals; negotiation of lease agreement

Sec. 6. (a) Following the expiration of the period set aside for the submission of proposals by section 5 of this chapter, the department shall do the following:

(1) Select the proposal that the department considers most appropriate for the fulfillment of the statement of intent.

(2) Submit the proposal to the commission for approval.

(b) Upon receipt of written approval from the commission, the department shall do the following:

(1) Negotiate a lease agreement with the individual, group, or political unit that submitted the proposal.

(2) Submit the lease agreement to the attorney general for review and approval.

As added by P.L.1-1995, SEC.11.

IC 14-18-2-7

Execution of lease and contract

Sec. 7. A lease and contract must be executed by the authorized agents of the state and by the lessee.

As added by P.L.1-1995, SEC.11.

IC 14-18-3

Chapter 3. Leasing of State Land for Lodging and Food Facilities

IC 14-18-3-1

Legislative intent

Sec. 1. It is the intent and purpose of this chapter to do the following:

(1) Provide means for the construction of adequate food and lodging facilities for the guests of Indiana state parks and recreation areas without the expenditure of public money.

(2) Solicit and encourage the use of private capital to provide food and lodging facilities.

(3) Provide more attractive recreational facilities for tourists seeking vacation sites in Indiana.

As added by P.L.1-1995, SEC.11.

IC 14-18-3-2

Lease and contract powers of department

Sec. 2. (a) The department may do the following:

(1) Lease state owned land that is under the management and control of the department.

(2) Lease federally owned land that is under the control and management of the department.

(3) Contract for the construction and operation of lodging and food facilities on the leased land.

(b) If the department determines that action under subsection (a) would be in the best interests of the state park system, the lease and contract may be negotiated and executed in the manner prescribed by this chapter in addition to the methods permitted by other statutes.

As added by P.L.1-1995, SEC.11.

IC 14-18-3-3

Contents of lease and contract

Sec. 3. (a) A lease and contract authorized by section 2 of this chapter must include in its terms the following provisions and conditions:

(1) The legal description of the leasehold.

(2) The term of the lease, which may not exceed forty (40) years.

(3) A stipulation that the lessor shall build and maintain access roads to a lodging and food facility constructed and operated by the lessee.

(4) Specifications controlling the construction of any lodging and food facility to be constructed and operated by a lessee that state the following:

(A) The number and size of sleeping rooms and bathroom facilities.

(B) The size and capacity of the kitchen and dining facilities.
(C) The size of patio, lobby, lounge, and meeting room areas.
(D) The type and quality of construction.
(E) Other criteria and specifications that the department considers necessary and advisable.
(5) The manner of payment of rental.
(6) A stipulation that the department has control and supervision over the following:
(A) The maximum rates to be charged guests using the lodging and food facility.
(B) The sanitary conditions of the facility.
(C) The quality of food and service furnished the guests of the facility.
(D) The structural maintenance of the facility.
(7) The disposition of the leasehold and improvements at the expiration of the lease.
(8) A prohibition on the sale of alcoholic beverages on the premises.

(b) The lease and contract may prescribe other terms and conditions that the department considers necessary and advisable to carry out the intent and purposes of this chapter.

As added by P.L.1-1995, SEC.11.

IC 14-18-3-4

Initial draft of proposed lease and contract; notice of hearing

Sec. 4. (a) The department shall do the following:
(1) Draft and distribute copies of the following to the hotel and motel industry:
(A) A proposed lease and contract.
(B) A notice of the time and place that the department will hold a public hearing to consider the terms and conditions of the proposed lease and contract.
(2) Submit a copy of the proposed lease to the office of tourism development.

(b) The office of tourism development shall submit an evaluation and recommendations for amendments for consideration before the public hearing.

As added by P.L.1-1995, SEC.11. Amended by P.L.229-2005, SEC.14.

IC 14-18-3-5

Hearing on proposed lease and contract

Sec. 5. (a) The department shall give at least sixty (60) days notice of the public hearing by publishing notice in a newspaper of general circulation in Indiana.

(b) At the public hearing, the department shall receive objections and suggested amendments to the terms of the proposed lease and contract from persons who are interested in leasing the land and constructing lodging and food facilities.

As added by P.L.1-1995, SEC.11.

IC 14-18-3-6
Final draft of proposed lease and contract

Sec. 6. Following the hearing under section 5 of this chapter, the department shall do the following:

(1) Prepare a final draft of the proposed lease and contract.

(2) Submit the lease and contract to the attorney general.

As added by P.L.1-1995, SEC.11.

IC 14-18-3-7
Notice to bidders

Sec. 7. If the attorney general approves the lease and contract, the department shall give at least ten (10) days notice in a newspaper of general circulation in Indiana notifying the public and prospective bidders of the time and place that the department will receive bids.

As added by P.L.1-1995, SEC.11.

IC 14-18-3-8
Interview of bidders

Sec. 8. The department shall interview each bidder to discover the resources and experience of the bidder.

As added by P.L.1-1995, SEC.11.

IC 14-18-3-9
Award of lease to highest and best bidder

Sec. 9. After the interview, the department may award the lease to the highest and best bidder.

As added by P.L.1-1995, SEC.11.

IC 14-18-3-10
Execution of lease and contract

Sec. 10. A lease and contract must be executed by the authorized agents of the state and by the lessee.

As added by P.L.1-1995, SEC.11.

IC 14-18-3-11
Additional and supplemental authority

Sec. 11. The authority granted to the department by this chapter is in addition and supplemental to the authority granted to the department by IC 14-19-1-2.

As added by P.L.1-1995, SEC.11.

IC 14-18-4
Chapter 4. Contracts for Public Accommodations

IC 14-18-4-1
Determination by department

Sec. 1. If the department determines that it would be in the best interest of the citizens of Indiana to enter into extended term contracts for the operation of hotels, inns, and lodges located in state parks under the department's jurisdiction, the department may negotiate and execute contracts in the manner prescribed by this chapter in addition to the methods established under other statutes.

As added by P.L.1-1995, SEC.11.

IC 14-18-4-2
Contents of contract

Sec. 2. (a) A contract authorized by this chapter must include in its terms the following provisions and conditions:

(1) The term of the contract. The term may not exceed ten (10) years.

(2) The manner of payment of rental.

(3) The facilities must be available to the public without discrimination and at charges designed to make the facilities available to a maximum number of the citizens of Indiana.

(4) A prohibition on the sale or public display of alcoholic beverages on the contract premises.

(5) The establishment of a major maintenance and replacement fund.

(b) The contract may prescribe other terms and conditions that the department considers necessary and advisable to carry out the intent and purposes of this chapter.

As added by P.L.1-1995, SEC.11.

IC 14-18-4-3
Initial draft of proposed lease and contract; notice of hearing

Sec. 3. (a) The department shall do the following:

(1) Draft and distribute copies of the following to the hotel and motel industry:

(A) A proposed lease and contract.

(B) A notice of the time and place that the department will hold a public hearing to consider the terms and conditions of the proposed lease and contract.

(2) Submit a copy of the proposed lease to the office of tourism development.

(b) The office of tourism development shall submit an evaluation and recommendations for amendments for consideration before the public hearing.

As added by P.L.1-1995, SEC.11. Amended by P.L.229-2005, SEC.15.

IC 14-18-4-4
Hearing on proposed lease and contract

Sec. 4. (a) The department shall give at least sixty (60) days notice of the public hearing by publishing notice in a newspaper of general circulation in Indiana.

(b) At the public hearing the department shall receive objections and suggested amendments to the terms of the proposed lease and contract from persons who are interested in leasing the land and constructing lodging and food facilities.

As added by P.L.1-1995, SEC.11.

IC 14-18-4-5
Final draft of proposed lease and contract

Sec. 5. Following the hearing under section 4 of this chapter, the department shall do the following:

(1) Prepare a final draft of the proposed lease and contract.

(2) Submit the lease and contract to the commission, the governor, and the attorney general.

As added by P.L.1-1995, SEC.11.

IC 14-18-4-6
Notice to bidders; interview of bidders

Sec. 6. If the commission, governor, and attorney general approve the lease and contract, the department shall do the following:

(1) Give at least ten (10) days notice in a newspaper of general circulation in Indiana, notifying the public and prospective bidders of the time and place that the department will receive bids.

(2) Interview each bidder to discover the resources and experience of the bidder.

As added by P.L.1-1995, SEC.11.

IC 14-18-4-7
Award of lease to highest and best bidder

Sec. 7. After the interview, the department may award the lease to the highest and best bidder.

As added by P.L.1-1995, SEC.11.

IC 14-18-5
Chapter 5. Riparian Rights; State Land

IC 14-18-5-1
Applicability of chapter

Sec. 1. This chapter applies to land that:

(1) was owned by the state as of May 16, 1927;

(2) borders upon or lies adjacent to a lake or stream; and

(3) is not otherwise used or occupied or intended for use or occupation by an institution, a department, or an office of the state government.

As added by P.L.1-1995, SEC.11.

IC 14-18-5-2
Land under control of department

Sec. 2. Subject to section 3 of this chapter, land described in section 1 of this chapter is under the charge, management, control, and supervision of the department.

As added by P.L.1-1995, SEC.11.

IC 14-18-5-3
Power to dispose of rights-of-way

Sec. 3. The state reserves the power to sell, transfer, and convey, as provided by law, rights-of-way in land that is subject to this chapter for railroads, street and interurban railroads, switch tracts, lateral railroads, pipelines, gas pipelines, water pipelines, sewer lines, head race or tail race for hydro development, electric transmission lines, telephone lines, and telegraph lines to a public utility organized under Indiana law.

As added by P.L.1-1995, SEC.11.

IC 14-18-6

Chapter 6. Riparian Rights; Lake Michigan Land

IC 14-18-6-1

"Dock or harbor line" defined

Sec. 1. As used in this chapter, "dock or harbor line" refers to the dock or harbor line established by the United States.

As added by P.L.1-1995, SEC.11.

IC 14-18-6-2

"Interested person" defined

Sec. 2. (a) As used in this chapter, "interested person" means:

(1) the owner of real property; or

(2) the owner of an easement for public park purposes in, over, or through any real property;

bordering on Lake Michigan.

(b) The term includes a unit (as defined in IC 36-1-2-23).

As added by P.L.1-1995, SEC.11.

IC 14-18-6-3

Filling or construction beyond dock or harbor line prohibited

Sec. 3. A person may not fill in real property or construct a dock or wharf beyond the dock or harbor line.

As added by P.L.1-1995, SEC.11.

IC 14-18-6-4

Acquisition of title to submerged property

Sec. 4. An interested person may acquire title to submerged real property adjacent to and within the width of the land bordering on Lake Michigan and between the shore and the dock or harbor line by doing the following:

(1) Applying to the department for both of the following:

(A) A permit to fill in, reclaim, and own the real property. A permit issued under this clause is not effective until approved by the governor.

(B) A permit under IC 14-29-1.

Obtaining the permits described in this subdivision is a condition for obtaining a patent under this chapter.

(2) Obtaining an accurate survey and plat of:

(A) the real property between the interested person's real property and the dock or harbor line; or

(B) as much of the real property as the interested party wants to fill in and improve.

The interested party must apply to the county surveyor of the county in which the real property lies for approval of the survey and plat.

(3) After the survey and plat are certified by the professional surveyor and approved by the county surveyor, doing the

following:

(A) Filing the survey and plat with the state land office division of the Indiana department of administration.

(B) Filing a copy of the survey and plat with the commissioner of the department of environmental management.

As added by P.L.1-1995, SEC.11. Amended by P.L.57-2013, SEC.11.

IC 14-18-6-5

Permits to fill and improve real property; hazardous waste on submerged real property

Sec. 5. (a) The interested person may fill and improve the real property if the director grants the permits required under this chapter.

(b) The governor's approval is required before a permit issued under this chapter is effective.

(c) Hazardous waste (as defined in IC 13-11-2-99(a)) and a waste determined to be a hazardous waste under IC 13-22-2-3(b) may not be stored, disposed of, or developed on the submerged real property.

As added by P.L.1-1995, SEC.11. Amended by P.L.166-1995, SEC.25; P.L.1-1996, SEC.63.

IC 14-18-6-6

Issuance of patent

Sec. 6. (a) The department shall issue a patent to an interested person after the interested person does the following:

(1) Fills in and improves the real property.

(2) Files with the commissioner of the department of environmental management evidence that the filling and improvement have been done.

(3) Pays to the treasurer of state one hundred dollars ($100) per acre for the real property filled in.

(b) The governor shall sign the patent.

(c) The seal of the state shall be affixed to the patent.

As added by P.L.1-1995, SEC.11.

IC 14-18-6-7

Vesting of fee simple title

Sec. 7. (a) A patent issued under this chapter or under IC 4-20.5-8 (before its repeal) vests in:

(1) the interested person; or

(2) the interested person's successor in title;

fee simple title to the real property that has been filled in and improved.

(b) A person holding an easement over the real property and filling has the same right over the real property filled in as the person has over the adjoining real property. However, the owner of the easement acquires only a like easement over the filled in real property.

As added by P.L.1-1995, SEC.11.

IC 14-18-6-8
Expiration of permit

Sec. 8. A permit to fill in and reclaim real property bordering Lake Michigan issued after June 30, 1990, under:

(1) this chapter;
(2) IC 4-20.5-8 (before its repeal); or
(3) IC 4-18-13 (before its repeal);

expires five (5) years after the date the permit was issued.
As added by P.L.1-1995, SEC.11.

IC 14-18-7

Chapter 7. Swamp, Indemnity, Saline, and Meander Land

IC 14-18-7-1

Occupancy and control of land by department

Sec. 1. The department has occupancy and control of and shall manage:

(1) swamp land;
(2) swamp and indemnity land;
(3) saline land; and
(4) meander land;

owned by the state on May 1, 1984, to further the purposes of the department.

As added by P.L.1-1995, SEC.11.

IC 14-18-8

Chapter 8. Disposal of Real Property

IC 14-18-8-1

"Property" defined

Sec. 1. As used in this chapter, "property" refers to real property that is:

(1) owned by the state; and

(2) held or managed by the department under IC 14-19 or IC 14-20.

As added by P.L.1-1995, SEC.11.

IC 14-18-8-2

Disposal of property

Sec. 2. Notwithstanding any other provision of IC 14-19 or IC 14-20, the department may dispose of property under the law governing disposal of real property that is owned by the state.

As added by P.L.1-1995, SEC.11.

IC 14-18-8-3

Restrictions on disposal

Sec. 3. Disposal of property under this chapter is subject to restrictions contained in the instrument by which the state took title to the property.

As added by P.L.1-1995, SEC.11.

IC 14-18-9
Chapter 9. Sale of State Land Improved by WPA Work

IC 14-18-9-1
Reimbursement of federal government from sale of WPA improved state land

Sec. 1. (a) If:

(1) the state receives a direct profit from the sale of state land or the products of the state land; and

(2) the profit is a direct result of work done on the land under 16 U.S.C. 585 through 590 (before their repeal);

the state may, through the appropriate state officers, apply not more than one-half (1/2) of the profit to or toward reimbursing the United States government for money expended by the United States government under 16 U.S.C. 585 through 590 (before their repeal).

(b) The amount paid to the United States government under subsection (a) must be at the rate of one dollar ($1) per man per day for the time spent on the work. However, the total amount paid may not exceed in the aggregate three dollars ($3) per acre for the state land or the products of the state land that are sold at a profit that is a direct result of work done under 16 U.S.C. 585 through 590 (before their repeal).

As added by P.L.1-1995, SEC.11.

IC 14-18-9-2
Determination of profit; emergency conservation work fund

Sec. 2. (a) The director may determine what part of the proceeds of the sale of state land or the products of state land is:

(1) a profit; and

(2) a direct result of work done on the land by the United States government under 16 U.S.C. 460l-4 et seq.

(b) When the director determines that a profit exists, the director shall order that not more than one-half (1/2) of the profit, in the amount the director determines, be set aside and retained by the department as a separate fund to be known as the emergency conservation work fund.

(c) The director may negotiate with the appropriate federal authorities for reimbursement of the United States and fix the amount due the United States under this section. The amount fixed shall be paid from the emergency conservation work fund as the director directs.

(d) Any unexpended remainder in the emergency conservation work fund after the United States has been reimbursed as provided in this chapter shall be paid into the state general fund.

As added by P.L.1-1995, SEC.11.

IC 14-18-9-3
Sale of state land not authorized

Sec. 3. This chapter:

(1) does not authorize the sale of state land or products of state land; and

(2) applies only to a sale authorized by another law.

As added by P.L.1-1995, SEC.11.

IC 14-18-9-4

Purpose of chapter

Sec. 4. This chapter is enacted to procure a continuance of emergency conservation work within Indiana under 16 U.S.C. 460l-4 et seq.

As added by P.L.1-1995, SEC.11.

IC 14-18-10
Chapter 10. Utility Easements

IC 14-18-10-1
Permit requirement

Sec. 1. A person may not erect or construct a utility, telephone, or telegraph line upon or across:

(1) a state park;
(2) a state forest;
(3) a state game preserve;
(4) land acquired by the state and set aside for use by the public as a scenic or historic place; or
(5) that part of a public highway right-of-way that passes through a state park, a state forest, a state game preserve, or land acquired by the state and set aside for use by the public as a scenic or historic place;

unless the person has a permit from the director to erect or construct the line.

As added by P.L.1-1995, SEC.11.

IC 14-18-10-2 Version a
Issuance of permit

Note: This version of section effective until 1-1-2016. See also following version of this section, effective 1-1-2016.

Sec. 2. The director may issue to any person, without charge, a permit to erect or construct a utility, telephone, or telegraph line as described in section 1 of this chapter under the rules and restrictions that the director considers necessary:

(1) for the protection and preservation of the natural scenic conditions of the land; or
(2) to prevent the line from interfering with or obstructing the use and enjoyment of the property by the public.

As added by P.L.1-1995, SEC.11.

IC 14-18-10-2 Version b
Issuance of permit; public highway rights-of-way passing through state land; charges prohibited

Note: This version of section effective 1-1-2016. See also preceding version of this section, effective until 1-1-2016.

Sec. 2. The director may issue to any person, without charge, a permit to erect or construct a utility, telephone, or telegraph line as described in section 1 of this chapter under the rules and restrictions that the director considers necessary:

(1) for the protection and preservation of the natural scenic conditions of the land; or
(2) to prevent the line from interfering with or obstructing the use and enjoyment of the property by the public.

However, the director shall not impose a charge to issue a permit to erect or construct a utility, telephone, or telegraph line as described

in section 1(5) of this chapter.
As added by P.L.1-1995, SEC.11. Amended by P.L.145-2015, SEC.6.

IC 14-18-10-3
Prohibited easements

Sec. 3. A person may not construct or erect a utility, telegraph, or telephone line as described in section 1 of this chapter in violation of any of the rules and restrictions of a permit issued under this chapter.
As added by P.L.1-1995, SEC.11.

IC 14-18-10-4
Violations

Sec. 4. A person who violates this chapter commits a Class C infraction. Each day that such a violation exists constitutes a separate offense.
As added by P.L.1-1995, SEC.11.

IC 14-18-11

Chapter 11. Easements in State Forests

IC 14-18-11-1

Grant and conveyance of rights-of-way

Sec. 1. The department may grant and convey by deed rights-of-way to railroads and to telegraph and telephone companies to construct and operate lines across the land of state forests and state nurseries.

As added by P.L.1-1995, SEC.11.

IC 14-18-11-2

Approval of terms and conditions of rights-of-way

Sec. 2. The terms and conditions upon which the rights-of-way are granted and conveyed by deed under this chapter must be submitted to and approved by:

(1) the governor;

(2) the attorney general; and

(3) the Indiana department of administration;

before the deed becomes operative or possession is taken under a deed.

As added by P.L.1-1995, SEC.11. Amended by P.L.53-2001, SEC.2; P.L.1-2002, SEC.69.

IC 14-18-12
Chapter 12. Abandonment of Highways on State Land

IC 14-18-12-1
Vacation of highways on land owned by state on June 7, 1937

Sec. 1. (a) Except as provided in subsection (b), all or part of a public highway, street, or alley, except a state highway, that is located on or inside the boundaries of a state park, state forest, state game preserve, or scenic or historic place owned by the state on June 7, 1937, is vacated.

(b) If:

(1) any privately owned land would by the vacation become inaccessible by a public highway; and

(2) the public highway provides the only public access to and outlet from the land;

the part of the public highway that provides the only public access to and outlet from the privately owned land is not vacated as long as the condition exists.

As added by P.L.1-1995, SEC.11.

IC 14-18-12-2
Vacation of highways on land acquired by state after June 7, 1937

Sec. 2. All or part of a public highway, except a state highway, that is located on land acquired by the state after June 7, 1937, and used for:

(1) a state park;

(2) a state forest;

(3) a state game preserve;

(4) a scenic or historic place; or

(5) other conservation purpose;

may be vacated as provided in this chapter.

As added by P.L.1-1995, SEC.11.

IC 14-18-12-3
Orders of vacation

Sec. 3. (a) Whenever the director determines that the proper operation or administration of:

(1) a state park;

(2) a state forest;

(3) a state game preserve;

(4) a scenic or historic place; or

(5) any other property owed or managed by the department;

necessitates the abandonment of all or part of a public highway, except a state highway, that is located on or within the boundaries of the property, the director may issue an order vacating all or part of the public highway.

(b) The director shall have a copy of the order posted in five (5) conspicuous places in the township where the public highway is

located fifteen (15) days before the order takes effect.

(c) If any privately owned land would become inaccessible by a public highway due to the order and vacation, as much of the highway that provides the only public access to and outlet from the land is not vacated as long as the condition exists.

As added by P.L.1-1995, SEC.11. Amended by P.L.155-2015, SEC.8.

IC 14-18-12-4

Actions to vacate

Sec. 4. Notwithstanding this chapter, the state may bring an action to vacate as much of a public highway as is located in a:

(1) state park;
(2) state forest;
(3) state game preserve; or
(4) scenic or historic place;

in the same manner as provided by law as of June 7, 1937, for vacation of public highways by any person.

As added by P.L.1-1995, SEC.11.

IC 14-19

ARTICLE 19. STATE PARKS AND RECREATION AREAS

IC 14-19-1

Chapter 1. Powers and Duties of Department

IC 14-19-1-0.5

"Motorized cart"

Sec. 0.5. (a) "Motorized cart" means a conveyance that is:

(1) motor driven, either by gas or electricity;

(2) used to carry passengers or equipment; and

(3) smaller than the types of motor vehicles required to be registered by the bureau of motor vehicles such as a:

(A) passenger motor vehicle (as defined in IC 9-13-2-123);

(B) recreational vehicle (as defined in IC 9-13-2-150); or

(C) truck (as defined in IC 9-13-2-188).

A motorized cart may be characterized as a golf cart, utility cart, or similar form of motor vehicle.

(b) The term does not include:

(1) an electric personal assistive mobility device (as defined in IC 9-13-2-49.3);

(2) a motorcycle (as defined in IC 9-13-2-108);

(3) a motor driven cycle (as defined in IC 9-13-2-104.1); or

(4) an off-road vehicle.

As added by P.L.225-2005, SEC.14. Amended by P.L.221-2014, SEC.86.

IC 14-19-1-1

Duties of department

Sec. 1. The department shall do the following:

(1) Have the custody of and maintain the parks, preserves, forests, reservoirs, and memorials owned by the state.

(2) Adopt the necessary rules under IC 4-22-2 to secure enforcement of this title, which must include provisions for the use of motorized carts during the hours specified in IC 9-21-7-2(a)(1) at state parks and recreation areas by an individual who is the holder of a driver's license and who:

(A) is at least sixty-five (65) years of age; or

(B) has a mobility disability as defined by the federal Americans with Disabilities Act (42 U.S.C. 12101 et seq).

Rules adopted under this subdivision must comply with the provisions for mobility devices as described in 28 CFR 35.137.

(3) Prepare, print, post, or distribute printed matter relating to the state parks and preserves.

(4) Subject to the approval of the governor, purchase land for parks or preserves and scenic and historic places. For the purpose of acquiring land for parks or preserves and scenic and

historic places, the commission may exercise the power of eminent domain in the manner provided in IC 14-17-3.

(5) Accept in the name of the state by gift or devise the fee or other estate in land or scenic or historic places.

(6) Employ, with the approval of the authorities having control of a state penal institution, the convicts committed to a penal institution for the purpose of producing or planting trees, clearing, improving, repairing, draining, or developing land purchased or acquired by the state for parks or preserves or as scenic or historic places.

(7) Have the custody of all abstracts of title, papers, contracts, or related memoranda except original deeds to the state, for land purchased or received for parks or preserves or for scenic or historic purposes under this section.

(8) Cooperate with:

(A) the department of environmental management;

(B) other state agencies; and

(C) local units of government;

to protect the water and land of Indiana from pollution.

(9) Have general charge of the navigable water of Indiana.

As added by P.L.1-1995, SEC.12. Amended by P.L.225-2005, SEC.15; P.L.155-2015, SEC.9.

IC 14-19-1-1.5

Recreational trails guidelines

Sec. 1.5. (a) Before March 1, 2016, the department shall, through the division of outdoor recreation, develop guidelines concerning recreational trails and amend the guidelines as necessary or advisable thereafter. The guidelines must address at least the following issues:

(1) Clear statement of ownership and management of each trail.

(2) Right-of-way inconsistencies.

(3) The division of responsibility for maintenance of fences, for drainage, and for maintenance of drainage or drain tiles.

(4) Tree, weed, and brush removal between responsible parties and landowners adjacent to recreational trails.

(5) Mowing responsibility.

(6) Law enforcement jurisdiction.

(7) Signage.

(8) Conflict resolution procedures.

(9) Appeal procedures.

(10) Use by public utility facilities.

(b) In developing the recreational trail guidelines described in subsection (a), the division shall consult with various groups, organizations, and agencies that will be impacted by the guidelines.

(c) The department may adopt guidelines, without complying with IC 4-22-2, to implement this section.

As added by P.L.67-2015, SEC.1.

IC 14-19-1-2

Powers of department

Sec. 2. The department may do the following:

(1) Make available to the public under rules adopted by the department public parks and other suitable places for recreation, conservation, and management of natural and cultural resources. The rules may include a procedure for the establishment of a schedule of admission fees and service charges adopted by the commission for the parks and other places of recreation.

(2) Construct, rent, lease, license, or operate public service privileges and facilities in a state park. An agreement may not be made to rent, lease, or license a public service privilege or facility in a state park for longer than four (4) years, except as provided in section 3 of this chapter.

(3) Acquire other suitable land or park property within Indiana that is entrusted, donated, or devised to Indiana by the United States or by a county, a city, a town, a private corporation, or an individual for the purpose of public recreation or for the preservation of natural beauty or natural features possessing historic value.

As added by P.L.1-1995, SEC.12. Amended by P.L.246-2005, SEC.120.

IC 14-19-1-3

Lease of property

Sec. 3. (a) The department may lease property located in a state park to a lessee for a period longer than four (4) years if the requirements of this section are satisfied.

(b) A lease described in subsection (a) does not take effect unless all of the following conditions have been met:

(1) The lease is approved by the commission.

(2) The prospective lessee is required, as a condition of the lease, to make a capital investment in the property of at least two hundred thousand dollars ($200,000).

(3) The investment referred to in subdivision (2) is in real property and not in personal property.

(4) Under the terms of the lease, improvements made to the property by the lessee through capital investment will become the property of the state when the lease expires.

(c) Before the commission may approve a lease under subsection (b)(1), the prospective lessee must submit to the commission a statement of Indiana economic impact that includes the following information relating to the proposed lease and the capital investment that would be required as a condition of the lease under subsection (b)(2):

(1) The estimated average wages and benefits to be paid to the projected new permanent employees whose jobs would be created through the capital investment.

(2) The estimated total amount to be expended by the prospective lessee in making the capital investment.

(3) The estimated total amount to be paid by the prospective lessee to companies that:

(A) are organized under Indiana law; and

(B) would be involved in the construction activity that would implement the capital investment.

(4) The estimated total wages and benefits that would be paid, during the construction activity that would implement the capital investment, to Indiana residents employed by companies that would be involved in the construction activity.

(5) The projected economic activity for:

(A) subcontracting companies organized under Indiana law;

(B) supply companies organized under Indiana law; and

(C) other companies organized under Indiana law;

that would result from the capital investment.

(d) In deciding whether to approve a lease under subsection (b)(1), the commission shall consider whether the proposed term of the lease is longer than the period within which the prospective lessee can reasonably be expected to recover the capital investment in the property that would be required as a condition of the lease under subsection (b)(2).

As added by P.L.1-1995, SEC.12.

IC 14-19-2

Chapter 2. Small State Parks

IC 14-19-2-1

"Small state park" defined

Sec. 1. As used in this chapter, "small state park" means a state park having an area of not more than five hundred (500) acres.

As added by P.L.1-1995, SEC.12.

IC 14-19-2-2

Development, maintenance, and management of parks

Sec. 2. The department may develop, maintain, and manage, on property acquired by the department, at least one (1) small state park.

As added by P.L.1-1995, SEC.12.

IC 14-19-2-3

Site determination criteria

Sec. 3. The department shall establish criteria for determining the site of a small state park. However, each small state park must meet the following conditions:

(1) Be developed for recreational or cultural activities by the public.

(2) Contain or be adjacent to surface water.

As added by P.L.1-1995, SEC.12.

IC 14-19-2-4

Contracts for operation or management

Sec. 4. The department may enter into contracts for the operation or management of the property, facilities, services, or programs of a small state park.

As added by P.L.1-1995, SEC.12.

IC 14-19-2-5

Adoption of rules

Sec. 5. The department may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.1-1995, SEC.12.

IC 14-19-3
Chapter 3. Fees

IC 14-19-3-1
Admission fees for public hospital inpatients and supervisors prohibited

Sec. 1. The department may not charge a price of admission to inpatients of state or federally owned or operated hospitals or institutions and their supervisors for the use of state parks, playgrounds, recreational areas, or day facilities under the control of the department. If necessary, the department may adopt rules to require that appropriate identification be made of the patients and their supervisors by the issuance of passes or otherwise.
As added by P.L.1-1995, SEC.12.

IC 14-19-3-2
Permits for nonprofit youth organizations

Sec. 2. (a) Upon:

(1) application to the department; and

(2) the payment of an annual fee of one hundred dollars ($100);

the department shall issue to a nonprofit organization composed primarily of individuals less than seventeen (17) years of age a permit for the admission of the members as a group into any facility of the department.

(b) A permit issued under this section is valid from June 1 through August 31 of the year in which the permit is issued.
As added by P.L.1-1995, SEC.12.

IC 14-19-3-3
Motor vehicle towing unoccupied vehicle considered one vehicle

Sec. 3. If a motor vehicle is towing an unoccupied motor vehicle, the two (2) motor vehicles are considered one (1) motor vehicle for the purpose of calculating the admission fee to a state park or recreation area.
As added by P.L.1-1995, SEC.12.

IC 14-19-3-4
Golden Hoosier Passports; fees

Sec. 4. (a) Upon application to the department, a resident of Indiana:

(1) who:

(A) if born in 1933, 1934, 1935, 1936, or 1937, is at least sixty (60) years of age; or

(B) if born before 1933 or after 1937, is at least sixty-five (65) years of age;

(2) who is eligible for Social Security disability payments under 42 U.S.C. 423;

(3) who is eligible for a disabled Hoosier veteran license plate under IC 9-18-18-1; or

(4) who is issued a prisoner of war license plate under IC 9-18-17-1;

may purchase or is eligible to receive an annual Golden Hoosier Passport.

(b) A Golden Hoosier Passport entitles:

(1) the resident;

(2) the resident's motor vehicle; and

(3) the resident's passengers;

to unlimited admission for one (1) calendar year to the Indiana state parks, recreation areas, reservoirs, forests, historic sites, museums, memorials, and other department properties for which admission is charged during the year for which the passport was issued.

(c) Except as provided in subsection (d), the fee for an annual Golden Hoosier Passport issued under this section is fifty percent (50%) of the fee that the department charges a resident who is not described in subsection (a)(1), (a)(2), or (a)(3) for unlimited admission for one (1) calendar year to the Indiana state parks, recreation areas, reservoirs, forests, historic sites, museums, memorials, and other department properties for which admission is charged.

(d) A fee may not be charged for an annual Golden Hoosier Passport issued under this section to a resident described in subsection (a)(4).

As added by P.L.1-1995, SEC.12. Amended by P.L.134-1997, SEC.3; P.L.99-2001, SEC.1; P.L.1-2006, SEC.211; P.L.87-2010, SEC.40.

IC 14-19-3-5

Annual pass; nonresident; charges

Sec. 5. (a) As used in this section, "annual pass" means a card that:

(1) is issued by the department; and

(2) entitles:

(A) the card holder; and

(B) the members of the card holder's immediate family;

to enter the state parks an unlimited number of times during a calendar year without paying an admission fee.

(b) As used in this section, "nonresident" means an individual who does not reside in Indiana.

(c) The commission may set the amount of the charge for an annual pass. However, the charge for an annual pass issued to a nonresident must be higher than the charge for an annual pass issued to a resident of Indiana.

As added by P.L.134-1997, SEC.4.

IC 14-19-4
Repealed
(Repealed by P.L.186-2003, SEC.81.)

IC 14-19-5
Repealed
(Repealed by P.L.186-2003, SEC.81.)

IC 14-19-6
Chapter 6. University Square and Military Park

IC 14-19-6-1
Beautification

Sec. 1. The city of Indianapolis may do the following, subject to the same rules, regulations, ordinances, and laws as public parks owned by the city of Indianapolis:

(1) Beautify, improve, maintain, and regulate the use of University Square and Military Park in Indianapolis.

(2) Erect in University Square and Military Park monuments, fountains, and art treasures.

As added by P.L.1-1995, SEC.12.

IC 14-19-6-2
Open at all times

Sec. 2. University Square and Military Park must be open at all times for the use and enjoyment of the people of Indiana as public parks to the same extent as to residents of Indianapolis.

As added by P.L.1-1995, SEC.12.

IC 14-19-6-3
Maintenance duties

Sec. 3. The city of Indianapolis shall, at the city's own expense, do the following:

(1) Maintain the walks and lawns in and adjacent to the grounds in good condition at all times.

(2) Reforest the land with trees as needed, caring for, training, and preserving the trees as much as possible.

(3) Keep the grounds as well lighted as parks owned by the city.

As added by P.L.1-1995, SEC.12.

IC 14-19-6-4
Revocation of authority

Sec. 4. The general assembly or the governor may revoke the authority granted by this chapter. However, the city of Indianapolis may remove the monuments, fountains, or art treasures that the city erected or located in the parks if the authority is revoked.

As added by P.L.1-1995, SEC.12.

IC 14-19-7

Chapter 7. Falls of the Ohio National Wildlife Conservation Area

IC 14-19-7-1

Department as local sponsor; management

Sec. 1. The department is designated as the local sponsor of and may manage the Falls of the Ohio National Wildlife Conservation Area.

As added by P.L.1-1995, SEC.12.

IC 14-19-7-2

George Rogers Clark Homesite as adjunct

Sec. 2. The department shall include the George Rogers Clark Homesite as an adjunct to the Falls of the Ohio National Wildlife Conservation Area.

As added by P.L.1-1995, SEC.12.

IC 14-19-7-3

Cooperation with political subdivisions

Sec. 3. The department may cooperate with Indiana political subdivisions to develop and implement plans for appropriate facilities within and adjacent to the Falls of the Ohio National Wildlife Conservation Area.

As added by P.L.1-1995, SEC.12.

IC 14-19-7-4

Plans for state park

Sec. 4. The department may develop and implement plans for a state park within and adjacent to the Falls of the Ohio National Wildlife Conservation Area.

As added by P.L.1-1995, SEC.12.

IC 14-19-8

Chapter 8. State Parks and Reservoirs Special Revenue Fund

IC 14-19-8-1

"Fund"

Sec. 1. As used in this chapter, "fund" refers to the state parks and reservoirs special revenue fund established by section 2 of this chapter.

As added by P.L.186-2003, SEC.56.

IC 14-19-8-2

State parks and reservoirs special revenue fund

Sec. 2. (a) The state parks and reservoirs special revenue fund is established.

(b) The fund shall be administered by the department.

As added by P.L.186-2003, SEC.56.

IC 14-19-8-3

Funding sources

Sec. 3. (a) The fund consists of the following:

(1) All revenues accruing to the department from the operation of the state parks.

(2) All revenues accruing to the department from the operation of reservoirs.

(3) Other sources as specified by law.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

As added by P.L.186-2003, SEC.56.

IC 14-19-8-4

Use of fund

Sec. 4. The money in the fund may be expended by the director exclusively for the operation of the state parks and reservoirs. The director shall submit, in accordance with IC 4-12-1, a suggested budget for appropriations and expenditures from the fund. The director shall use money appropriated by the general assembly from the fund to the department in accordance with this chapter and the terms of the appropriation.

As added by P.L.186-2003, SEC.56.

IC 14-19-8-5

Reversion of money to fund

Sec. 5. Unencumbered parts of appropriations made for a state fiscal year from the fund revert to the fund at the end of that state fiscal year unless otherwise specified by statute. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

As added by P.L.186-2003, SEC.56.

IC 14-19-10.3

Chapter 10.3. Recreational Trail Maintenance Fund

IC 14-19-10.3-1

Definitions

Sec. 1. The following definitions apply throughout this chapter:

(1) "Fund" refers to the recreational trail maintenance fund established by section 2 of this chapter.

(2) "Recreational trail" has the meaning set forth in IC 8-4.5-1-16.

(3) "Responsible party" has the meaning set forth in IC 8-4.5-1-17.

As added by P.L.219-2014, SEC.22.

IC 14-19-10.3-2

Fund established

Sec. 2. (a) The recreational trail maintenance fund is established for the purpose of receiving money from the sources listed in subsection (b) for ultimate distribution to responsible parties to defray the costs of maintaining recreational trails. The department shall administer the fund.

(b) The fund consists of the following:

(1) Appropriations by the general assembly.

(2) Donations, gifts, and money received from any other source, including transfers from other funds or accounts.

(3) Federal grants or other federal appropriations.

(c) Expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.219-2014, SEC.22.

IC 14-20

ARTICLE 20. STATE MUSEUMS AND HISTORIC SITES

IC 14-20-1

Repealed

(Repealed by P.L.167-2011, SEC.31.)

IC 14-20-2

Chapter 2. Tippecanoe Battle Ground Memorial

IC 14-20-2-1

Transfer of interests of the state to county park and recreational board

Sec. 1. The governor, auditor of state, and director may, on behalf of and in the name of the state, transfer and convey to the Tippecanoe County park and recreational board, Tippecanoe County, Indiana, all rights, title, and interest of the state, including maintenance and operating equipment, in the Tippecanoe Battle Ground Memorial at Battle Ground, Indiana. The grantee shall act as the agent of the general assembly in the performance of the general assembly's constitutional duty to preserve the Tippecanoe Battle Ground.

As added by P.L.1-1995, SEC.13.

IC 14-20-2-2

Conditions of transfer

Sec. 2. The transfer under section 1 of this chapter is conditioned on the following:

(1) That when the recipient is in full possession, the recipient shall forevermore maintain, develop, and use the Tippecanoe Battle Ground Memorial, by whatever name, as a general park and recreation area dedicated to the preservation of the Tippecanoe Battle Ground.

(2) That the recipient of the property does not have the right to sell, lease, or in any way transfer the control of the property, in whole or in part, to a person, a firm, a party, or an agency of government, except for use as a general park and recreation area dedicated to the preservation of the Tippecanoe Battle Ground.

(3) That a subsequent owner, lessee, or controller of the property does not have the right to use or cause the property to be used for a purpose other than a general park and recreation area dedicated to the preservation of the Tippecanoe Battle Ground.

(4) That should the property, in whole or in part, ever be used for other than the stated purpose, the director may, with approval of the governor, cause the property, in whole, to revert to the status of ownership before February 16, 1972.

As added by P.L.1-1995, SEC.13.

IC 14-20-2-3

Permanent enclosure and preservation of battle ground

Sec. 3. This chapter provides for the permanent enclosure and preservation of the Tippecanoe Battle Ground as required by Article 15, Section 10, of the Constitution of the State of Indiana.

As added by P.L.1-1995, SEC.13.

IC 14-20-3

Chapter 3. Old Goshen Baptist Church and Cemetery

IC 14-20-3-1

"Real property" defined

Sec. 1. As used in this chapter, "real property" means the Old Goshen Baptist Church and cemetery containing the graves of revolutionary soldiers and Indiana pioneers that is a tract containing two and one-half (2 1/2) acres and situated in Harrison County, Indiana, on State Road 11 about twelve (12) miles south of Corydon.
As added by P.L.1-1995, SEC.13.

IC 14-20-3-2

State to maintain real property as memorial

Sec. 2. The state pledges the state's faith to maintain the real property as a public memorial to Indiana's pioneer settlers.
As added by P.L.1-1995, SEC.13.

IC 14-20-4
Repealed
(Repealed by P.L.197-2011, SEC.153.)

IC 14-20-5

Chapter 5. Whitewater Canal System

IC 14-20-5-1

Acceptance of property by commission

Sec. 1. The commission shall receive and accept, for and on behalf of the state, the Whitewater canal system, including the feeder dam and reservoir at Laurel, Indiana, the canal, locks, aqueduct, and all other miscellaneous structures belonging to the Whitewater Canal Association, situated in Franklin County, Indiana, between Laurel, Indiana, and Brookville, Indiana.

As added by P.L.1-1995, SEC.13.

IC 14-20-5-2

Conditions of acceptance

Sec. 2. The real property is accepted on condition that the officers of the Whitewater Canal Association transfer the property to the state free of encumbrances. In consideration the state pledges the state's faith to maintain the real property conveyed and transferred as a public memorial. The title to the real property conveyed and transferred:

(1) must be good and sufficient;

(2) must be approved by the attorney general; and

(3) shall be taken in the name of the state of Indiana.

As added by P.L.1-1995, SEC.13.

IC 14-20-6

Chapter 6. Lanier Home

IC 14-20-6-1

"Real property" defined

Sec. 1. As used in this chapter, "real property" means the following:

All of the block No. 9 in the city of Madison, known as The Lanier Block, bounded on the north by First Street, on the east by Vine Street, on the south by Ohio Street, and on the west by Elm Street, situated in Jefferson County, Indiana, and commonly known as The James F.D. Lanier Home.

As added by P.L.1-1995, SEC.13.

IC 14-20-6-2

State to maintain real property as memorial

Sec. 2. The state pledges to maintain in perpetuity the real property as:

(1) a public memorial to the distinguished public services of James F.D. Lanier; and

(2) a permanent example of a notable Indiana home of the decade 1850 to 1860.

As added by P.L.1-1995, SEC.13.

IC 14-20-6-3

Administration of James F.D. Lanier Home

Sec. 3. The real property shall be administered, maintained, managed, and controlled by the Indiana state museum and historic sites corporation (IC 4-37-2-1) and shall be known as The James F.D. Lanier Home.

As added by P.L.1-1995, SEC.13. Amended by P.L.167-2011, SEC.18.

IC 14-20-7
Chapter 7. Indiana State Soldiers' Home Historical Monument

IC 14-20-7-1
"Buildings and grounds" defined

Sec. 1. As used in this chapter, "buildings and grounds" means the property that:

(1) lies east of a line running north and south and tangent to the most easterly point on the circular drive of the Indiana Veterans' Home;

(2) contains approximately six (6) acres; and

(3) includes those buildings of the home that:

(A) were in the original group of buildings constructed at the home; and

(B) are known as the Administration Building, the Lawrie Library, and the Commandant's Residence.

As added by P.L.1-1995, SEC.13.

IC 14-20-7-2
Department to maintain buildings and grounds as historical monuments

Sec. 2. The department shall maintain the buildings and grounds as a historical monument with emphasis on the early history of the Indiana Veterans' Home when the home was founded by the Grand Army of the Republic as a home for Civil War veterans.

As added by P.L.1-1995, SEC.13.

IC 14-20-7-3
Donations

Sec. 3. The Indiana state museum and historic sites corporation (IC 4-37-2-1) may receive donations for the upkeep of the monument provided for in this chapter.

As added by P.L.1-1995, SEC.13. Amended by P.L.167-2011, SEC.19.

IC 14-20-8

Chapter 8. William S. Culbertson Mansion

IC 14-20-8-1

"Real property" defined

Sec. 1. As used in this chapter, "real property" means the following:

The north 284 feet of a 10 foot alley along the east side of Plat No. 210 and a part of Lots No. 2, 3, 4, 5, and 6 of Plat No. 210, which is a part of the west one-half of Block 10, of the Whitehill Tract, Plat No. 173 and also the north 284 feet of the east one-half of Block No. 10 of the Whitehill Tract, Plat No. 173, situated in the city of New Albany, Floyd County, and known as the William S. Culbertson Mansion.

As added by P.L.1-1995, SEC.13.

IC 14-20-8-2

State to maintain real property as memorial

Sec. 2. The state pledges to maintain in perpetuity the real property as:

(1) a public memorial to the distinguished business career and public services of William S. Culbertson; and

(2) a permanent example of a notable Indiana home of the end of the nineteenth century.

As added by P.L.1-1995, SEC.13.

IC 14-20-8-3

Administration of William S. Culbertson Mansion

Sec. 3. The real property shall be administered by the Indiana state museum and historic sites corporation (IC 4-37-2-1) as a historic property and shall be known as the William S. Culbertson Mansion.

As added by P.L.1-1995, SEC.13. Amended by P.L.167-2011, SEC.20.

IC 14-20-8-4

Donations

Sec. 4. The Indiana state museum and historic sites corporation (IC 4-37-2-1) may receive the following:

(1) Donations for the maintenance of the mansion.

(2) Other money that is necessary to carry out this chapter.

As added by P.L.1-1995, SEC.13. Amended by P.L.167-2011, SEC.21.

IC 14-20-9

Chapter 9. Wilbur Wright Birthplace

IC 14-20-9-0.3

Transfer of property to society

Sec. 0.3. (a) This section applies only if the real estate is transferred to the society under P.L.173-1993, SECTION 2.

(b) All rights, powers, and duties that were held by the department under IC 14-6-19 (before its repeal, now codified in this chapter):

(1) are continued in full force and effect and transferred to the Wilbur Wright Birthplace Preservation Society; and

(2) shall be held, exercised, and administered by the Wilbur Wright Birthplace Preservation Society.

(c) All books, records, papers, supplies, property, and equipment that:

(1) are in the possession of the department; and

(2) pertain to the Wilbur Wright Birthplace;

shall be transferred to and placed at the disposal of the Wilbur Wright Birthplace Preservation Society.

As added by P.L.220-2011, SEC.295.

IC 14-20-9-1

Applicability of chapter

Sec. 1. This section and sections 2 through 5 of this chapter do not apply if:

(1) the Wilbur Wright memorial is transferred to the Wilbur Wright Birthplace Preservation Society after June 30, 1995; or

(2) the board of trustees of the Indiana state museum and historic sites corporation (IC 4-37-2-1) declares the memorial to be surplus to the needs of the state museum and historic sites corporation.

As added by P.L.1-1995, SEC.13. Amended by P.L.220-2011, SEC.296; P.L.167-2011, SEC.22.

IC 14-20-9-2

"Real property" defined

Sec. 2. As used in this chapter, "real property" means the following:

Part of the northwest quarter of section 2, township 17 north, range 11 east, commencing at a point 41 links west of the southeast corner of said quarter section; thence south 85 degrees west on the section line 20 poles, 7 links to a corner; thence north 19 degrees west 40 poles to a corner; thence north 85 degrees east 20 poles, 7 links to a corner; thence south 19 degrees east 40 poles to the place of beginning and containing five acres, more or less, in Liberty Township, Henry County, and known as the Wilbur Wright Birthplace.

As added by P.L.1-1995, SEC.13.

IC 14-20-9-3
State to maintain real property as memorial

Sec. 3. The state pledges to maintain in perpetuity the real property as:

(1) a public memorial to the distinguished services and life of Wilbur Wright; and

(2) a permanent tribute to this noted Hoosier.

As added by P.L.1-1995, SEC.13.

IC 14-20-9-4
Administration of Wilbur Wright Birthplace

Sec. 4. The Indiana state museum and historic sites corporation (IC 4-37-2-1) shall administer the real property, which shall be known as the Wilbur Wright Birthplace.

As added by P.L.1-1995, SEC.13. Amended by P.L.167-2011, SEC.23.

IC 14-20-9-5
Powers of corporation

Sec. 5. The Indiana state museum and historic sites corporation (IC 4-37-2-1) may do the following:

(1) Receive any appropriations made by the federal government to assist in memorializing the achievements of Wilbur Wright.

(2) Expend the money received from the federal government in conformity with this chapter or the federal law making the appropriation.

As added by P.L.1-1995, SEC.13. Amended by P.L.167-2011, SEC.24.

IC 14-20-10

Chapter 10. Ernie Pyle Birthplace

IC 14-20-10-1

"Real property" defined

Sec. 1. As used in this chapter, "real property" means the following:

The north and south halves of lots 23 and 24 in block 4 in the original plat of the town of Dana, Vermillion County, and the house located on the property known as the Ernie Pyle Birthplace.

As added by P.L.1-1995, SEC.13.

IC 14-20-10-2

Administration of Ernie Pyle Birthplace

Sec. 2. The real property shall be administered by the Indiana state museum and historic sites corporation (IC 4-37-2-1) as a historic property and shall be known as the Ernie Pyle Birthplace.

As added by P.L.1-1995, SEC.13. Amended by P.L.167-2011, SEC.25.

IC 14-20-11

Chapter 11. Wendell L. Willkie Memorial Commission

IC 14-20-11-1

"Commission" defined

Sec. 1. As used in this chapter, "commission" refers to the Wendell L. Willkie memorial commission created by this chapter.

As added by P.L.1-1995, SEC.13.

IC 14-20-11-2

"Fund" defined

Sec. 2. As used in this chapter, "fund" refers to the Wendell L. Willkie memorial fund established by this chapter.

As added by P.L.1-1995, SEC.13.

IC 14-20-11-3

Creation of commission

Sec. 3. The Wendell L. Willkie memorial commission is created for the establishment, when money and property are available, of a suitable memorial in Indiana to honor the memory of Wendell L. Willkie and his One World Dream.

As added by P.L.1-1995, SEC.13.

IC 14-20-11-4

Members

Sec. 4. (a) The commission is composed of ten (10) members as follows:

(1) Five (5) members shall be appointed by the speaker of the house of representatives.

(2) Five (5) members shall be appointed by the president of the senate.

(b) The commission must be bipartisan.

As added by P.L.1-1995, SEC.13.

IC 14-20-11-5

Term of members

Sec. 5. The term of each member of the commission is four (4) years, with two (2) terms expiring each year.

As added by P.L.1-1995, SEC.13.

IC 14-20-11-6

Filling of vacancies

Sec. 6. A vacancy on the commission shall be filled in the same manner as the original appointment was made.

As added by P.L.1-1995, SEC.13.

IC 14-20-11-7

Service until successor appointed

Sec. 7. A member of the commission serves until a successor has been appointed.
As added by P.L.1-1995, SEC.13.

IC 14-20-11-8
Chairman
Sec. 8. The members of the commission shall elect a chairman.
As added by P.L.1-1995, SEC.13.

IC 14-20-11-9
Acquisition of real property
Sec. 9. The commission may, in the commission's discretion:
(1) acquire on behalf of the state;
(2) through gifts, bequests, legacies, and donations or by purchase out of money received as similar contributions; and
(3) at prices considered reasonable to the commission;
land, buildings, structures, and other property or interests in property.
As added by P.L.1-1995, SEC.13.

IC 14-20-11-10
Gifts, bequests, legacies, and donations
Sec. 10. The commission may accept gifts, bequests, legacies, and donations of money for the acquisition and maintenance of property if the money received is deposited in a special trust fund to be designated as the Wendell L. Willkie memorial fund. The fund shall be applied to and expended under the direction of the chairman of the commission to carry out this chapter.
As added by P.L.1-1995, SEC.13.

IC 14-20-11-11
Plans and designs for monument
Sec. 11. The commission shall secure plans and designs for a meaningful monument of the state symbolizing to the state and to the world the ideal of One World expressed by Wendell L. Willkie and published in his book. The plans shall be submitted to the Indiana arts commission and may be submitted to the general assembly.
As added by P.L.1-1995, SEC.13.

IC 14-20-11-12
Purposes of monument
Sec. 12. (a) The monument shall serve as an international shrine and a continuing memorial to:
(1) the principle of freedom for all peoples and nations; and
(2) the promotion and defense of that principle in the preservation of democracy throughout the world.
(b) The monument may include an appropriate structure to house cultural displays and exhibits or symbolic features of national and international significance designed to accomplish the objectives of this chapter.

As added by P.L.1-1995, SEC.13.

IC 14-20-11-13
General powers of commission

Sec. 13. The commission may do the following:

(1) Establish rules and regulations governing the actions of the commission in carrying out the purposes of this chapter.

(2) Accept and utilize the services of voluntary and uncompensated persons and pay the persons necessary travelling and subsistence expenses incurred by the persons in the performance of commission duties when the money is available for payment.

(3) Request and secure the advice or assistance of a state, federal or private agency. A state agency furnishing requested advice or assistance to the commission may expend the state agency's own money for this purpose, with or without reimbursement from the commission as agreed upon by the commission and the agency.

As added by P.L.1-1995, SEC.13.

IC 14-20-11-14
Expiration of commission

Sec. 14. The commission expires thirty (30) days after the submission of the commission's final report.

As added by P.L.1-1995, SEC.13.

IC 14-20-12
Chapter 12. Paul Dresser Shrine and Memorial

IC 14-20-12-1
State shrine and memorial

Sec. 1. The boyhood home and birthplace of Paul Dresser is a state shrine and memorial.

As added by P.L.1-1995, SEC.13.

IC 14-20-12-2
Location

Sec. 2. The Paul Dresser shrine and memorial owned and operated by the Vigo County Historical Society is situated on Dresser Drive in Fairbanks Park near U.S. Highway 41 and near where U.S. Highway 40 crosses the bridge over the Wabash River.

As added by P.L.1-1995, SEC.13.

IC 14-20-12-3
Purpose of chapter

Sec. 3. Thousands of Hoosiers all over the nation have contributed toward the moving and restoration of this historic house and because the house has already proven to be an outstanding tourist attraction and in keeping with our great American heritage, it is the intent of this chapter that the office of tourism development, the Indiana state museum and historic sites corporation (IC 4-37-2-1), and other appropriate state boards and agencies give widespread publicity to this memorial by brochure, pamphlet, or other means.

As added by P.L.1-1995, SEC.13. Amended by P.L.229-2005, SEC.16; P.L.167-2011, SEC.26.

IC 14-20-13

Chapter 13. Virgil I. Grissom Memorial

IC 14-20-13-1

Establishment of museum

Sec. 1. A part of the Virgil I. Grissom Memorial Visitors Center in Spring Mill State Park shall be set aside as a museum to house the mementoes or items of interest that are:

(1) procured from the National Aeronautics and Space Administration; or

(2) donated by any other public or private organization or interested person.

As added by P.L.1-1995, SEC.13.

IC 14-20-13-2

Receipt of money

Sec. 2. The department may receive the money that is necessary to carry out this chapter.

As added by P.L.1-1995, SEC.13.

IC 14-20-14

Chapter 14. Historic County Courthouses

IC 14-20-14-1

Applicability of chapter

Sec. 1. This chapter applies to a nonprofit corporation that has, for a consideration of one dollar ($1), acquired a county courthouse listed on the National Register of Historic Places.

As added by P.L.1-1995, SEC.13.

IC 14-20-14-2

Powers and duties of nonprofit corporation

Sec. 2. The corporation:

(1) shall repair and maintain the building and grounds;

(2) shall supply reasonable space in the building for a county historical museum; and

(3) may lease other space in the building to commercial enterprises that is necessary for the purpose of financing the repair and maintenance of the building and grounds.

As added by P.L.1-1995, SEC.13.

IC 14-20-15

Chapter 15. Lewis and Clark Bicentennial Commission

IC 14-20-15-1

Repealed

(As added by P.L.54-2004, SEC.5. Repealed by P.L.203-2014, SEC.7.)

IC 14-20-15-2

"Commission"

Sec. 2. As used in this chapter, "commission" refers to the Lewis and Clark expedition commission established by section 3 of this chapter.

As added by P.L.54-2004, SEC.5. Amended by P.L.203-2014, SEC.8.

IC 14-20-15-3

Establishment of commission

Sec. 3. The Lewis and Clark expedition commission is established.

As added by P.L.54-2004, SEC.5. Amended by P.L.203-2014, SEC.9.

IC 14-20-15-3.3

Commission is successor to Lewis and Clark Bicentennial Commission; service of members

Sec. 3.3. (a) The commission is the successor in interest to all property, rights, contracts, liabilities, obligations, and duties of the Lewis and Clark bicentennial commission established by P.L.7-2001.

(b) A member of the Lewis and Clark bicentennial commission established by P.L.7-2001 becomes a member of the commission without reappointment by the appointing authority. However, the member continues to serve on the commission at the pleasure of the appointing authority.

As added by P.L.220-2011, SEC.297.

IC 14-20-15-4

Membership

Sec. 4. The commission consists of the following members:

(1) Two (2) members of the house of representatives, to be appointed by the speaker of the house of representatives. The members appointed under this subdivision may not be members of the same political party.

(2) Two (2) members of the senate, to be appointed by the president pro tempore of the senate. The members appointed under this subdivision may not be members of the same political party.

(3) The governor or the governor's designee.

(4) The director of the department of natural resources or the director's designee.

(5) One (1) employee of the office of tourism development with expertise in the tourism or film industry, to be designated by the

director of the office of tourism development.

(6) One (1) member of the Indiana historical society, to be appointed by the governor.

(7) Three (3) Indiana citizens, to be appointed by the governor. Not more than two (2) members appointed under this subdivision may be members of the same political party.

As added by P.L.54-2004, SEC.5. Amended by P.L.229-2005, SEC.17; P.L.203-2014, SEC.10.

IC 14-20-15-5
Chair; meeting notice

Sec. 5. (a) The governor or the governor's designee shall act as the chair of the commission.

(b) The chair shall give notice of the date, time, and place of a meeting of the commission to the members of the commission at least ten (10) days before the meeting date by any of the following methods:

(1) Mail.

(2) Fax.

(3) Telephone.

(4) Electronic mail.

As added by P.L.54-2004, SEC.5. Amended by P.L.203-2014, SEC.11.

IC 14-20-15-6
Permissible activities

Sec. 6. The commission may do the following:

(1) Educate Indiana residents and the nation about Indiana's important role in the Lewis and Clark expedition.

(2) Assist local governments and organizations with planning, preparation, and grant applications for Lewis and Clark expedition events and projects.

(3) Coordinate state, local, and nonprofit organizations' Lewis and Clark expedition activities occurring in Indiana.

(4) Act as a point of contact for national Lewis and Clark expedition organizations wishing to distribute information to state and local groups about grant opportunities, meetings, and national events.

(5) Plan and implement appropriate events to commemorate the Lewis and Clark expedition.

(6) Seek federal grants and philanthropic support for Lewis and Clark expedition activities.

(7) Perform other duties necessary to highlight Indiana's role in the Lewis and Clark expedition.

(8) Recommend the establishment of a nonprofit corporation under section 7 of this chapter.

(9) Transfer funds received under IC 9-18-47 and other property to a nonprofit corporation established under section 7 of this chapter.

As added by P.L.54-2004, SEC.5. Amended by P.L.203-2014, SEC.12.

IC 14-20-15-7
Nonprofit corporation to assist commission

Sec. 7. (a) The commission may recommend the establishment of a nonprofit corporation under IC 23-17 that is:

(1) tax exempt; and
(2) historically oriented;

to assist in the duties and purposes of the commission.

(b) If a corporation is established under subsection (a), the corporation shall:

(1) operate exclusively for the benefit of;
(2) perform the functions of; and
(3) carry out the purposes of;

the commission.

(c) A corporation established under this section shall submit to the commission quarterly reports of the corporation's activities during the period. The reports must include the following:

(1) A record of the following:
(A) All money or other property received by the corporation as a donation, gift, devise, or bequest.
(B) The conditions attached to the donation, gift, devise, or bequest, if any.
(2) A record of all expenditures by the corporation during the period and the purposes of each expenditure.
(3) A statement of activities the corporation anticipates undertaking during the following period.

(d) The corporation established under this section is subject to audit by the state board of accounts.

As added by P.L.54-2004, SEC.5.

IC 14-20-15-8
Repealed

(As added by P.L.54-2004, SEC.5. Repealed by P.L.203-2014, SEC.13.)

IC 14-20-15-9
Expenses paid from Lewis and Clark expedition fund

Sec. 9. The expenses of the commission shall be paid from the money transferred to the commission from the Lewis and Clark expedition fund established by IC 9-18-47.

As added by P.L.54-2004, SEC.5. Amended by P.L.203-2014, SEC.14.

IC 14-20-15-10
Salary per diem; traveling and other expenses

Sec. 10. (a) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by

IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the commission who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member of the commission who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council.

As added by P.L.54-2004, SEC.5.

IC 14-20-15-11

Voting and nonvoting members; term of members

Sec. 11. (a) Each member of the commission who is a member of the general assembly is a nonvoting member.

(b) The affirmative votes of a majority of the voting members appointed to the commission are required for the commission to take action on any measure, including final reports.

(c) A member of the commission serves at the pleasure of the person who appointed the member.

As added by P.L.54-2004, SEC.5.

IC 14-20-15-12

Citizen advisory board

Sec. 12. The commission may establish a citizen advisory board to assist the commission in implementing this chapter. If the commission establishes a citizen advisory board under this section, the following apply:

(1) The board consists of the following members:

(A) Not more than seven (7) citizens appointed by the speaker of the house of representatives.

(B) Not more than seven (7) citizens appointed by the president pro tempore of the senate.

(C) Not more than seven (7) citizens appointed by the governor.

(2) The board has the duties determined by the commission.

As added by P.L.54-2004, SEC.5.

IC 14-20-15-13

Public money acquired by the commission; accounts; vote; penalties

Sec. 13. (a) Money acquired by the commission is subject to

Indiana law concerning the deposit and safekeeping of public money.

(b) Money acquired by the commission shall be held in an account under the name of "The Lewis and Clark Expedition Commission".

(c) Before money in the account described in subsection (b) may be disbursed from the account, a vote of the members of the commission must be held to approve the disbursement.

(d) The money of the commission and the accounts of each officer, employee, or other person entrusted by law with the raising, disposition, or expenditure of the money or part of the money is subject to the following:

(1) Examination by the state board of accounts.

(2) The same penalties and the same provision for publicity that are provided by law for state money and state officers.

As added by P.L.54-2004, SEC.5. Amended by P.L.203-2014, SEC.15.

IC 14-20-16
Chapter 16. Governors' Portraits Collection

IC 14-20-16-1
Governors' portraits collection; care and maintenance budget

Sec. 1. (a) The governors' portraits collection is placed in the custody of the Indiana state museum and historic sites corporation (IC 4-37-2-1). The collection shall be permanently displayed in public areas of the state house under the supervision of the Indiana state museum and historic sites corporation, which is charged with its care and maintenance.

(b) The chief executive officer of the Indiana state museum and historic sites corporation shall inspect each painting in the collection annually in the company of one (1) or more experts in the field of art conservation selected by the chief executive officer of the Indiana state museum and historic sites corporation.

(c) After the inauguration of each governor, the chief executive officer of the Indiana state museum and historic sites corporation, with the concurrence of the governor, shall select and commission an artist to paint the governor's portrait. The portrait must be hung in the permanent collection immediately following the completion and acceptance of the portrait by the chief executive officer of the Indiana state museum and historic sites corporation and the governor.

(d) The Indiana state museum and historic sites corporation shall include in its budget requests the amount the Indiana state museum and historic sites corporation considers necessary to:

(1) provide for the proper care, maintenance, and display of the governors' portraits collection; and

(2) commission the painting of an oil portrait of each governor for the collection.

The Indiana state museum and historic sites corporation may use appropriated funds or any other funds provided for these purposes.

(e) The chief executive officer of the Indiana state museum and historic sites corporation, in discharging the duties under this section, shall use the appropriate cultural and technical resources of the state, including the department, Indiana historical bureau, and the Indiana department of administration.

As added by P.L.69-2009, SEC.6. Amended by P.L.167-2011, SEC.27.

IC 14-20-16-2
Governors' portraits fund; use

Sec. 2. (a) The governors' portraits fund is established as a dedicated fund to be administered by the Indiana state museum and historic sites corporation (IC 4-37-2-1). Money in the fund may be expended by the chief executive officer of the Indiana state museum and historic sites corporation exclusively for the preservation and exhibition of the state owned portraits of former governors of

Indiana.

(b) The proceeds from the sale of items as directed by law or by the chief executive officer of the Indiana state museum and historic sites corporation, from gifts of money or the proceeds from the sale of gifts donated to the fund, and from investment earnings from any portion of the fund, shall be deposited in the governors' portraits fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) All money accruing to the governors' portraits fund is continuously allotted and appropriated for the purposes specified in this section.

(e) Money in the fund at the end of the fiscal year does not revert to the state general fund.

As added by P.L.69-2009, SEC.6. Amended by P.L.167-2011, SEC.28.

IC 14-21

ARTICLE 21. HISTORIC PRESERVATION AND ARCHEOLOGY

IC 14-21-1

Chapter 1. Division of Historic Preservation and Archeology

IC 14-21-1-1

Applicability of chapter

Sec. 1. This chapter does not apply to the human remains of individuals who die after December 31, 1939.

As added by P.L.1-1995, SEC.14.

IC 14-21-1-2

"Artifact" defined

Sec. 2. As used in this chapter, "artifact" means:

(1) a feature that is:

(A) nonportable evidence of past human behavior or activity;

(B) found on or in the ground, including structural remains; and

(C) formed before December 31, 1870; or

(2) an object made, modified, or used before December 31, 1870.

As added by P.L.1-1995, SEC.14. Amended by P.L.26-2008, SEC.2.

IC 14-21-1-3

"Burial ground" defined

Sec. 3. (a) As used in this chapter, "burial ground" means ground in which human remains are buried, including the surrounding area that is either:

(1) marked by a permanent visible boundary, including a fence or wall; or

(2) if there is not a permanent visible boundary, determined by the department based on records or surveys of the land containing the historic or prehistoric site in which human remains, mounds, or burial objects are reported to occur.

(b) The term includes the following:

(1) The land associated with or incidental to the burial of human remains.

(2) Subject to section 1 of this chapter, historic cemeteries or land with human remains buried before January 1, 1940.

As added by P.L.1-1995, SEC.14. Amended by P.L.26-2008, SEC.3.

IC 14-21-1-4

"Burial object" defined

Sec. 4. As used in this chapter, "burial object" means any item intentionally placed in a burial ground at or near the time of burial.

As added by P.L.1-1995, SEC.14.

IC 14-21-1-5
"Council" defined

Sec. 5. As used in this chapter, "council" refers to the advisory council established by IC 14-9-6-1.

As added by P.L.1-1995, SEC.14. Amended by P.L.95-2006, SEC.8.

IC 14-21-1-6
Repealed

(As added by P.L.1-1995, SEC.14. Repealed by P.L.85-2008, SEC.6.)

IC 14-21-1-7
"Human remains" defined

Sec. 7. As used in this chapter, "human remains" means any part of the body of a human being in any:

(1) stage of decomposition; or
(2) state of preservation.

As added by P.L.1-1995, SEC.14.

IC 14-21-1-8
"Plan", "archeological plan", and "development plan" defined

Sec. 8. (a) As used in this chapter, "plan" refers to:

(1) an archeological plan, as described in subsection (b); or
(2) a development plan, as described in subsection (c).

(b) As used in this chapter, "archeological plan" means a plan for the systematic recovery, analysis, and disposition by scientific methods of material evidence and information about the life and culture in past ages.

(c) As used in this chapter, "development plan" means:

(1) a plan for the erection, alteration, or repair of any structure; or
(2) a plan for the excavation or the covering of any ground related to construction.

As added by P.L.1-1995, SEC.14. Amended by P.L.46-2000, SEC.7; P.L.26-2008, SEC.4.

IC 14-21-1-9
"Register" defined

Sec. 9. As used in this chapter, "register" refers to the register of Indiana historic sites and historic structures established under this chapter.

As added by P.L.1-1995, SEC.14.

IC 14-21-1-10
"Review board" defined

Sec. 10. As used in this chapter, "review board" refers to the historic preservation review board established by this chapter.

As added by P.L.1-1995, SEC.14.

IC 14-21-1-10.4
"State college or university project" defined

Sec. 10.4. As used in this chapter, "state college or university project" means a project of a state college or university that involves the construction, renovation, or demolition of one (1) or more buildings.

As added by P.L.135-1996, SEC.2.

IC 14-21-1-11
Administration and development of programs and policies

Sec. 11. The division of historic preservation and archeology shall administer and develop the programs and policies established by this chapter.

As added by P.L.1-1995, SEC.14.

IC 14-21-1-12
Duties of division

Sec. 12. The division shall do the following:

(1) Develop a program of historical, architectural, and archeological research and development, including continuing surveys, excavations, scientific recording, interpretation, and publication of the state's historical, architectural, and archeological resources.

(2) Prepare a preservation plan for the state that establishes planning guidelines to encourage the continuous maintenance and integrity of historic sites and historic structures. However, the plan is not effective until the plan has been:

(A) presented to the council for review and comment; and

(B) approved by the review board after public hearing.

(3) Undertake the action necessary to qualify the state for participation in sources of federal aid to further the purposes stated in subdivisions (1) and (2).

(4) Provide information on historic sites and structures within Indiana to federal, state, and local governmental agencies, private individuals, and organizations.

(5) Advise and coordinate the activities of local historical associations, historic district commissions, historic commissions, and other interested groups or persons.

(6) Provide technical and financial assistance to local historical associations, historic district commissions, historic commissions, and other interested groups or persons.

(7) Review environmental impact statements as required by federal and state law for actions significantly affecting historic properties.

As added by P.L.1-1995, SEC.14.

IC 14-21-1-13
Powers of division

Sec. 13. The division may do the following:

(1) Recommend the purchase, lease, or gift of historic property of archeological importance and make recommendations to the director, council, and commission regarding policies affecting the operation and administration of these sites and structures by the section of historic sites of the division of state museums and historic sites.

(2) Prepare and review planning and research studies relating to archeology.

(3) Conduct a program of education in archeology, either within the division or in conjunction with a postsecondary educational institution.

(4) Inspect and supervise an archeological field investigation authorized by this chapter.

As added by P.L.1-1995, SEC.14. Amended by P.L.2-2007, SEC.169.

IC 14-21-1-13.5

Survey and registry of Indiana burial grounds

Sec. 13.5. (a) The division may conduct a program to survey and register in a registry of Indiana cemeteries and burial grounds that the division establishes and maintains all cemeteries and burial grounds in each county in Indiana. The division may conduct the program alone or by entering into an agreement with one (1) or more of the following entities:

(1) The Indiana Historical Society established under IC 23-6-3.

(2) A historical society (as defined in IC 36-10-13-3).

(3) The Historic Landmarks Foundation of Indiana.

(4) A professional archeologist or historian associated with a postsecondary educational institution.

(5) A township trustee.

(6) Any other entity that the division selects.

(b) In conducting a program under subsection (a), the division may receive gifts and grants under terms, obligations, and liabilities that the director considers appropriate. The director shall use a gift or grant received under this subsection:

(1) to carry out subsection (a); and

(2) according to the terms of the gift or grant.

(c) At the request of the director, the auditor of state shall establish a trust fund for purposes of holding money received under subsection (b).

(d) The director shall administer a trust fund established by subsection (c). The expenses of administering the trust fund shall be paid from money in the trust fund.

(e) The treasurer of state shall invest the money in the trust fund established by subsection (c) that is not currently needed to meet the obligations of the trust fund in the same manner as other public trust funds may be invested. The treasurer of state shall deposit in the trust fund the interest that accrues from the investment of the trust fund.

(f) Money in the trust fund at the end of a state fiscal year does not revert to the state general fund.

(g) Nothing in this section may be construed to authorize violation of the confidentiality of information requirements of 16 U.S.C. 470w-3 and 16 U.S.C. 470hh.

(h) The division may record in each county recorder's office the location of each cemetery and burial ground located in that county.

As added by P.L.46-2000, SEC.8. Amended by P.L.177-2001, SEC.2; P.L.1-2005, SEC.143; P.L.1-2007, SEC.128; P.L.2-2007, SEC.170; P.L.3-2008, SEC.101.

IC 14-21-1-14

Duties upon proposed transfers of property by the state

Sec. 14. (a) This section does not apply to real property that is owned by a state educational institution.

(b) The Indiana department of administration shall notify the division of a proposed transfer of real property owned by the state at the earliest planning stage and not later than ninety (90) days before the date of the proposed transfer.

(c) The division shall:

(1) inspect the property; and

(2) notify the Indiana department of administration of the location of each historic site or historic structure on the property;

not later than thirty (30) days after receiving notice under subsection (b). If the division does not notify the Indiana department of administration under subdivision (2) within thirty (30) days after receiving notice under subsection (b), the Indiana department of administration may proceed with the proposed transfer.

(d) If the Indiana department of administration receives notice under subsection (c)(2) of a historic site or historic structure on the property, the Indiana department of administration shall reserve control of the appropriate historic property by means of a covenant or an easement contained in the transferring instrument.

(e) The department shall administer property of which control is reserved under subsection (d).

As added by P.L.1-1995, SEC.14. Amended by P.L.135-1996, SEC.3; P.L.2-2007, SEC.171; P.L.33-2011, SEC.3.

IC 14-21-1-15

Duties regarding registers and federal preservation grants

Sec. 15. The division shall do the following:

(1) Undertake a statewide survey to identify and document historic sites and historic structures.

(2) Prepare and maintain a register of Indiana historic sites and historic structures and establish criteria for the listing of historic sites and historic structures on the register.

(3) Maintain the Indiana part of the National Register of Historic Places under 16 U.S.C. 470 et seq.

(4) Administer the federal preservation grants program under 16 U.S.C. 470 et seq.

As added by P.L.1-1995, SEC.14.

IC 14-21-1-16
Field investigations or alteration of historic property without permit

Sec. 16. (a) Except as provided in section 18 and sections 25 through 27 of this chapter, a person who, without a permit, conducts a field investigation or alters historic property within the boundaries of property owned or leased by the state commits a Class A infraction.

(b) Notwithstanding IC 34-28-5-4, a judgment for a Class A infraction imposed under this section may not exceed five thousand dollars ($5,000).

As added by P.L.1-1995, SEC.14. Amended by P.L.54-1997, SEC.7; P.L.195-2014, SEC.13.

IC 14-21-1-17
Additions to or removals from register

Sec. 17. (a) Any person may nominate a site or structure for addition to or removal from the register. Upon approval of the nomination by the division, all affected persons shall be notified.

(b) If an objection to the action is not filed with the division within thirty (30) days after the notification date, the nomination is automatically approved.

(c) If an objection is received within thirty (30) days, a designated member of the review board shall hold a hearing and make a determination. The review board shall make the final decision regarding a nomination, subject to administrative review by the commission under IC 4-21.5.

As added by P.L.1-1995, SEC.14.

IC 14-21-1-18
Alteration of historic sites or structures; certificate of approval; exceptions; survey of historic sites and structures; reports

Sec. 18. (a) A:

(1) historic site or historic structure owned by the state; or

(2) historic site or historic structure listed on the state or national register;

may not be altered, demolished, or removed by a project funded, in whole or in part, by the state unless the review board has granted a certificate of approval.

(b) An application for a certificate of approval:

(1) must be filed with the division; and

(2) shall be granted or rejected by the review board after a public hearing.

(c) Subsections (a) and (b) do not apply to real property that is owned by a state educational institution.

(d) The commission for higher education and each state educational institution, in cooperation with the division of historic

preservation and archeology, shall develop and continually maintain a survey of historic sites and historic structures owned by the state educational institution. Historic sites and historic structures include buildings, structures, outdoor sculpture, designed landscapes, gardens, archeological sites, cemeteries, campus plans, and historic districts. A survey developed under this subsection must conform with the Indiana Historic Sites and Structures Survey Manual.

(e) The state historic preservation officer no later than one (1) year after receipt of a ten (10) year capital plan under IC 14-21-1-18.5 shall:

(1) review a proposed state educational institution project that involves a historic site or historic structure owned by a state educational institution; and

(2) submit an advisory report to the commission for higher education, the state educational institution, and the general assembly. An advisory report submitted under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.

(f) Not more than thirty (30) days after a state educational institution, under section 18.6 of this chapter, submits to the division a description of a proposed project that involves the substantial alteration, demolition, or removal of a historic site or historic structure, the state historic preservation officer shall:

(1) review the description of the proposed project; and

(2) submit to the state educational institution an advisory report concerning the proposed project.

The state educational institution shall review and consider the advisory report before proceeding with the substantial alteration, demolition, or removal of a historic site or historic structure.

As added by P.L.1-1995, SEC.14. Amended by P.L.135-1996, SEC.4; P.L.54-1997, SEC.8; P.L.28-2004, SEC.130; P.L.2-2007, SEC.172.

IC 14-21-1-18.5

State college or university to submit copy of capital plan regarding alteration or demolition of historic sites or structures

Sec. 18.5. When submitting its biennial budget request, a state educational institution must:

(1) submit to the division of historic preservation and archeology of the department of natural resources a copy of any ten (10) year capital plan of the state educational institution that is required by the budget agency or the commission for higher education; and

(2) identify the projects included in the capital plan that may involve the alteration or demolition of historic sites or structures.

As added by P.L.135-1996, SEC.5. Amended by P.L.2-2007, SEC.173.

IC 14-21-1-18.6

Alteration of historic sites or structures not identified in capital plan; submission of description; publication of notice

Sec. 18.6. (a) As used in this section, "substantial alteration" means a conspicuous, exterior material change in a historic site or historic structure which, in the good faith judgment of a state college or university, affects the historic character of the historic site or historic structure.

(b) If a proposed project of a state educational institution:

(1) involves the substantial alteration, demolition, or removal of a historic site or historic structure; and

(2) is not identified in a capital plan submitted to the division under section 18.5 of this chapter;

the state educational institution shall submit a description of the proposed project to the division and publish a notice describing the project one (1) time in a newspaper of general circulation in the county in which the proposed project is located. The submission of the description and the publication of the notice must be at least thirty (30) days before the commencement of the proposed project.

As added by P.L.54-1997, SEC.9. Amended by P.L.2-2007, SEC.174.

IC 14-21-1-19

Director as state historic preservation officer

Sec. 19. The director is designated as the state historic preservation officer.

As added by P.L.1-1995, SEC.14.

IC 14-21-1-20

Review board; establishment; members

Sec. 20. (a) The historic preservation review board is established.

(b) The review board consists of nine (9) members as follows:

(1) The director or the director's designee.

(2) At least five (5) individuals meeting minimum professional requirements established by the United States Department of the Interior in 36 CFR, Part 61, as in effect on January 1, 1984.

(3) Professionals in the following disciplines:

(A) History.

(B) Prehistoric or historic archeology.

(C) Architecture or historical architecture.

(c) The division director is a nonvoting advisor to the review board entitled to attend and participate in the proceedings of all meetings of the review board.

(d) The director shall, with the concurrence of the governor, appoint the members of the review board under subsection (b)(2) and (b)(3) for terms of three (3) years. The terms shall be staggered so that the terms of two (2) or three (3) members expire each year. A member may be reappointed.

(e) Appointments to the review board shall be made in accordance with 36 CFR, Part 60, and 36 CFR, Part 61, as in effect on January 1, 1984.

As added by P.L.1-1995, SEC.14. Amended by P.L.289-2013, SEC.4.

IC 14-21-1-21
Review board; chairman

Sec. 21. The director is chairman of the review board. The review board may select other officers that the review board determines.
As added by P.L.1-1995, SEC.14.

IC 14-21-1-22
Review board; duties

Sec. 22. (a) The review board shall carry out the duties:

(1) required by this chapter; and

(2) as required under 16 U.S.C. 470 et seq. and the regulations relating to 16 U.S.C. 470 et seq.

(b) The review board shall also advise the division and the department as requested by the director.
As added by P.L.1-1995, SEC.14.

IC 14-21-1-23
Review board; per diem compensation and traveling expenses

Sec. 23. (a) Each member of the review board who is not a state employee is entitled to the minimum salary per diem as provided in IC 4-10-11-2.1(b) for each day that the member is engaged in the official business of the committee. The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the review board who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.
As added by P.L.1-1995, SEC.14.

IC 14-21-1-24
Applicability of statutes regarding disturbance of grounds

Sec. 24. (a) As used in this section, "agricultural purpose" includes farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, ornamental horticulture, olericulture, pomiculture, animal husbandry, and poultry husbandry.

(b) Sections 25, 26, 28, and 29 of this chapter do not apply to the following:

(1) Surface coal mining regulated under IC 14-34.

(2) Cemeteries and human remains subject to IC 23-14.

(3) Disturbing the earth for an agricultural purpose.

(4) Collecting any object other than human remains that is

visible in whole or in part on the surface of the ground, regardless of the time the object was made or shaped.

(5) Qualified professional archeologists, as determined by the department, who conduct phase 1a archeological surveys according to guidelines adopted by the department.

As added by P.L.1-1995, SEC.14. Amended by P.L.26-2008, SEC.5.

IC 14-21-1-25

Rules concerning standards for plans; action on submitted plans

Sec. 25. (a) The commission shall adopt rules establishing standards for plans.

(b) With respect to archeological plans, the rules must impose a standard of conduct that does the following:

(1) Promotes the scientific investigation and conservation of past cultures.

(2) Considers the interests and expertise of amateur archeologists and professional archeologists.

(c) With respect to development plans, the rules must impose a standard of conduct that preserves and protects both of the following:

(1) The rights and interests of landowners.

(2) The sensitivity of human beings for treating human remains with respect and dignity, as determined by the commission.

(d) Subject to subsection (e), plans required under this chapter must be submitted to the department for approval according to rules adopted by the commission.

(e) Proposed plans submitted to the department must be:

(1) approved;

(2) denied; or

(3) held because of the need for additional information;

by the department not more than sixty (60) days after the date of submission. If the department does not take any action on the plan within the time required by this subsection, the plan is considered to be approved, unless approval is prohibited under a state or federal law. If the department requests additional information under subdivision (3), the department shall approve or deny the resubmitted plan not more than thirty (30) days after the resubmitted plan is received.

As added by P.L.1-1995, SEC.14. Amended by P.L.46-2000, SEC.9; P.L.26-2008, SEC.6.

IC 14-21-1-25.5

Notice of discovered burial ground; recommendations

Sec. 25.5. (a) If a Native American Indian burial ground is discovered, the department shall immediately provide notice to the Native American Indian affairs commission established by IC 4-23-32.

(b) If Native American Indian human remains are removed from a burial ground, the department shall provide the following to the Native American Indian affairs commission:

(1) Any written findings or reports that result from the analysis and study of the human remains.

(2) Written notice to the Native American Indian affairs commission that the analysis and study of the human remains are complete.

(c) After receiving written notice under subsection (b)(2), the Native American Indian affairs commission shall make recommendations to the department regarding the final disposition of the Native American Indian human remains.

As added by P.L.283-2003, SEC.2. Amended by P.L.133-2012, SEC.173.

IC 14-21-1-26

Disturbing ground to discover artifacts, burial objects, or human remains; penalty

Sec. 26. (a) A person who disturbs the ground for the purpose of discovering, uncovering, or moving artifacts, burial objects, or human remains must do so in accordance with a plan approved by the department under section 25 of this chapter or under IC 14-3-3.4-14 (before its repeal).

(b) A person who recklessly, knowingly, or intentionally violates this section commits the following:

(1) A Class A misdemeanor, if the violation does not involve disturbing human remains.

(2) A Level 6 felony, if the violation involves disturbing human remains.

As added by P.L.1-1995, SEC.14. Amended by P.L.26-2008, SEC.7; P.L.158-2013, SEC.200.

IC 14-21-1-26.5

Development plan requirements; penalty

Sec. 26.5. (a) Notwithstanding IC 23-14-44-1, this section does not apply to the following:

(1) A public utility (as defined in IC 8-1-2-1(a)).

(2) A corporation organized under IC 8-1-13.

(3) A municipally owned utility (as defined in IC 8-1-2-1(h)).

(4) A surface coal mining and reclamation operation permitted under IC 14-34.

(b) Except as provided in this subsection and subsections (c) and (d), a person may not disturb the ground within one hundred (100) feet of a burial ground for the purpose of excavating or covering over the ground or erecting, altering, or repairing any structure without having a development plan approved by the department under section 25 of this chapter or in violation of a development plan approved by the department under section 25 of this chapter. The department must review the development plan as required by section 25(e) of this chapter.

(c) A development plan:

(1) must be approved if a person intends to:

(A) excavate or cover over the ground; or
(B) construct a new structure or alter or repair an existing structure;
that would impact the burial ground or cemetery; and
(2) is not required if a person intends to:
(A) excavate or cover over the ground; or
(B) erect, alter, or repair an existing structure;
for an incidental or existing use that would not impact the burial ground or cemetery.

(d) A development plan for a governmental entity to disturb ground within one hundred (100) feet of a burial ground must be approved as follows:

(1) A development plan of a municipality requires approval of the executive of the municipality and does not require the approval of the department. However, if the burial ground or cemetery is located outside the municipality, approval is also required by the executive of the county where the burial ground or cemetery is located. A county cemetery commission established under IC 23-14-67-2 may advise the executive of the municipality on whether to approve a development plan.
(2) A development plan of a governmental entity other than:
(A) a municipality; or
(B) the state;
requires the approval of the executive of the county where the governmental entity is located and does not require the approval of the department. However, if the governmental entity is located in more than one (1) county, only the approval of the executive of the county where the burial ground or cemetery is located is required. A county cemetery commission established under IC 23-14-67-2 may advise the county executive on whether to approve a development plan.
(3) A development plan of the state requires the approval of the department.

(e) If a burial ground is within an archeological site, an archeological plan is required to be part of the development plan.

(f) A person who recklessly, knowingly, or intentionally violates this section commits a Class A misdemeanor. However, the offense is a Level 6 felony if the person disturbs buried human remains or grave markers while committing the offense.

As added by P.L.46-2000, SEC.10. Amended by P.L.177-2001, SEC.3; P.L.26-2008, SEC.8; P.L.158-2013, SEC.201.

IC 14-21-1-27

Duties when buried human remains or burial grounds are disturbed; penalty

Sec. 27. (a) A person who disturbs buried human remains or burial grounds shall do the following:

(1) Notify the department within two (2) business days of the time of the disturbance.

(2) Treat or rebury the human remains in a manner and place according to rules adopted by the commission or a court order and permit issued by the state department of health under IC 23-14-57.

(b) A person who recklessly, knowingly, or intentionally violates this section commits a Class A misdemeanor.

As added by P.L.1-1995, SEC.14. Amended by P.L.52-1997, SEC.4; P.L.14-2000, SEC.38; P.L.26-2008, SEC.9.

IC 14-21-1-28

Penalty for disturbing human remains or grave markers

Sec. 28. A person who recklessly, knowingly, or intentionally disturbs human remains or grave markers while moving, uncovering, or removing artifacts or burial objects either:

(1) without a plan approved by the department under:

(A) section 25 of this chapter; or

(B) IC 14-3-3.4-14 (before its repeal); or

(2) in violation of such a plan;

commits a Level 6 felony.

As added by P.L.1-1995, SEC.14. Amended by P.L.26-2008, SEC.10; P.L.158-2013, SEC.202.

IC 14-21-1-29

Duty upon discovering artifacts or burial objects; penalty

Sec. 29. (a) A person who discovers, uncovers, or moves an artifact or burial object while disturbing the ground for a purpose other than the discovery, uncovering, or moving of artifacts or burial objects shall do the following:

(1) Immediately cease disturbing the ground and the area within one hundred (100) feet of the artifact or burial object.

(2) Notify the department within two (2) business days after the time of the disturbance.

(b) After notification under subsection (a), the department may do any of the following:

(1) Authorize the person to continue the ground disturbing activity, with or without conditions.

(2) Require that continued ground disturbance activity be conducted only in accordance with an approved plan. However, this subdivision does not apply after ten (10) business days from the date that the department receives notice.

(c) A person who violates subsection (a) commits a Class A infraction.

As added by P.L.1-1995, SEC.14. Amended by P.L.26-2008, SEC.11.

IC 14-21-1-30

Amateur groups encouraged to establish codes of ethics

Sec. 30. The department shall actively encourage all groups of amateur archeologists to establish and maintain a code of ethics as a minimum guide for the conduct of searches for evidence from the life

and culture of past ages.
As added by P.L.1-1995, SEC.14.

IC 14-21-1-31
Adoption of rules

Sec. 31. (a) The commission shall adopt rules under IC 4-22-2 to implement this chapter.

(b) When adopting rules under this chapter the commission shall consider the following:

(1) The rights and interests of landowners.

(2) The sensitivity of human beings for treating human remains with respect and dignity.

(3) The value of history and archeology as a guide to human activity.

(4) The importance of amateur archeologists in making historical, cultural, and archeological discoveries.

(5) Applicable laws, standards, and guidelines for the conduct of archeology and codes of ethics for participation in archeology.

As added by P.L.1-1995, SEC.14.

IC 14-21-1-32
Confidential archeological site information

Sec. 32. (a) Subject to subsections (b) and (c), the division may keep reports and information concerning the location of historic and archeological sites confidential if the director of the division determines that disclosure would likely:

(1) risk harm to the historic or archeological site;

(2) cause a significant invasion of privacy; or

(3) impede the use of a traditional religious site by practitioners.

(b) The division may not disclose to the public reports and information required to be confidential under federal law.

(c) If the director of the division determines that reports and information should be confidential under subsection (a), the director of the department, in consultation with the director of the division, shall determine who may have access to the confidential reports and information.
As added by P.L.26-2008, SEC.12.

IC 14-21-1-33
Persons authorized to accompany conservation officers to determine violations

Sec. 33. An employee of the division or a person authorized by the department may accompany a conservation officer on public or private property to determine if there is a violation of this article.
As added by P.L.26-2008, SEC.13.

IC 14-21-1-34
Homeowner assistance program; archeology preservation trust

fund

Sec. 34. (a) The division may conduct a program to assist private homeowners who have accidentally discovered an artifact, a burial object, or human remains and who need assistance to comply with an approved plan to excavate or secure the site from further disturbance. The division may conduct the program alone or by entering into an agreement with any entity that the division selects.

(b) In conducting a program under subsection (a), the division may receive gifts and grants under terms, obligations, and liabilities that the director of the division considers appropriate. The director shall use a gift or grant received under this subsection:

(1) to carry out subsection (a); and

(2) according to the terms and obligations of the gift or grant.

(c) The auditor of state shall establish the archeology preservation trust fund to hold money received under subsection (b).

(d) The director of the division shall administer the archeology preservation trust fund. The expenses of administering the fund shall be paid from money in the trust fund.

(e) The treasurer of state shall invest the money in the archeology preservation trust fund that is not currently needed to meet the obligations of the fund in the same manner as other public trust funds may be invested. The treasurer of state shall deposit in the fund the interest that accrues from the investment of the fund.

(f) Money in the archeology preservation trust fund at the end of a state fiscal year does not revert to the state general fund. There is annually appropriated to the division the money in the archeology preservation trust fund for the division's use in carrying out the purposes of this section.

(g) The division may adopt rules under IC 4-22-2 to govern the administration of this section.

As added by P.L.26-2008, SEC.14.

IC 14-21-1-35

Restitution orders

Sec. 35. (a) In addition to:

(1) a:

(A) sentence imposed under this chapter for a felony or misdemeanor; or

(B) judgment imposed under this chapter for an infraction; and

(2) an order for restitution to a victim;

a court may order an individual to make restitution to the archeology preservation trust fund established under section 34 of this chapter for the division's costs incurred because of the offense committed by the individual.

(b) In ordering restitution under this section, the court shall consider the following:

(1) The schedule of costs submitted to the court by the division.

(2) The cost to the property owner to restore or repair the

damaged area of an archeological site or burial ground and place the property in the property's original condition as nearly as practicable.

(3) The amount of restitution that the individual is or will be able to pay.

(c) The court shall immediately forward to the division a copy of an order for restitution made under this section.

As added by P.L.26-2008, SEC.15.

IC 14-21-1-36

Possession of looted property; penalty

Sec. 36. A person who knowingly or intentionally receives, retains, or disposes of an artifact, a burial object, or human remains obtained in violation of this chapter commits possession of looted property, a Level 6 felony. However, the offense is a Level 5 felony if the fair market cost of carrying out a scientific archeological investigation of the area that was damaged to obtain the artifact, burial object, or human remains is at least one hundred thousand dollars ($100,000).

As added by P.L.26-2008, SEC.16. Amended by P.L.158-2013, SEC.203.

IC 14-21-2
Chapter 2. Cemetery Preservation

IC 14-21-2-1
Chapter exemptions

Sec. 1. This chapter does not apply to the following:

(1) A cemetery owner (as defined in IC 23-14-33-8) in the course of performing a legitimate function under IC 23-14 in relation to the owner's cemetery (as defined in IC 23-14-33-7).

(2) The owner of a grave memorial who, for the purpose of replacing a grave memorial with a different grave memorial, transfers ownership of the grave memorial to a cemetery, cemetery owner, or grave memorial provider.

As added by P.L.100-1999, SEC.1.

IC 14-21-2-2
"Grave memorial" defined

Sec. 2. As used in this chapter, "grave memorial" refers to a gravestone, monument, grave marker, or any other type of similar item.

As added by P.L.100-1999, SEC.1.

IC 14-21-2-3
Filing required following lawful removal of grave memorial

Sec. 3. (a) A person who lawfully removes a grave memorial must file the following with the county recorder of the county where the grave memorial was located before its removal:

(1) A precise description of all text appearing on the grave memorial including:

(A) names;

(B) dates;

(C) references to other individuals; and

(D) mementos.

(2) A photograph of the grave memorial.

(3) A written description and photograph of the location of the site from which the grave memorial was removed.

(b) A county recorder may collect a filing fee under IC 36-2-7-10 for filings under this section.

(c) A county recorder is:

(1) not required to obtain special recording equipment for the purpose of recording the information listed in subsection (a); and

(2) required to record only the information listed in subsection (a) that the recorder's current recording equipment can accommodate.

(d) The state board of accounts shall prescribe a form for recording the information listed in subsection (a). The form shall be available to the public at each local health department office.

As added by P.L.100-1999, SEC.1.

IC 14-21-2-4
Purchase or sale of items removed from cemetery prohibited

Sec. 4. A person may not buy or sell any of the following that have been removed from a cemetery:

(1) Grave memorial.
(2) Grave artifact.
(3) Grave ornamentation.
(4) Cemetery enclosure.
(5) Other commemorative item.

As added by P.L.100-1999, SEC.1.

IC 14-21-2-5
Violations

Sec. 5. A person who knowingly violates section 3 or 4 of this chapter commits a Class C misdemeanor.

As added by P.L.100-1999, SEC.1. Amended by P.L.195-2014, SEC.14.

IC 14-21-3

Chapter 3. Recording Interests in Property Containing a Burial Ground or Cemetery

IC 14-21-3-1

Recording requirements

Sec. 1. (a) Before a person may record any interest in property on which a burial ground or cemetery is known to be located, the owner of the property must record the deed to the property in the recorder's office of the county where the property is located. The bottom portion of the deed must state in capital letters in bold type that the deed pertains to property on which a burial ground or cemetery is known to be located.

(b) The county auditor shall send a copy of the deed to:

(1) the department; and

(2) the local cemetery board, or if no local cemetery board exists, to the county commissioners;

not later than thirty (30) days after the deed is recorded under subsection (a).

As added by P.L.46-2000, SEC.11.

IC 14-21-3-2

Effect on other recording requirements

Sec. 2. The recording that this chapter requires is in addition to any recording that may be required by IC 23-14-34-1.

As added by P.L.46-2000, SEC.11.

IC 14-21-3-3

Violations

Sec. 3. A person who violates section 1 of this chapter commits a Class C infraction.

As added by P.L.46-2000, SEC.11. Amended by P.L.195-2014, SEC.15.

IC 14-21-3-4

Confidentiality of information

Sec. 4. Nothing in this chapter may be construed to authorize violation of the confidentiality of information requirements of 16 U.S.C. 470(w) and 16 U.S.C. 470(h)(h).

As added by P.L.46-2000, SEC.11.

IC 14-21-3-5

Exceptions

Sec. 5. This chapter does not apply to the following:

(1) A public utility (as defined in IC 8-1-2-1(a)).

(2) A corporation organized under IC 8-1-13.

(3) A municipally owned utility (as defined in IC 8-1-2-1(h)).

(4) Property that has been subject to bonding or other financial

assurances released by the appropriate governmental agency after compliance with applicable state laws.

As added by P.L.46-2000, SEC.11.

IC 14-21-4
Repealed
(Repealed by P.L.133-2012, SEC.174.)

IC 14-21-5

Chapter 5. Access to Cemetery Land

IC 14-21-5-1

"Family member"

Sec. 1. As used in this chapter, "family member" means a relative or descendant of a person buried in a cemetery.

As added by P.L.68-2012, SEC.4.

IC 14-21-5-2

"Invitee"

Sec. 2. As used in this chapter, "invitee" means an individual who has been given permission by a landowner to visit a cemetery located on the landowner's property.

As added by P.L.68-2012, SEC.4.

IC 14-21-5-3

Access to cemetery land

Sec. 3. The owner of land that is classified under IC 6-1.1-6.8 as cemetery land must allow family members of persons buried in the cemetery at least three (3) days each year during which the family members may gain access to and visit the cemetery. The date or dates on which family members will visit the cemetery must be agreed upon between the landowner and the family members.

As added by P.L.68-2012, SEC.4.

IC 14-21-5-4

Immunity for injuries to family members and invitees granted access to cemetery land

Sec. 4. The following apply when a landowner grants access to a cemetery that is classified under IC 6-1.1-6.8:

(1) Except for an injury that is a direct result of a landowner's gross negligence or willful and wanton misconduct, the landowner is immune from civil liability for any injury occurring to the health, life, or property of an invitee or a family member during the time the invitee or family member is present on the landowner's property.

(2) Except for an injury that is a direct result of a guide's gross negligence or willful and wanton misconduct, a person guiding an invitee or a family member to the cemetery is immune from civil liability for any injury occurring to the health, life, or property of the invitee or family member during the time the guide and the invitee or family member are present on the landowner's property.

As added by P.L.68-2012, SEC.4.

IC 14-22

ARTICLE 22. FISH AND WILDLIFE

IC 14-22-1

Chapter 1. General Provisions

IC 14-22-1-1

Wild animals property of the people; department to protect and manage resources

Sec. 1. (a) All wild animals, except those that are:

(1) legally owned or being held in captivity under a license or permit as required by this article; or

(2) otherwise excepted in this article;

are the property of the people of Indiana.

(b) The department shall protect and properly manage the fish and wildlife resources of Indiana.

As added by P.L.1-1995, SEC.15.

IC 14-22-1-2

Applicability of article

Sec. 2. The regulatory provisions of this article do not apply to:

(1) agents or employees of the department; or

(2) police officers of the United States or Indiana;

while in performance of official duty.

As added by P.L.1-1995, SEC.15.

IC 14-22-1-3

Repealed

(As added by P.L.1-1995, SEC.15. Repealed by P.L.225-2005, SEC.26.)

IC 14-22-2

Chapter 2. Division of Fish and Wildlife

IC 14-22-2-1

"Public or private property" defined

Sec. 1. As used in this chapter, "public or private property" does not include barns, dwellings, or other buildings.

As added by P.L.1-1995, SEC.15.

IC 14-22-2-2

Administration of article

Sec. 2. The division of fish and wildlife shall administer this article.

As added by P.L.1-1995, SEC.15.

IC 14-22-2-3

Duties of director

Sec. 3. The director shall do the following:

(1) Provide for the protection, reproduction, care, management, survival, and regulation of wild animal populations regardless of whether the wild animals are present on public or private property in Indiana.

(2) Organize and pursue a program of research and management of wild animals that will serve the best interests of the resources and the people of Indiana.

As added by P.L.1-1995, SEC.15.

IC 14-22-2-4

Licenses and permits

Sec. 4. The director shall write and issue licenses and permits required by this article.

As added by P.L.1-1995, SEC.15.

IC 14-22-2-5

Entry onto property

Sec. 5. The director or the director's representative may, while in the performance of official duties, enter into or upon private or public property for the following purposes:

(1) Managing and protecting a wild animal found upon or within the property.

(2) Killing or removing a wild animal that is considered a nuisance or detrimental to overall populations.

As added by P.L.1-1995, SEC.15.

IC 14-22-2-6

Adoption of rules

Sec. 6. (a) The director shall adopt rules under IC 4-22-2 to do the following:

(1) Establish, open, close, lengthen, suspend, or shorten seasons.
(2) Establish bag, sex, and size limits.
(3) Establish limitations on the numbers of hunters and fishermen.
(4) Establish the methods, means, and time of:
(A) taking, chasing, transporting, and selling; or
(B) attempting to take, transport, or sell;
wild animals or exotic mammals, with or without dogs, in Indiana or in a designated part of Indiana.
(5) Establish other necessary rules to do the following:
(A) Administer this chapter.
(B) Properly manage wild animals or exotic mammals in a designated water or land area of Indiana.
(6) Set aside and designate land or water or parts of the land or water owned, controlled, or under contract or acquired by the state for conservation purposes as a public hunting and fishing ground under the restrictions, conditions, and limitations that are determined to be appropriate.

(b) Rules:
(1) may be adopted only after thorough investigation; and
(2) must be based upon data relative to the following:
(A) The welfare of the wild animal.
(B) The relationship of the wild animal to other animals.
(C) The welfare of the people.

(c) Whenever the director determines that it is necessary to adopt rules, the director shall comply with the following:
(1) Rules must clearly describe and set forth any applicable changes.
(2) The director shall make or cause to be made a periodic review of the rules.
(3) A copy of each rule, as long as the rule remains in force and effect, shall be included and printed in each official compilation of the Indiana fish and wildlife law.

(d) The director may modify or suspend a rule for a time not to exceed one (1) year under IC 4-22-2-37.1.
As added by P.L.1-1995, SEC.15.

IC 14-22-2-7
Revenue raising projects

Sec. 7. (a) The division may, with the approval of the director, engage in revenue raising projects, including the following:
(1) The sale of items made by employees of the department, purchased for resale, or taken on consignment for sale.
(2) The sale of the right or authority to market items, devices, or artwork owned or controlled by the department.
(3) The solicitation of gifts.
(4) The sale of nonmonetary gifts.

(b) All money raised under this section shall be deposited in the fish and wildlife fund.

As added by P.L.1-1995, SEC.15.

IC 14-22-3

Chapter 3. Fish and Wildlife Fund

IC 14-22-3-1

"Fund" defined

Sec. 1. As used in this chapter, "fund" refers to the fish and wildlife fund established by this chapter.

As added by P.L.1-1995, SEC.15.

IC 14-22-3-2

Establishment of fund

Sec. 2. The fish and wildlife fund is established.

As added by P.L.1-1995, SEC.15.

IC 14-22-3-3

Assets of fund

Sec. 3. The fund consists of the following:

(1) The money collected by each court that collects money due the department for violation of Indiana fish and wildlife law.

(2) Other money appropriated to or set apart for the fund.

As added by P.L.1-1995, SEC.15.

IC 14-22-3-4

Remittance and transfer of money; records

Sec. 4. (a) A court that collects money under section 3(1) of this chapter shall promptly remit the money to the department.

(b) The department shall, on the first day of each month, pay to the auditor of state all money received by the department under this section during the preceding month.

(c) The auditor of state shall keep a record of the money received and shall transfer the money to the treasurer of state.

As added by P.L.1-1995, SEC.15.

IC 14-22-3-5

Purposes of fund

Sec. 5. (a) Except as provided in subsection (b), the money in the fund shall be used for the following purposes:

(1) Protecting and propagating game, fish, and birds in Indiana.

(2) Paying the operational expenses of the following:

(A) The fish and wildlife division.

(B) The law enforcement division.

(3) Maintaining the automated point of sale licensing system implemented under IC 14-22-12-7.5. However, the amount that may be used under this subdivision during a fiscal year may not exceed the amount transferred on July 1 of that fiscal year under IC 14-22-4-6.

(b) Money in the fund that is attributable to money deposited under IC 33-37-7-9 shall be used to administer the following:

(1) The turn in a poacher program established under IC 14-9-8-23.

(2) The reward system established under the program.

As added by P.L.1-1995, SEC.15. Amended by P.L.186-2003, SEC.57; P.L.98-2004, SEC.95.

IC 14-22-4

Chapter 4. Lifetime Hunting, Fishing, and Trapping License Trust Fund

IC 14-22-4-1

"Fund" defined

Sec. 1. As used in this chapter, "fund" refers to the lifetime hunting, fishing, and trapping license trust fund established by this chapter.

As added by P.L.1-1995, SEC.15. Amended by P.L.17-1997, SEC.2.

IC 14-22-4-2

Establishment of fund

Sec. 2. The lifetime hunting, fishing, and trapping license trust fund is established.

As added by P.L.1-1995, SEC.15. Amended by P.L.17-1997, SEC.3.

IC 14-22-4-3

Administration of fund

Sec. 3. The department shall administer the fund.

As added by P.L.1-1995, SEC.15.

IC 14-22-4-4

Gifts

Sec. 4. The department may accept gifts to enrich the fund. The proceeds of the gifts shall be deposited in the fund.

As added by P.L.1-1995, SEC.15.

IC 14-22-4-5

Investments

Sec. 5. The treasurer of state shall invest the money in the fund in the same manner as the money in the state general fund. The treasurer of state shall deposit the proceeds from the investment earnings in the fund.

As added by P.L.1-1995, SEC.15.

IC 14-22-4-6

Purpose of fund

Sec. 6. (a) On July 1 of each year:

(1) all of the accumulated earnings in the fund; plus

(2) two and one-half percent (2 1/2%) of the money in the fund, less the accumulated earnings;

shall be transferred to the fish and wildlife fund to maintain the automated point of sale licensing system implemented under IC 14-22-12-7.5. Any unused part of the transfer under this subsection may be used for the other purposes specified in IC 14-22-3-5(a).

(b) The director:

(1) with the approval of the commission;
(2) with the approval of the budget agency; and
(3) after review by the budget committee;

may use money in the fund to acquire real property that will be used and managed for hunting and fishing. The money used under this subsection to acquire real property may not exceed fifty percent (50%) of the appraised value of the real property.

(c) The money in the fund may be used only for the purposes authorized in this section.

As added by P.L.1-1995, SEC.15. Amended by P.L.186-2003, SEC.58; P.L.132-2006, SEC.1.

IC 14-22-4-7

Reversion of money not provided for

Sec. 7. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.1-1995, SEC.15.

IC 14-22-5

Chapter 5. Deer Research and Management Fund

IC 14-22-5-1

"Fund" defined

Sec. 1. As used in this chapter, "fund" refers to the deer research and management fund established by this chapter.

As added by P.L.1-1995, SEC.15.

IC 14-22-5-2

Establishment of fund

Sec. 2. The deer research and management fund is established.

As added by P.L.1-1995, SEC.15.

IC 14-22-5-3

Administration of fund

Sec. 3. The department shall administer the fund.

As added by P.L.1-1995, SEC.15.

IC 14-22-5-4

Purpose of fund

Sec. 4. The money in the fund shall be used for deer research and management.

As added by P.L.1-1995, SEC.15.

IC 14-22-5-5

Reversion of money

Sec. 5. Money remaining in the fund at the end of a state fiscal year does not revert to the state general fund. If the fund is abolished, the money in the fund reverts to the fish and wildlife fund.

As added by P.L.1-1995, SEC.15.

IC 14-22-6

Chapter 6. Regulation of Birds and Mammals

IC 14-22-6-1

Taking of wild animals governed by laws and rules

Sec. 1. A person may not take, chase, or possess a wild animal, except as provided by:

(1) a statute; or

(2) a rule adopted under IC 4-22-2 to implement this article.

As added by P.L.1-1995, SEC.15.

IC 14-22-6-2

Migratory birds; taking governed by article

Sec. 2. A person may not:

(1) take, possess, sell, offer for sale, purchase, or offer to purchase;

(2) ship, transport, or carry; or

(3) deliver or receive for shipment, transportation, or carriage in any manner outside Indiana;

a migratory bird designated in this article or a part, nest, or egg of a migratory bird, except as otherwise permitted by this article.

As added by P.L.1-1995, SEC.15.

IC 14-22-6-3

Migratory birds; permit or license requirement

Sec. 3. A person may not take or possess for any purpose, during the closed season, a migratory bird or the nest, eggs, or increase of a migratory bird without having a permit or license issued by the director under this article.

As added by P.L.1-1995, SEC.15. Amended by P.L.69-2009, SEC.7.

IC 14-22-6-4

Trapping; tending traps

Sec. 4. A person may not do the following:

(1) Tend or visit a trap or remove a furbearing animal from a trap that is not the person's property without the permission of the owner.

(2) Fail to tend or visit or have tended or visited a trap and remove a furbearing animal from a trap that is the person's property within a period not exceeding twenty-four (24) hours.

As added by P.L.1-1995, SEC.15.

IC 14-22-6-5

Trapping; underwater box traps

Sec. 5. A person may trap furbearing animals with an underwater box trap during trapping season.

As added by P.L.1-1995, SEC.15.

IC 14-22-6-6
Trapping; snares

Sec. 6. (a) A person may not use a snare for the trapping of animals, except upon land owned by the user or with the written permission of the owner.

(b) A snare that permits a circumference of more than fifteen (15) inches may not be used for the trapping of animals unless:

(1) at least fifty percent (50%) of the loop of the snare is covered by water; or

(2) the snare employs a relaxing snare lock.

As added by P.L.1-1995, SEC.15. Amended by P.L.183-1995, SEC.1.

IC 14-22-6-7
Jacklighting prohibited

Sec. 7. (a) This section does not apply to an employee of the department, an employee of a federal wildlife management agency, or a person who:

(1) is acting in the performance of the employee's or a person's duties or in accordance with the conditions of a license; and

(2) has received the express written consent of the director for the employee's or person's action.

(b) An individual may not knowingly throw or cast the rays of any spotlight or other artificial light:

(1) not required by law on a motor vehicle; and

(2) in search of or upon any wild bird or wild animal;

from a vehicle while the person possesses a firearm, bow, or crossbow, if by throwing or casting the rays a wild bird or wild animal could be killed. This subsection applies even though the animal is not killed, injured, shot at, or otherwise pursued.

(c) An individual may not take any wildlife, except furbearing mammals, with the aid of illumination of any spotlight, searchlight, or other artificial light.

(d) An individual may not shine a spotlight, searchlight, or other artificial light for the purpose of taking, attempting to take, or assisting another person to take a deer.

As added by P.L.1-1995, SEC.15. Amended by P.L.13-2007, SEC.1; P.L.151-2012, SEC.10.

IC 14-22-6-8
Sale of wild birds or mammals governed by article

Sec. 8. (a) As used in this section, "sell" includes serving as a part of a meal by a restaurant, a hotel, a boardinghouse, or an eating house keeper.

(b) A person may not sell, offer to buy, trade, or offer to trade a wild bird or mammal, or meat from a wild bird or mammal, that:

(1) is live or dead; and

(2) is taken in:

(A) Indiana; or

(B) another state and brought into Indiana;

except as otherwise provided in this article.

(c) Proof that a bird or mammal was served constitutes prima facie evidence that the bird or mammal was served in violation of this article. However, a restaurant, a hotel, a boardinghouse, or an eating house keeper may prepare and serve during open season to:

(1) a guest, patron, or boarder; and

(2) the family of the guest, patron, or boarder;

a bird or mammal legally taken by the guest, patron, or boarder during the open season.

As added by P.L.1-1995, SEC.15.

IC 14-22-6-9

Shooting from or across public highways prohibited

Sec. 9. A person may not:

(1) hunt, shoot, shoot at, or kill an animal; or

(2) shoot at an object;

from within, into, upon, or across a public highway in Indiana.

As added by P.L.1-1995, SEC.15.

IC 14-22-6-10

Shooting into or across waters of the state

Sec. 10. A person may not shoot into or across:

(1) the waters of the state; or

(2) the boundary waters of the state;

except in the lawful pursuit of wild animals.

As added by P.L.1-1995, SEC.15.

IC 14-22-6-11

Repealed

(As added by P.L.1-1995, SEC.15. Amended by P.L.13-2007, SEC.2; P.L.151-2012, SEC.11. Repealed by P.L.289-2013, SEC.5.)

IC 14-22-6-12

Taking of coyotes

Sec. 12. A person:

(1) who possesses land; or

(2) designated in writing by a person who possesses land;

may take coyotes on the land at any time.

As added by P.L.1-1995, SEC.15.

IC 14-22-6-13

Controlled hunts in state parks

Sec. 13. If the director:

(1) determines that a species of wild animal present within a state park poses an unusual hazard to the health or safety of one (1) or more individuals;

(2) determines, based upon the opinion of a professional biologist, that it is likely that:

(A) a species of wild animal present within a state park will

cause obvious and measurable damage to the ecological balance within the state park; and

(B) the ecological balance within the state park will not be maintained unless action is taken to control the population of the species within the state park; or

(3) is required under a condition of a lease from the federal government to manage a particular wild animal species;

the director shall authorize the taking of a species within the state park under rules adopted under IC 4-22-2.

As added by P.L.47-1995, SEC.2. Amended by P.L.18-2009, SEC.1; P.L.140-2013, SEC.16; P.L.219-2014, SEC.23.

IC 14-22-6-14

Control of deer population; landowner assistance program

Sec. 14. (a) The:

(1) division of fish and wildlife of the department; and

(2) division of soil conservation established within the Indiana state department of agriculture by IC 15-11-4-1, through the soil and water conservation districts established under IC 14-32;

shall, in cooperation with other conservation education organizations and one (1) or more organizations of hunters, establish a program to help landowners with problems determined by the director to be caused by localized deer population.

(b) The program established under this section must educate landowners concerning the means by which a landowner can:

(1) control; or

(2) obtain assistance in controlling;

the deer population on the landowner's tract of land.

(c) Under the program established under this section, one (1) or more hunters or organizations of hunters may, upon request by a landowner, work with the department and the landowner to alleviate problems caused by localized deer populations.

(d) In each county, the division of fish and wildlife, in cooperation with the soil and water conservation district established within the county under IC 14-32, shall disseminate information about the program established under this section.

As added by P.L.47-1995, SEC.3. Amended by P.L.1-2006, SEC.213; P.L.2-2008, SEC.30; P.L.120-2008, SEC.7.

IC 14-22-7

Chapter 7. Migratory Waterfowl Stamp

IC 14-22-7-1

"Migratory waterfowl" defined

Sec. 1. As used in this chapter, "migratory waterfowl" means a wild goose, brant, or wild duck.

As added by P.L.1-1995, SEC.15.

IC 14-22-7-2

"Stamp" defined

Sec. 2. As used in this chapter, "stamp" refers to the migratory waterfowl stamp provided by this chapter.

As added by P.L.1-1995, SEC.15.

IC 14-22-7-3

Stamps; requirement; form

Sec. 3. (a) An individual may not hunt a migratory waterfowl within Indiana without having an electronically generated migratory waterfowl stamp issued by the department. The stamp must be in the possession of each individual hunting a migratory waterfowl. The licensee shall validate the stamp with the signature, in ink, of the licensee on the hunting license on which the electronically generated form of the stamp is attached.

(b) The department shall determine the form of the migratory waterfowl stamp and may create and sell commemorative migratory waterfowl stamps.

As added by P.L.1-1995, SEC.15. Amended by P.L.52-2002, SEC.1 and P.L.176-2002, SEC.7; P.L.225-2005, SEC.16; P.L.151-2012, SEC.12.

IC 14-22-7-4

Stamps; issuance, fee, and expiration

Sec. 4. (a) An electronically generated stamp shall be issued to each hunting license applicant or holder upon request and the payment of a fee of six dollars and seventy-five cents ($6.75). Each stamp expires on March 31 of the year following issuance.

(b) The department may set a license fee to hunt a migratory waterfowl above the fee established under subsection (a).

As added by P.L.1-1995, SEC.15. Amended by P.L.225-2005, SEC.17; P.L.151-2012, SEC.13; P.L.289-2013, SEC.6.

IC 14-22-7-5

Use of revenues

Sec. 5. (a) The department shall contract annually with an appropriate nonprofit organization to use fifty percent (50%) of the revenue collected under this chapter for development of waterfowl propagation areas. Before paying the revenue to a nonprofit corporation developing waterfowl areas, the department must obtain

evidence that the project is acceptable to the appropriate agency having jurisdiction over the land and water affected by the project.

(b) The department shall spend fifty percent (50%) of the revenue collected under this chapter:

(1) for the acquisition or development of wetlands in Indiana; or

(2) to participate in the joint funding of North American waterfowl management plans.

As added by P.L.1-1995, SEC.15.

IC 14-22-8

Chapter 8. Game Bird Habitat Restoration Stamp

IC 14-22-8-1

"Fund" defined

Sec. 1. As used in this chapter, "fund" refers to the game bird habitat restoration fund established by this chapter.

As added by P.L.1-1995, SEC.15.

IC 14-22-8-2

"Game bird" defined

Sec. 2. As used in this chapter, "game bird" means pheasant, quail, grouse, mourning dove, and wild turkey.

As added by P.L.1-1995, SEC.15. Amended by P.L.66-2008, SEC.9; P.L.69-2009, SEC.8.

IC 14-22-8-3

"Stamp" defined

Sec. 3. As used in this chapter, "stamp" refers to the game bird habitat restoration stamp provided by this chapter.

As added by P.L.1-1995, SEC.15.

IC 14-22-8-4

Stamps; requirement; form

Sec. 4. (a) An individual may not hunt a game bird within Indiana without having an electronically generated game bird habitat restoration stamp issued by the department. The stamp must be in the possession of each individual hunting a game bird. The licensee shall validate the stamp with the signature of the licensee on the hunting license on which the electronically generated form of the stamp is attached.

(b) The department shall determine the form of the stamp and may create and sell commemorative game bird habitat restoration stamps.

As added by P.L.1-1995, SEC.15. Amended by P.L.225-2005, SEC.18; P.L.151-2012, SEC.14.

IC 14-22-8-5

Stamps; issuance, fee, and expiration

Sec. 5. (a) An electronically generated stamp shall be issued to each hunting license applicant or holder upon request and the payment of a fee of six dollars and seventy-five cents ($6.75). Each stamp expires on March 31 of the year following issuance.

(b) The department may set a license fee to hunt a game bird above the fee established under subsection (a).

As added by P.L.1-1995, SEC.15. Amended by P.L.225-2005, SEC.19; P.L.289-2013, SEC.7.

IC 14-22-8-6

Fund

Sec. 6. (a) The game bird habitat restoration fund is established as a dedicated fund.

(b) The department shall administer the fund. The director may expend the money in the fund exclusively for the purpose of restoring the habitat of the various game birds in Indiana.

(c) The proceeds from the sale of stamps shall be deposited in the fund.

(d) Money in the fund does not revert to the state general fund at the end of a state fiscal year. If the fund is abolished, the contents revert to the fish and wildlife fund.

As added by P.L.1-1995, SEC.15.

IC 14-22-8-7

Powers and duties of department

Sec. 7. (a) The department shall contract for the development of game bird habitats in Indiana. Each contract must:

(1) be for at least three (3) years; and

(2) provide a plan for the development of habitat for at least one (1) species of game bird.

(b) The department may seek the cooperation of federal agencies such as the Agricultural Stabilization and Conservation Service or the Natural Resources Conservation Service in the development of habitat plans and compensation for habitat plans. Monetary compensation may not exceed the rate per acre per year as determined by the commission and each contract may provide that the site be open for regulated public game bird hunting.

(c) The department may purchase land in Indiana from willing sellers for the development of game bird habitats.

As added by P.L.1-1995, SEC.15. Amended by P.L.155-2015, SEC.10.

IC 14-22-9

Chapter 9. Regulation of Fishing

IC 14-22-9-1

Unlawful means of taking fish; special permits

Sec. 1. (a) Except as allowed by sections 3 and 11 of this chapter, an individual may not take fish from waters containing state owned fish, waters of the state, or boundary waters of the state by the following:

(1) Means of:

(A) a weir;

(B) an electric current;

(C) dynamite or other explosive;

(D) a net;

(E) a seine;

(F) a trap; or

(G) any other substance that has a tendency to stupefy or poison fish.

(2) Means of the following:

(A) A firearm.

(B) The hands alone.

(b) The methods or devices in this section may be possessed and used:

(1) under special permit issued by the director under rules that the director provides; or

(2) as otherwise provided by law.

As added by P.L.1-1995, SEC.15. Amended by P.L.165-2011, SEC.8; P.L.151-2012, SEC.15.

IC 14-22-9-2

Ice fishing

Sec. 2. (a) A person may not:

(1) ice fish; or

(2) attempt to ice fish;

in water of the state through a hole greater than twelve (12) inches in diameter.

(b) A house, shanty, or fully enclosed structure used in ice fishing must have the name and address of the owner clearly painted or otherwise indicated on the outside of the door of the structure. The door of the structure must be equipped with a latch of a nature that can be opened from the outside as well as from the inside. The structure may be of a temporary nature only and shall be removed from the ice before the ice leaves.

As added by P.L.1-1995, SEC.15.

IC 14-22-9-3

Fishing near dams

Sec. 3. A person may not use, set, cause to be used or set, take, or

attempt to take fish by means of:

(1) a trotline;
(2) a set line;
(3) a throw line;
(4) a net;
(5) a trap; or
(6) a seine;

except legal minnow seines or dip nets, within three hundred (300) yards of a dam that wholly or partly crosses a river, stream, or waterway in Indiana or the boundary water of the state.

As added by P.L.1-1995, SEC.15.

IC 14-22-9-4

Minnows and crayfish; unlawful transportation

Sec. 4. A bait dealer may not transport or hold live minnows or live crayfish in Indiana for any purpose in a manner or under the conditions that cause unnecessary loss and death of minnows. A violation of this section is sufficient cause for the division to revoke and seize a bait dealer's license.

As added by P.L.1-1995, SEC.15.

IC 14-22-9-5

Minnows and crayfish; transportation outside state

Sec. 5. (a) This section does not apply to a person engaged in commercially raising in private waters:

(1) minnows;
(2) crayfish; or
(3) game fish;

for the purpose of sale.

(b) As used in this section, "private waters" means water wholly on the land of an individual that:

(1) is not connected with public waters; and
(2) will not allow the ingress of fish.

(c) A person may not transport outside Indiana more than one hundred (100) minnows or one hundred (100) crayfish in a twenty-four (24) hour period.

As added by P.L.1-1995, SEC.15.

IC 14-22-9-6

Waste disposal

Sec. 6. All offal or filth of any kind accruing from the catching, curing, cleaning, or shipping of fish in or near the water of Lake Michigan shall be burned, buried, or otherwise disposed of in a sanitary manner that:

(1) does not pollute the water; and
(2) is not or does not become detrimental to public health or comfort.

As added by P.L.1-1995, SEC.15.

IC 14-22-9-7
Sale of fish

Sec. 7. (a) This section does not apply to the sale of fish produced in private ponds for sale or for breeding and stocking purposes, or for roe bearing species listed in IC 14-22-13-2.5(a), if the owner obtains a permit from the director under the rules adopted by the department and conditions provided in the permit.

(b) A person may not sell, barter, or exchange, offer to sell, barter, or exchange, or purchase or offer to purchase fish protected by law, whether taken in Indiana, the boundary waters of the state, or some other state and brought into Indiana, except as otherwise provided in this article. Restaurants, hotels, boardinghouses, or eating houses may prepare and serve during the open season to:

(1) a guest, patron, or boarder; and

(2) the family of the guest, patron, or boarder;

fish legally taken in open season in Indiana by the guest, patron, or boarder.

(c) Except for roe bearing species listed in IC 14-22-13-2.5(a) or as specifically prohibited by law, a person may sell a species of hatchery reared fish or fish legally taken outside Indiana under a valid commercial fishing license or regulation, dead or alive, dressed or undressed, or partly dressed under the rules that the department and the state department of health prescribe if the fish are tagged or labeled in a manner that specifically identifies the following:

(1) The name and address of the seller.

(2) The hatchery.

(3) The commercial fishing license or regulation.

(d) A person may not import and sell a live species of fish that has not been approved by the director without a permit from the director for this activity.

As added by P.L.1-1995, SEC.15. Amended by P.L.155-2015, SEC.11.

IC 14-22-9-8
Stocking fish in waters of the state

Sec. 8. Except as otherwise provided, a person may not stock fish in the following:

(1) Waters containing state owned fish.

(2) Waters of the state.

(3) Boundary waters of the state.

As added by P.L.1-1995, SEC.15.

IC 14-22-9-9
Obstruction of waterways; dams; fish ladders

Sec. 9. (a) This section does not apply to a downstream water release from an existing municipal or fire protection impoundment that has not impounded sufficient water for release.

(b) A person may not stretch, place, or set an obstruction, other than a dam, across a waterway of Indiana or boundary waters of the

state that prevents fish from ascending or descending a waterway.

(c) A person who owns, operates, or controls a dam:

(1) whose impounded water is withdrawn for municipal, industrial, electrical, agricultural, mining, or any other use; and

(2) across a waterway of Indiana or boundary water of Indiana whose watershed is greater than fifty (50) square miles;

may be required to incorporate into the structure sufficient water storage head to maintain during periods of minimum stream flow a downstream discharge equal to the inflow into the impoundment created by the dam and to maintain a sufficient head of water above the dam to support fish life. A person described in this subsection shall maintain during periods of minimum stream flow a downstream discharge equal to the inflow into the impoundment created by the dam.

(d) An owner of a dam across a waterway of Indiana or boundary water of Indiana whose watershed is greater than fifty (50) square miles may be required to construct and maintain the following:

(1) Fish ladders on the dam sufficient to allow the fish below the dam to pass over the dam into the water above the dam.

(2) A passageway around and over the dam sufficient to allow the upstream and downstream hand-carrying of small boats for the purpose of navigation.

The fish ladders or boat passage shall be constructed in the manner and of the materials that are prescribed by the director.

(e) The department shall enforce and administer this section.

(f) A person who violates this section commits a Class C infraction. Each day that a violation continues constitutes a separate offense.

(g) The remedy afforded by this section does not deprive an aggrieved person from seeking redress by any other remedy:

(1) provided by statute; or

(2) under law.

As added by P.L.1-1995, SEC.15.

IC 14-22-9-10

Control of aquatic vegetation

Sec. 10. (a) This section does not apply to the following:

(1) A privately owned lake, farm pond, or public or private drainage ditch.

(2) A landowner or tenant adjacent to public waters or boundary waters of the state, who chemically, mechanically, or physically controls aquatic vegetation in the immediate vicinity of a boat landing or bathing beach on or adjacent to the real property of the landowner or tenant if the following conditions exist:

(A) The area where vegetation is to be controlled does not exceed:

(i) twenty-five (25) feet along the legally established, average, or normal shoreline;

(ii) a water depth of six (6) feet; and

(iii) a total surface area of six hundred twenty-five (625) square feet.

(B) Control of vegetation does not occur in a public waterway of the state.

(b) A person may not chemically, mechanically, physically, or biologically control aquatic vegetation in the public waters or boundary waters of the state without a permit issued by the department. All procedures to control aquatic vegetation under this section shall be conducted in accordance with rules adopted by the department under IC 4-22-2.

(c) Upon receipt of an application for a permit to control aquatic vegetation and the payment of a fee of five dollars ($5), the department may issue a permit to the applicant. However, if the aquatic vegetation proposed to be controlled is present in a public water supply, the department may not, without prior written approval from the department of environmental management, approve a permit for chemical control of the aquatic vegetation.

(d) This section does not do any of the following:

(1) Act as a bar to a suit or cause of action by a person or governmental agency.

(2) Relieve the permittee from liability, rules, restrictions, or permits that may be required of the permittee by any other governmental agency.

(3) Affect water pollution control laws (as defined in IC 13-11-2-261) and the rules adopted under water pollution control laws (as defined in IC 13-11-2-261).

As added by P.L.1-1995, SEC.15. Amended by P.L.1-1996, SEC.64; P.L.19-2002, SEC.1.

IC 14-22-9-11

Invasive animal species reduction program

Sec. 11. (a) As used in this section, "motorboat" means a watercraft propelled by:

(1) an internal combustion, steam, or electrical inboard or outboard motor or engine; or

(2) any mechanical means.

The term does not include a personal watercraft.

(b) The director shall establish and implement a demonstration program for the purpose of containing and reducing invasive animal species in the Wabash River. In administering this program, the director may do any of the following:

(1) Allow the taking of a specific invasive animal species by a means described in section 1(a)(2) of this chapter.

(2) Require the use of ammunition described in 50 CFR 20.21(j).

(3) Require a hunting or fishing license under IC 14-22-12-1.

(4) Allow the taking of a specific invasive animal species to be taken from a motorboat.

(5) Establish any other limitations concerning the time, place, or

participants of a demonstration program.

(c) 312 IAC 9-2-2(d), as in effect July 1, 2011, does not apply to this section.

As added by P.L.165-2011, SEC.9. Amended by P.L.151-2012, SEC.16; P.L.219-2014, SEC.24.

IC 14-22-10
Chapter 10. Wildlife Regulation

IC 14-22-10-0.1
Application of certain amendments to chapter
Sec. 0.1. The amendments made to section 2 of this chapter by P.L.138-1997 apply to causes of action that accrue after June 30, 1997.
As added by P.L.220-2011, SEC.298.

IC 14-22-10-1
Consent to use private land
Sec. 1. A person may not:
(1) fish, hunt, trap, or chase;
(2) shoot with any kind of firearm or archery equipment;
(3) search for or gather any plant life (defined as the members of the kingdoms Fungi and Plantae); or
(4) search for or gather any artifacts (as defined in IC 14-21-1-2);
upon privately owned land without having the consent of the owner or tenant of the land.
As added by P.L.1-1995, SEC.15. Amended by P.L.186-2003, SEC.59.

IC 14-22-10-2
Restrictions on landowner liability to recreational users
Sec. 2. (a) As used in this section and section 2.5 of this chapter, "governmental entity" means any of the following:
(1) The government of the United States of America.
(2) The state of Indiana.
(3) A county.
(4) A city.
(5) A town.
(6) A township.
(7) The following, if created by the Constitution of the United States, the Constitution of the State of Indiana, a statute, an ordinance, a rule, or an order:
(A) An agency.
(B) A board.
(C) A commission.
(D) A committee.
(E) A council.
(F) A department.
(G) A district.
(H) A public body corporate and politic.
(b) As used in this section and section 2.5 of this chapter, "monetary consideration" means a fee or other charge for permission to go upon a tract of land. The term does not include:

(1) the gratuitous sharing of game, fish, or other products of the recreational use of the land;
(2) services rendered for the purpose of wildlife management; or
(3) contributions in kind made for the purpose of wildlife management.

(c) As used in this section and section 2.5 of this chapter, "owner" means a governmental entity or another person that:
(1) has a fee interest in;
(2) is a tenant, a lessee, or an occupant of; or
(3) is in control of;
a tract of land.

(d) A person who goes upon or through the premises, including caves, of another:
(1) with or without permission; and
(2) either:
(A) without the payment of monetary consideration; or
(B) with the payment of monetary consideration directly or indirectly on the person's behalf by an agency of the state or federal government;
for the purpose of swimming, camping, hiking, sightseeing, or any other purpose (other than the purposes described in section 2.5 of this chapter) does not have an assurance that the premises are safe for the purpose.

(e) The owner of the premises does not:
(1) assume responsibility; or
(2) incur liability;
for an injury to a person or property caused by an act or failure to act of other persons using the premises.

(f) This section does not affect the following:
(1) Existing Indiana case law on the liability of owners or possessors of premises with respect to the following:
(A) Business invitees in commercial establishments.
(B) Invited guests.
(2) The attractive nuisance doctrine.

(g) This section does not excuse the owner or occupant of premises from liability for injury to a person or property caused by a malicious or an illegal act of the owner or occupant.

As added by P.L.1-1995, SEC.15. Amended by P.L.178-1995, SEC.3; P.L.138-1997, SEC.2; P.L.75-1998, SEC.2.

IC 14-22-10-2.5

Restrictions on landowner liability to hunters, fishers, and trappers

Sec. 2.5. (a) A person who goes upon or through the premises, including caves, of another:
(1) with or without permission; and
(2) either:
(A) without the payment of monetary consideration; or
(B) with the payment of monetary consideration directly or

indirectly on the person's behalf by an agency of the state or federal government;

for the purpose of hunting, fishing, trapping, or preparing to hunt, fish, or trap, does not have an assurance that the premises are safe for that purpose.

(b) The owner of the premises does not:

(1) assume responsibility; or

(2) incur liability;

for an injury to a person or property caused by an act or failure to act of other persons using the premises.

(c) This section does not affect Indiana case law on the liability of owners or possessors of premises with respect to the following:

(1) Business invitees in commercial establishments.

(2) The attractive nuisance doctrine.

(d) This section does not excuse the owner or occupant of premises from liability for injury to a person or property caused by a malicious or an illegal act of the owner or occupant.

As added by P.L.75-1998, SEC.3.

IC 14-22-10-3

Transportation of fish and game outside state

Sec. 3. (a) An individual may not take, carry, ship, transport, or accept for shipment or transportation outside Indiana a wild animal protected by Indiana law, except as provided in this article.

(b) An individual having a license to use a commercial fishing device in Indiana may ship, carry, or transport outside Indiana fish that the individual has legally taken or caught by the commercial fishing device.

(c) An individual having a license to hunt, trap, or fish in Indiana may carry, transport, or ship outside Indiana, in open season, in one (1) day, a wild animal that the individual has legally taken in open season, not to exceed in number the possession limit of the wild animal.

(d) Hides and furs of furbearing animals legally taken in open season may be shipped or carried outside Indiana in any number:

(1) during the open season; or

(2) after open season as allowed by rule.

(e) An individual having a breeder's license may ship, carry, or transport outside Indiana a wild animal that the individual has legally possessed under the breeder's license in Indiana.

(f) An individual may not ship, carry, or transport or accept for transportation or shipment to a place in Indiana or outside Indiana a wild animal unless the wild animal is enclosed in a package or container on which there is clearly, legibly, and conspicuously marked on the outside of the package or container the following information:

(1) The name and address of the shipper and the consignee.

(2) An accurate statement of the number or quantities and kinds of wild animals contained.

The shipper shall produce the license required under this article authorizing the person to take or possess the wild animal. If the wild animal is carried by the licensee personally, the wild animal shall be carried openly for inspection, together with the license.

(g) An individual having a mussel buyer's license may ship legally taken mussels or mussel shells outside Indiana.

As added by P.L.1-1995, SEC.15. Amended by P.L.165-2011, SEC.10; P.L.151-2012, SEC.17.

IC 14-22-10-4

Possession of fish or game taken in foreign nation or state

Sec. 4. (a) A resident of Indiana who has a nonresident hunting or fishing license issued by another state or country may possess in Indiana the number of wild animals that the resident could and did legally kill, take, and possess under authority of the nonresident license in the state or country issuing the license, under the rules provided in this article.

(b) A person may not possess a wild animal taken, killed, and possessed in another state or country if the taking, killing, or possession of the wild animal is illegal in the state or country issuing the nonresident license.

As added by P.L.1-1995, SEC.15.

IC 14-22-10-5

Wild animals illegally taken or accidentally killed

Sec. 5. The title to a wild animal illegally taken or accidentally killed in violation of this article or IC 14-2 (before its repeal) does not vest in the taker of the wild animal, but remains in the state. The director shall do the following:

(1) Seize and confiscate the wild animal in the name of the state of Indiana.

(2) Sell or dispose of the wild animal.

(3) Deposit proceeds, if any, into the fish and wildlife fund.

As added by P.L.1-1995, SEC.15.

IC 14-22-10-6

Liability for destruction of wild animals by pollutant

Sec. 6. (a) A person who, whether or not the person has been issued a certificate of approval, license, permit, or other document of approval authorized by this article or any other Indiana law, discharges, sprays, or releases waste materials, chemicals, or other substances:

(1) either accidentally, negligently, or willfully;

(2) in any quantity, concentration, or manner onto or in any water of Indiana, the boundary waters of the state, or onto or in public or private land; and

(3) so that wild animals are killed as a result;

is responsible for the kill.

(b) The director shall, in the name of the state, recover damages,

including the cost of restoration, from the person. Upon receipt of the estimates of the damages caused, the director shall notify the person responsible within ninety (90) days after the kill to the wild animals, and the director may enter into a proper and reasonable settlement with the person. In determining the damages caused, the director may consider the following:

(1) The direct value of the wild animals killed.

(2) The direct value of law enforcement costs, including wages of investigating officers, cost of any materials used, and travel expenses.

(3) The value of damage to habitat, including injured vegetation, contaminated sediment, and dead invertebrate prey species.

(c) If the total sum of the values under subsection (b)(1), (b)(2), and (b)(3) exceeds five thousand dollars ($5,000) in damages, the director may consider the following in addition to the damages calculated under subsection (b):

(1) The decreased value of the habitat for the number of years necessary for the habitat to recover to predamaged conditions.

(2) The value of lost recreational fishing and hunting time, including future decreased value for the number of years necessary for the recreational use to recover to predamaged conditions.

(d) If a settlement is not reached within a reasonable time, the department shall initiate a proceeding under IC 4-21.5 and IC 14-10-2 to recover damages.

(e) The proceeds of a recovery shall be used to replace, as far as and as promptly as possible, in whatever manner the director considers proper, the wild animal population or habitat in the waters or lands in question. If the improvement of the wild animal population or habitat in question is not practicable, the proceeds shall be deposited into the fish and wildlife fund.

As added by P.L.1-1995, SEC.15. Amended by P.L.219-2014, SEC.25.

IC 14-22-10-7

Effort to retrieve crippled or killed wild animals

Sec. 7. A person may not kill or cripple a wild animal without making a reasonable effort to retrieve the animal and include the animal in the person's daily bag limit.

As added by P.L.1-1995, SEC.15.

IC 14-22-10-8

Fish and game preserves

Sec. 8. (a) The director may designate and set aside waters containing state owned fish and waters of the state (including any part of the boundary waters of the state) for the purpose of improvement and propagation of the wild animal population. The director shall designate the general extent and limits or periphery by erecting appropriate signs.

(b) A person may not remove or disturb the signs erected under subsection (a) without authorization.

(c) A person may not take, catch, kill, or pursue for the purpose of taking, catching, or killing a wild animal from a designated area during the time the area is designated.

As added by P.L.1-1995, SEC.15.

IC 14-22-10-9

Interstate agreements on boundary waters

Sec. 9. (a) If necessary for the better protection of wild animals in or on the boundary waters of the state, the director may enter into an interstate agreement or compact for and in behalf of the state with any other state bordering the waters through the administrative or executive officer granted similar power by the other state's legislature.

(b) An agreement or a compact may establish the following:

(1) Uniform open seasons on the animals in or on the water.

(2) Uniform restrictions on the type and amount of gear and the method of use.

(3) Uniform restrictions for weights or size of wild animals taken.

(4) Uniform method of measurement of mesh.

(5) Any other restriction on gear used or the possession or sale of wild animals taken from the water, if the restrictions are for the better protection of the wild animals in the water.

As added by P.L.1-1995, SEC.15.

IC 14-22-10-10

State as sole regulator

Sec. 10. (a) Except as provided in subsection (b), the state is the sole regulator of the trapping of wild animals in Indiana, and trapping is regulated only by:

(1) statutes; and

(2) rules adopted under IC 4-22-2 by authority of statute.

(b) A unit of local government may not regulate in any way the trapping of wild animals, except for the trapping of wild animals on or in land, buildings, or other real property that is owned by the unit of local government.

As added by P.L.52-2001, SEC.5.

IC 14-22-10-11

Regulation of raptors

Sec. 11. (a) As used in this section, "raptor" means a live migratory bird of the order Falconiformes or the order Strigiformes, other than a bald eagle (Haliaeetus leucocephalus) or a golden eagle (Aquila chrysaetos).

(b) Except as provided in subsection (c), a unit of local government may not regulate in any way the ownership, possession, sale, transfer, or transportation of a raptor while Indiana is on the list

of states meeting federal falconry standards maintained under 50 CFR 21.29(k).

(c) Subsection (b) does not apply to raptors on or in land, buildings, or other real property, other than a highway or public highway, that is owned by a unit of local government.

As added by P.L.52-2001, SEC.6.

IC 14-22-11

Chapter 11. Licenses and Permits; General Provisions

IC 14-22-11-1

"Farmland"; license requirements and conditions; public use airport manager reporting requirements

Sec. 1. (a) As used in this section, "farmland" means agricultural land that is:

(1) devoted or best adaptable for the production of crops, fruits, timber, and the raising of livestock; or

(2) assessed as agricultural land for property tax purposes.

(b) An individual may not take or chase, with or without dogs, a wild animal without having a license, except as follows:

(1) An individual who is a resident or nonresident of Indiana while participating in a field trial that has been sanctioned by the director is not required to possess a license while participating in the trial.

(2) Subject to subsection (d), an owner of farmland located in Indiana who is a resident or nonresident of Indiana and the spouse and children living with the owner may hunt, fish, and trap without a license on the land that the owner owns.

(3) A lessee of farmland who farms that land and is a resident of Indiana and the spouse and children living with the lessee may hunt, fish, and trap without a license on the leased land. This subdivision does not apply to land that is:

(A) owned, leased, or controlled by; and

(B) leased from;

the department.

(4) An individual who:

(A) is less than thirteen (13) years of age;

(B) does not possess a bow or firearm; and

(C) is accompanying an individual who:

(i) is at least eighteen (18) years of age; and

(ii) holds a valid license;

may chase a wild animal without having a license.

(5) The manager of a public use airport (as defined by 49 U.S.C. 47102(22)), or the manager's designee, may chase or take, except by trapping, at any time, without a license, a white-tailed deer, coyote, wild turkey, or migratory bird that poses a threat to aircraft within the airport operations area.

(c) The exceptions provided in this section do not apply to a commercial license issued under this article.

(d) The right of a nonresident who owns farmland in Indiana (and of the spouse and children who reside with the nonresident) to hunt, fish, and trap on the farmland without a license under subsection (b)(2) is subject to the following conditions:

(1) The nonresident may hunt, fish, and trap on the farmland without a license only if the state in which the nonresident resides allows residents of Indiana who own land in that state to

hunt, fish, and trap on their land without a license.

(2) While hunting, fishing, or trapping on the farmland, the nonresident must keep proof that the nonresident owns the farmland (for example, a tax receipt identifying the nonresident as owner) in a place where the proof is readily accessible by the nonresident.

(e) The manager of a public use airport (as defined by 49 U.S.C. 47102(22)), or the manager's designee, shall report annually to the department the following:

(1) The number of animals killed under subsection (b)(5) by species.

(2) The date the animal was taken.

(3) The name and address of the person who took the animal, other than a migratory bird.

(4) The disposition of the animal.

(5) The name and address of the person to whom the animal was given as a gift or donated (if applicable).

A copy of the report must be kept at the public use airport (as defined by 49 U.S.C. 47102(22)) and be available upon request to an employee of the department. White-tailed deer and wild turkeys must be tagged or accompanied by a piece of paper that includes the name and address of the person who took the deer or wild turkey, the date the deer or wild turkey was taken, and the location where the deer or wild turkey was taken before processing of the deer or wild turkey begins. However, it is not a violation of this subsection if the manager of a public use airport (as defined by 49 U.S.C. 47102(22)), or the manager's designee, fails to submit an annual report under this subsection, as long as the manager of a public use airport (as defined by 49 U.S.C. 47102(22)), or the manager's designee, provides the relevant information requested by the department not later than fourteen (14) calendar days after receiving a request from the department. If the manager of a public use airport (as defined by 49 U.S.C. 47102(22)) or the manager's designee does not provide the information requested by the department within the required fourteen (14) day period, the manager of the public use airport (as defined by 49 U.S.C. 47102(22)) and any designee of the manager are required to obtain a permit from the department to chase or take a wild animal during the following calendar year.

As added by P.L.1-1995, SEC.15. Amended by P.L.139-1997, SEC.1; P.L.25-1998, SEC.1; P.L.186-2003, SEC.60; P.L.194-2014, SEC.1.

IC 14-22-11-2

Repealed

(As added by P.L.1-1995, SEC.15. Repealed by P.L.151-2012, SEC.18.)

IC 14-22-11-3

License; issuance; form; electronic affirmation

Sec. 3. (a) An applicant for a hunting, trapping, or fishing license

must provide the applicant's Social Security number in order to obtain the license. Social Security numbers acquired under this subsection shall be kept confidential and used only to carry out the purposes of the Title IV-D program.

(b) The director and agents appointed by the director as authorized representatives of the department shall issue hunting, trapping, and fishing licenses.

(c) The clerk of the circuit court in each county may issue hunting, trapping, and fishing licenses.

(d) Each hunting, trapping, or fishing license must be in a form prescribed by the director. The director may furnish the clerks and agents with all necessary equipment needed to issue a license.

(e) All licenses, stamps, or permits purchased electronically are valid only with the original signature or electronic affirmation of the licensee on the form or device prescribed by the director. The licensee's signature or electronic affirmation serves as an affidavit that the license, stamp, or permit information is true and accurate.

(f) A person who violates the confidentiality requirement of subsection (a) commits a Class A infraction.

As added by P.L.1-1995, SEC.15. Amended by P.L.188-2001, SEC.2; P.L.52-2002, SEC.2; P.L.86-2002, SEC.4; P.L.176-2002, SEC.8; P.L.1-2003, SEC.59; P.L.225-2005, SEC.20; P.L.155-2015, SEC.12.

IC 14-22-11-4
License; expiration

Sec. 4. (a) Except as provided in IC 14-22-13-9 and IC 14-22-15-3, each yearly hunting or fishing license expires on March 31 immediately following the date on which the license became effective.

(b) A yearly trapping license expires on March 31 immediately following the date on which the license became effective.

As added by P.L.1-1995, SEC.15. Amended by P.L.17-1997, SEC.4; P.L.225-2005, SEC.21; P.L.289-2013, SEC.8.

IC 14-22-11-5
Hunter education

Sec. 5. (a) This section does not apply to an individual issued an apprentice license under IC 14-22-12-1.7.

(b) Except as provided in subsection (d), in addition to other requirements for obtaining a hunting license, a person born after December 31, 1986, must have successfully completed the course of instruction in hunter education offered by the department or the department's agent under IC 14-22-35.

(c) If an applicant for a hunting license who is subject to subsection (b) requests that a hunter education course be offered in the applicant's county of residence, the department or the department's agent shall offer a hunting safety course under IC 14-22-35 in the applicant's county of residence not more than ninety-two (92) days after receiving a request.

(d) An applicant for a hunting license who is born after December 31, 1986, and qualifies for a special circumstances hunting safety card under IC 14-22-12-1.8 must attend a hunter education course offered by the department or the department's agent under IC 14-22-35 but is not required to successfully complete the final exam.

As added by P.L.1-1995, SEC.15. Amended by P.L.14-2008, SEC.1; P.L.204-2014, SEC.1.

IC 14-22-11-6

Possession of hunting license

Sec. 6. Except as provided in sections 1 and 18 of this chapter, every person must have a hunting license in the person's possession when hunting.

As added by P.L.1-1995, SEC.15. Amended by P.L.132-2006, SEC.2.

IC 14-22-11-7

Possession of trapping license

Sec. 7. Except as provided in section 1 of this chapter, every person must have a trapping license in the person's possession when trapping.

As added by P.L.1-1995, SEC.15.

IC 14-22-11-8

Fishing license and trout - salmon stamp requirements; exceptions

Sec. 8. (a) This section does not apply to the following:

(1) A person who is:

(A) a resident of Indiana; and

(B) an individual born before April 1, 1943.

(2) A person who is less than eighteen (18) years of age.

(3) A person who is legally blind.

(4) A person who is a resident patient of a state mental institution.

(5) A person who is:

(A) a resident of a health facility (as defined in IC 16-18-2-167) licensed in Indiana; and

(B) taking part in a supervised activity of the health facility.

(6) A person who:

(A) is a resident of Indiana; and

(B) has a developmental disability (as defined by IC 12-7-2-61).

(7) A person whose only participation in fishing is to assist an individual described in subdivision (3), (4), (5), or (6).

(8) A resident of Indiana who fishes during a free sport fishing day designated under IC 14-22-18.

(b) Every person must have a fishing license in the person's possession when fishing in:

(1) waters containing state owned fish;

(2) waters of the state; or

(3) boundary waters of the state.

(c) Every person must have a valid electronically generated trout-salmon stamp in the person's possession to legally fish for or take trout or salmon in:

(1) waters containing state owned fish;

(2) waters of the state; or

(3) boundary waters of the state.

As added by P.L.1-1995, SEC.15. Amended by P.L.84-2000, SEC.1; P.L.149-2002, SEC.1; P.L.14-2007, SEC.1; P.L.18-2009, SEC.2; P.L.155-2015, SEC.13.

IC 14-22-11-9

Special licenses

Sec. 9. If a special hunting, trapping, or fishing license is issued, a regular license is not required.

As added by P.L.1-1995, SEC.15.

IC 14-22-11-10

Resident licenses for nonresidents

Sec. 10. (a) A nonresident of Indiana who is on active duty with a branch or department of the armed forces of the United States while stationed in Indiana may hunt or fish in Indiana after obtaining the proper resident license. A nonresident described in this subsection must carry on the nonresident's person, when fishing or hunting, the license and a card or other evidence that identifies the nonresident as an individual qualified to obtain a license under this subsection.

(b) A nonresident of Indiana who:

(1) is less than eighteen (18) years of age; and

(2) has a parent, grandparent, or legal guardian who is a resident of Indiana;

may hunt, fish, or trap in Indiana after obtaining the proper resident license.

As added by P.L.1-1995, SEC.15. Amended by P.L.77-2000, SEC.1; P.L.151-2012, SEC.19.

IC 14-22-11-11

Resident members of armed forces

Sec. 11. A resident of Indiana on leave from the armed forces of the United States may hunt or fish any species in season without a license for the duration of the person's leave. However, when the person is hunting or fishing, the person must show the person's leave orders and motor vehicle operator's license or voter registration card to prove residence in Indiana to a law enforcement officer requesting to see the leave orders and license or card.

As added by P.L.1-1995, SEC.15.

IC 14-22-11-12

Form; scope of rules or restrictions

Sec. 12. (a) Each license, permit, certificate, seal, stamp, tag,

order, and rule required or authorized by this article must be in the form prescribed by the director, unless otherwise provided in this article.

(b) A rule or restriction that the director is authorized by this article to make or prescribe and incorporate in or attach to a license or permit issued under this article means only the rules or restrictions that are:

(1) necessary and proper for adequate protection or propagation of wild animals; or

(2) necessary to promote the general purpose of this article.

As added by P.L.1-1995, SEC.15.

IC 14-22-11-13

Resident license falsely procured by nonresident

Sec. 13. (a) A nonresident of Indiana may not represent falsely to an officer or agent authorized to sell a license or permit under this article that the nonresident is a resident of Indiana for the purpose of procuring a resident license or permit under this article.

(b) A license or permit procured by violating this section:

(1) is void; and

(2) does not confer a right or privilege to engage in the pursuit mentioned in the license or permit.

As added by P.L.1-1995, SEC.15.

IC 14-22-11-14

Possession; display to enforcement officers; alteration

Sec. 14. (a) A person who has procured a license or permit required under this article must have the license or permit on the person when engaged in the pursuit for which the license or permit was issued. Upon request of an officer authorized to enforce this article or the fish and wildlife laws of Indiana, the person must produce and exhibit the license or permit. If the person does not produce and exhibit the license or permit, the person may not engage in the pursuit authorized by the license or permit.

(b) A person or an authorized licensing agent may not falsify, predate, change, alter, or counterfeit a license or permit issued under this article.

As added by P.L.1-1995, SEC.15.

IC 14-22-11-15

Compliance with laws and rules express condition of license or permit; revocation; hearing

Sec. 15. (a) Each license and permit issued under this article is issued upon the express condition, to which the licensee or permittee by acceptance of the license or permit is considered to agree and consent, that the licensee or permittee will obey and comply with the following:

(1) All the terms, conditions, and rules:

(A) made by the director under this article; and

(B) incorporated in or attached to the license or permit when issued.

(2) This article.

(3) A wildlife law (as defined by IC 14-22-41-4(p)) while the licensee is in another jurisdiction that has adopted the wildlife violator compact (IC 14-22-41).

(b) A license or permit may be revoked by the director at any time without refund for any of the following:

(1) Failure to comply with or violation of the terms, conditions, rules, or restrictions incorporated in or attached to the license or permit when issued.

(2) Violation of this article.

(3) Violation of a wildlife law (as defined by IC 14-22-41-4(p)) while the licensee is in another jurisdiction that has adopted the wildlife violator compact (IC 14-22-41).

(c) A person whose license or permit has been revoked by the director under this article may, by written request to the director, have a hearing on the revocation. Upon receipt of written request for a hearing on the revocation, the director shall do the following:

(1) Set a date for the hearing, which may not be more than fifteen (15) days from the date of receipt of the request.

(2) Give the person requesting the hearing at least five (5) days notice of the date of the hearing, which shall be held in the office of the director.

(3) Receive and keep a record of all evidence presented by the person.

(4) After considering the evidence presented at the hearing, rescind or affirm the order revoking the license or permit.

(d) Every court having jurisdiction of an offense committed in violation of an Indiana law for the protection of wildlife may, at the court's discretion, revoke the license of the offender for any of the following periods:

(1) Thirty (30) days.

(2) Sixty (60) days.

(3) Ninety (90) days.

(4) One (1) year.

(e) After a revocation, the court shall forward to the division a record of the conviction of the person in the court for a violation of the law. At the time of the conviction, the court shall do the following:

(1) Obtain the license certificate of the defendant.

(2) Return the license certificate to the division.

As added by P.L.1-1995, SEC.15. Amended by P.L.23-1999, SEC.1; P.L.14-2000, SEC.39.

IC 14-22-11-16

Interstate agreements regarding boundary waters and Ohio River

Sec. 16. (a) If a state bordering Indiana permits the holder of an Indiana resident fishing license to fish in the bordering state's part of

public waters forming a common boundary line between the bordering state and Indiana without obtaining a nonresident fishing license issued by the bordering state, the director may enter into an interstate agreement on behalf of Indiana with the bordering state to permit the holder of an equivalent resident fishing license of the bordering state to fish in the Indiana part of the waters without obtaining an Indiana nonresident fishing license.

(b) The director may, on behalf of Indiana, enter into a reciprocal agreement with Kentucky that recognizes a hunting or trapping license issued by either state as valid on the other state's part of the main stem of the Ohio River.

As added by P.L.1-1995, SEC.15.

IC 14-22-11-17

Violations

Sec. 17. A person who violates section 6, 7, or 8 of this chapter commits a Class C infraction.

As added by P.L.1-1995, SEC.15.

IC 14-22-11-18

Free hunting days

Sec. 18. (a) The director may designate not more than four (4) days each year as free hunting days for youth hunters.

(b) During a free hunting day for youth hunters designated under subsection (a), a resident who is less than eighteen (18) years of age may:

(1) hunt using hunting methods that are designated by the director and that are legal for that hunting season; and

(2) exercise the same privileges that a resident is entitled to under IC 14-22-12-1(24).

A youth hunter is not required to pay a fee or possess a hunting license.

(c) A youth hunter who hunts during a free hunting day for youth hunters under this section must:

(1) comply with the conditions and rules adopted by the director; and

(2) be accompanied by an individual who:

(A) is at least eighteen (18) years of age; and

(B) holds a valid hunting license under IC 14-22-12 or is not required to have a hunting license under this chapter.

(d) The individual under subsection (c)(2) who accompanies the youth hunter:

(1) must be in close enough proximity to monitor the youth hunter's activities and communicate with the youth hunter at all times; and

(2) may assist the youth hunter, including calling, but may not carry a firearm or bow and arrow.

As added by P.L.132-2006, SEC.3. Amended by P.L.18-2009, SEC.3.

IC 14-22-11-19

Antlered deer license lottery; rules

Sec. 19. (a) The department may adopt rules under IC 4-22-2 to establish and operate a lottery system to allow an individual to purchase a license to take more than one (1) antlered deer within a one (1) year period.

(b) The rules adopted under subsection (a) must include the following provisions:

(1) A provision stating that an individual must have held and used a valid license to take a deer under IC 14-22-12 within the same year in order to participate in the lottery under this section.

(2) A provision stating that the fee for participating in the lottery under this section is thirty dollars ($30).

(3) A provision stating that the drawing for the lottery under this section will be held on December 15.

(4) A provision stating that there will be only one hundred (100) licenses awarded under the lottery.

(5) A provision stating that the season for the deer hunt for which a license is awarded under the lottery is the first week of January.

As added by P.L.22-2015, SEC.1.

IC 14-22-12

Chapter 12. License Fees and Sales

IC 14-22-12-1

Types of hunting, fishing, and trapping licenses; fees; donations

Sec. 1. (a) The department may issue the following licenses individually or in combination and, except as provided in section 1.5 of this chapter and subject to subsection (b), shall charge the following minimum license fees to hunt, trap, or fish in Indiana:

(1) A resident yearly license to fish, eight dollars and seventy-five cents ($8.75).

(2) A resident yearly license to hunt, eight dollars and seventy-five cents ($8.75).

(3) A resident yearly license to hunt and fish, thirteen dollars and seventy-five cents ($13.75).

(4) A resident yearly license to trap, eight dollars and seventy-five cents ($8.75).

(5) A nonresident yearly license to fish, twenty-four dollars and seventy-five cents ($24.75).

(6) A nonresident yearly license to hunt, sixty dollars and seventy-five cents ($60.75).

(7) A nonresident yearly license to trap, one hundred seventeen dollars and seventy-five cents ($117.75).

(8) A resident or nonresident license to fish, including for trout and salmon, for one (1) day only, four dollars and seventy-five cents ($4.75).

(9) A nonresident license to fish, excluding for trout and salmon, for seven (7) days only, twelve dollars and seventy-five cents ($12.75).

(10) A nonresident license to hunt for five (5) consecutive days only, twenty-five dollars and seventy-five cents ($25.75).

(11) A resident or nonresident yearly electronically generated stamp to fish for trout and salmon, six dollars and seventy-five cents ($6.75).

(12) A resident yearly license to take a deer with a shotgun, muzzle loading gun, rifle, or handgun, thirteen dollars and seventy-five cents ($13.75).

(13) A resident yearly license to take a deer with a muzzle loading gun, thirteen dollars and seventy-five cents ($13.75).

(14) A resident yearly license to take a deer with a bow and arrow, thirteen dollars and seventy-five cents ($13.75).

(15) A nonresident yearly license to take a deer with a shotgun, muzzle loading gun, rifle, or handgun, one hundred twenty dollars and seventy-five cents ($120.75).

(16) A nonresident yearly license to take a deer with a muzzle loading gun, one hundred twenty dollars and seventy-five cents ($120.75).

(17) A nonresident yearly license to take a deer with a bow and

arrow, one hundred twenty dollars and seventy-five cents ($120.75).

(18) A resident license to take an extra deer by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, five dollars ($5).

(19) A nonresident license to take an extra deer by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, ten dollars ($10).

(20) A resident yearly license to take a turkey, fourteen dollars and seventy-five cents ($14.75).

(21) A nonresident yearly license to take a turkey, one hundred fourteen dollars and seventy-five cents ($114.75).

(22) A resident license to take an extra turkey by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, fourteen dollars and seventy-five cents ($14.75).

(23) A nonresident license to take an extra turkey by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, one hundred fourteen dollars and seventy-five cents ($114.75).

(24) A resident youth yearly consolidated license to hunt, trap, and fish, six dollars ($6). This license is subject to the following:

(A) An applicant must be less than eighteen (18) years of age.

(B) The license is in lieu of the resident yearly license to hunt, trap, and fish and all other yearly licenses, stamps, or permits to hunt, trap, and fish for a specific species or by a specific means.

(25) A nonresident youth yearly license to hunt, seventeen dollars ($17). The applicant must be less than eighteen (18) years of age.

(26) A nonresident youth yearly license to trap, seventeen dollars ($17). The applicant must be less than eighteen (18) years of age.

(27) A nonresident youth yearly license to take a turkey, twenty-five dollars ($25). The applicant must be less than eighteen (18) years of age.

(28) A nonresident youth license to take an extra turkey by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, twenty-five dollars ($25). The applicant must be less than eighteen (18) years of age.

(29) A nonresident youth yearly license to take a deer with a shotgun, muzzle loading gun, or rifle, twenty-four dollars ($24). The applicant must be less than eighteen (18) years of age.

(30) A nonresident youth yearly license to take a deer with a muzzle loading gun, twenty-four dollars ($24). The applicant must be less than eighteen (18) years of age.

(31) A nonresident youth yearly license to take a deer with a bow and arrow, twenty-four dollars ($24). The applicant must be less than eighteen (18) years of age.

(32) A nonresident youth license to take an extra deer by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, twenty-four dollars ($24). The applicant must be less than eighteen (18) years of age.

(33) A resident senior yearly license to fish, three dollars ($3). This license is subject to the following:

(A) An applicant must be at least sixty-four (64) years of age and born after March 31, 1943.

(B) The license is in lieu of the resident yearly license to fish and all other yearly licenses, stamps, or permits to fish for a specific species or by a specific means.

(34) A resident senior "fish for life" license, seventeen dollars ($17). This license is subject to the following:

(A) An applicant must be at least sixty-four (64) years of age and must have been born after March 31, 1943.

(B) The license applies each year for the remainder of the license holder's life.

(C) The license is in lieu of the resident senior yearly license to fish and all other yearly licenses, stamps, or permits to fish for a specific species or by a specific means.

(35) A voluntary resident senior yearly license to fish, three dollars ($3). This license is subject to the following:

(A) An applicant must have been born before April 1, 1943.

(B) The license is instead of the resident yearly license to fish and all other yearly licenses, stamps, and permits to fish for a specific species or by a specific means.

(b) The commission may set license fees to hunt, trap, or fish above the minimum fees established under subsection (a).

(c) In addition to the license fees set under this section, the department shall establish a procedure to collect voluntary donations for processing wild game when a hunting license is sold. The minimum suggested donation must be one dollar ($1). The money collected under this section shall be deposited in the Indiana sportsmen's benevolence account (IC 14-9-5-4).

As added by P.L.1-1995, SEC.15. Amended by P.L.219-1999, SEC.1; P.L.140-1999, SEC.1; P.L.14-2000, SEC.40; P.L.1-2001, SEC.23; P.L.188-2001, SEC.3; P.L.1-2002, SEC.70; P.L.132-2006, SEC.4; P.L.14-2007, SEC.2; P.L.66-2008, SEC.10; P.L.18-2009, SEC.4; P.L.69-2009, SEC.9; P.L.46-2010, SEC.2; P.L.165-2011, SEC.11; P.L.289-2013, SEC.9; P.L.155-2015, SEC.14.

IC 14-22-12-1.5

"Qualified individual"; reduced fee licenses

Sec. 1.5. (a) As used in this section, "qualified individual" means an individual who:

(1) is a resident of Indiana;
(2) has served in the armed forces of the United States; and
(3) has a service connected disability, as evidenced by:
(A) records of the United States Department of Veterans Affairs; or
(B) disability retirement benefits awarded to the individual under laws administered by the United States Department of Defense.

(b) A qualified individual is entitled to reduced fee hunting and fishing licenses under this section.

(c) Each year a qualified individual may obtain:
(1) both:
(A) a resident yearly license to fish; and
(B) a resident yearly license to hunt; or
(2) a resident yearly license to hunt and fish;
by paying a reduced license fee of two dollars and seventy-five cents ($2.75) instead of the fee prescribed by section 1 of this chapter.

(d) Each decade a qualified individual may obtain:
(1) both:
(A) a resident license to fish that is valid for ten (10) years; and
(B) a resident license to hunt that is valid for ten (10) years; or
(2) a resident license to hunt and fish that is valid for ten (10) years;
by paying a reduced license fee of twenty-seven dollars and fifty cents ($27.50).

(e) An applicant for a reduced fee license under this section must do the following:
(1) Request the license from:
(A) the department;
(B) an agent appointed by the director under IC 14-22-11-3; or
(C) the clerk of the circuit court who is an authorized representative of the department under IC 14-22-11-3 in the county in which the individual resides.
(2) Present evidence that the applicant is a qualified individual.

As added by P.L.188-2001, SEC.4. Amended by P.L.151-2012, SEC.20.

IC 14-22-12-1.6
Repealed

(As added by P.L.188-2001, SEC.5. Repealed by P.L.2-2005, SEC.131.)

IC 14-22-12-1.7
Apprentice hunting license

Sec. 1.7. (a) As used in this section, "apprentice hunter" means an individual who hunts under an apprentice hunting license issued

under this section.

(b) The department may issue an apprentice hunting license to a resident or nonresident in lieu of any hunting license authorized under section 1 of this chapter.

(c) The commission shall establish a fee to be paid by an applicant for an apprentice hunting license issued under this section.

(d) An apprentice hunter may hunt in Indiana without completing the course of instruction in hunter education offered by the department or the department's agent under IC 14-22-35.

(e) An apprentice hunter must:

(1) comply with the requirements under this article and the rules adopted by the director; and

(2) while hunting be accompanied by an individual who:

(A) is at least eighteen (18) years of age; and

(B) either holds a valid hunting license issued under this chapter or is not required to have a hunting license under IC 14-22-11.

(f) An individual described in subsection (e)(2) who accompanies an apprentice hunter:

(1) must be in close enough proximity to monitor the apprentice hunter's activities and communicate with the apprentice hunter at all times; and

(2) may not accompany more than two (2) holders of an apprentice hunting license at one (1) time.

(g) An individual may not purchase more than three (3) apprentice hunting licenses of any type during the individual's lifetime.

As added by P.L.14-2008, SEC.2.

IC 14-22-12-1.8

Special circumstances hunter; card

Sec. 1.8. (a) As used in this section, "individual with special circumstances" means an individual who:

(1) has a developmental disability (as defined by IC 12-7-2-61);

(2) is determined to be a student with a disability (as defined in IC 20-35-1-8); or

(3) has a permanent disability as determined by rules adopted by the department.

(b) As used in this section, "special circumstances hunter" means an individual with special circumstances who hunts under a special circumstances hunting safety card issued under this section.

(c) As used in this section, "special circumstances hunting safety card" refers to the card issued to a special circumstances hunter.

(d) The department may issue a special circumstances hunting safety card to a resident or nonresident who qualifies under the rules adopted by the department as authorized under this section.

(e) The commission shall establish the criteria for determining qualifications for a special circumstances hunting safety card.

(f) A special circumstances hunter may hunt in Indiana if the special circumstances hunter attends the course of instruction in

hunter education offered by the department or the department's agent under IC 14-22-35.

(g) A special circumstances hunter must:

(1) comply with the requirements under this article, including obtaining a valid hunting license issued under IC 14-22-11, and the rules adopted by the department; and

(2) while hunting, be accompanied by an individual who:

(A) is at least eighteen (18) years of age; and

(B) holds a valid hunting license issued under IC 14-22-11.

(h) An individual described in subsection (g)(2) who accompanies a special circumstances hunter:

(1) must be in close enough proximity to monitor the special circumstances hunter's activities and communicate with the special circumstances hunter at all times; and

(2) may not accompany more than two (2) holders of a special circumstances hunting safety card at one (1) time.

(i) The department shall adopt rules under IC 4-22-2 to carry out this section.

As added by P.L.204-2014, SEC.2. Amended by P.L.233-2015, SEC.26.

IC 14-22-12-2

Use of fees to increase upland game bird population

Sec. 2. Except for a license sold under IC 14-22-31-8, the department shall use the following to increase the upland game bird population in Indiana:

(1) Four dollars ($4) from the cost of every nonresident license to hunt any game for any period in any manner.

(2) Forty dollars ($40) from the cost of every nonresident license to hunt deer for any period in any manner.

As added by P.L.1-1995, SEC.15. Amended by P.L.289-2013, SEC.10.

IC 14-22-12-3

Deposits in deer research and management fund

Sec. 3. The department shall deposit in the deer research and management fund twenty dollars ($20) from the cost of every nonresident license to hunt deer for any time in any manner.

As added by P.L.1-1995, SEC.15.

IC 14-22-12-4

Distinctive form of license

Sec. 4. (a) To encourage donations to the fish and wildlife fund, the department may issue on a distinctive form a limited number of any license authorized under section 1 of this chapter.

(b) The charge for a license issued under this section, which includes the license fee plus a donation to the fish and wildlife fund, may not be less than fifty dollars ($50). The money collected for a license under this section that exceeds the license fee under section

1 of this chapter shall be placed in the fish and wildlife fund.

(c) The holder of a license issued under this section is not entitled to any privileges in addition to those provided by a license issued under section 1 of this chapter.

As added by P.L.1-1995, SEC.15.

IC 14-22-12-5

Duplicate licenses; electronic affirmation

Sec. 5. (a) The department may issue a duplicate license to replace a lost license issued to an individual under sections 1 and 4 of this chapter.

(b) A duplicate license under subsection (a) is valid only with the signature or electronic affirmation of the licensee on the form or device prescribed by the director.

(c) The department may require a licensee to pay a fee established by the commission for a duplicate license.

As added by P.L.1-1995, SEC.15. Amended by P.L.225-2005, SEC.22; P.L.66-2008, SEC.11; P.L.155-2015, SEC.15.

IC 14-22-12-6

Special permit for persons with disabilities

Sec. 6. The department may issue a special permit for the taking of wildlife by a person with a disability of such a nature that it is difficult or impossible for the individual to be in a position to take wildlife unless the individual is given special consideration. Statutes and rules may be waived only as necessary to give effect to this section.

As added by P.L.1-1995, SEC.15.

IC 14-22-12-7

Repealed

(As added by P.L.1-1995, SEC.15. Amended by P.L.17-1997, SEC.5; P.L.225-2005, SEC.23. Repealed by P.L.2-2014, SEC.76.)

IC 14-22-12-7.3

Lifetime licenses to hunt, fish, or trap; fees

Sec. 7.3. (a) Subject to the commission adopting fees under subsection (b), the department may issue to residents of Indiana lifetime licenses to hunt, fish, or trap.

(b) The commission may adopt rules under IC 4-22-2 and IC 14-10-2-4 to establish fees for lifetime licenses to hunt, fish, or trap.

As added by P.L.219-2014, SEC.26.

IC 14-22-12-7.5

Automated point of sales licensing system

Sec. 7.5. (a) As used in this section, "automated point of sale licensing system" means a system designed to dispense hunting, fishing, and trapping licenses.

(b) Before July 1, 2005, the department shall develop and implement an automated point of sale licensing system for use in Indiana for the sale of hunting, fishing, and trapping licenses to residents and nonresidents of Indiana.

(c) The department shall adopt rules under IC 4-22-2 to implement this section.

As added by P.L.186-2003, SEC.61.

IC 14-22-12-8

Service fees for agents

Sec. 8. Each license agent who is authorized to sell licenses under this article shall retain a seventy-five cent ($0.75) service fee for each license sold.

As added by P.L.1-1995, SEC.15. Amended by P.L.186-2003, SEC.62.

IC 14-22-12-9

Retention of service fee

Sec. 9. The clerk of the circuit court in each county shall retain as the property of the county the service fees provided by section 8 of this chapter from the sale of licenses sold by the clerk. The clerk shall pay the fees promptly into the county general fund as other fees are paid.

As added by P.L.1-1995, SEC.15. Amended by P.L.186-2003, SEC.63.

IC 14-22-12-10

Repealed

(As added by P.L.1-1995, SEC.15. Repealed by P.L.186-2003, SEC.82.)

IC 14-22-12-11

Bond of agents

Sec. 11. (a) Agents designated by the director and serving directly under the director's supervision must execute a bond meeting the following requirements:

(1) The bond is payable to the state in an amount:

(A) not less than five thousand dollars ($5,000); but

(B) sufficient to cover the value of licenses distributed to the agent.

(2) The surety is approved by the director.

(3) The bond is conditioned on the proper selling of the licenses and proper accounting for all money due to the state.

(b) An agent's obligations under this section expire on the earlier of:

(1) the date on which the agent begins offering hunting, fishing, and trapping licenses for sale under an automated point of sale licensing system implemented under section 7.5 of this chapter; or

(2) July 1, 2005.
As added by P.L.1-1995, SEC.15. Amended by P.L.186-2003, SEC.64.

IC 14-22-12-12
Repealed
(As added by P.L.1-1995, SEC.15. Repealed by P.L.186-2003, SEC.82.)

IC 14-22-12-13
Repealed
(As added by P.L.1-1995, SEC.15. Repealed by P.L.186-2003, SEC.82.)

IC 14-22-12-14
Excessive or insufficient charges prohibited
Sec. 14. A person may not directly or indirectly charge, collect, or receive for a license required under this article more or less than the amount specified in this article, regardless of the official capacity of the person or the relationship to the licensee.
As added by P.L.1-1995, SEC.15.

IC 14-22-12-15
Deposits in fish and wildlife fund
Sec. 15. All license fees shall be deposited into the fish and wildlife fund.
As added by P.L.1-1995, SEC.15.

IC 14-22-13

Chapter 13. Commercial Fishing License for Waters Other Than Lake Michigan

IC 14-22-13-1

Waters of the state other than Lake Michigan and Ohio River; license

Sec. 1. (a) This section applies to the following:

(1) The waters of the state.

(2) The boundary waters of the state, except Lake Michigan and the Ohio River.

(b) The department may issue to an individual who is a resident of Indiana a license to use in and to possess for use in the water seines, hoop nets, fyke nets, basket traps, basket nets, or trap nets under rules adopted under IC 4-22-2 upon payment of the following fee:

(1) For seines, except legal minnow seines, twenty dollars ($20) for each one hundred (100) yards and fraction thereof.

(2) For each dip-net, hoop-net, basket trap, basket net, trap-net, or fyke-net, four dollars ($4).

As added by P.L.1-1995, SEC.15.

IC 14-22-13-2

Ohio River; license

Sec. 2. (a) This section applies to the Ohio River waters of Indiana.

(b) The department may issue to an individual who is a resident or nonresident of Indiana a license to use in, and to possess for use in, the water seines, nets, or other commercial fishing gear under rules adopted under IC 4-22-2 upon payment of the following fee:

(1) For an Ohio River commercial fishing license and ten (10) Ohio River commercial gear tags, one hundred twenty-five dollars ($125).

(2) For each block of ten (10) Ohio River commercial fishing gear tags, fifteen dollars ($15).

As added by P.L.1-1995, SEC.15. Amended by P.L.155-2002, SEC.6 and P.L.158-2002, SEC.5; P.L.165-2011, SEC.12; P.L.151-2012, SEC.21.

IC 14-22-13-2.5

Harvest and sale of roe bearing species; license

Sec. 2.5. (a) This section applies to the harvest or sale of the following roe bearing species:

(1) Shovelnose sturgeon.

(2) Paddlefish.

(3) Bowfin.

(b) For the purpose of this subsection, "roe" means the eggs or gametes of a fish listed in subsection (a).

(c) An individual may not harvest, possess, or sell roe without a

license issued under this section.

(d) The department may issue to an individual who is a resident or nonresident of Indiana a license to harvest, possess, and sell the roe under rules adopted under IC 4-22-2. The individual must leave the roe intact and inside the body of the fish while on the body of water or adjacent to the water being fished, and until processing begins in accordance with 21 CFR 123. The individual must sell the roe only to a roe dealer licensed by the department. The department shall limit the number of licenses that are available.

(e) The department may issue a person a roe dealer's license to purchase, process, and sell roe. A person may not transport roe outside Indiana except according to the terms of a license issued under this subsection.

(f) The following are the minimum application fees for these licenses:

(1) Resident and nonresident roe harvester's license for harvesting on the Ohio River, one thousand dollars ($1,000).

(2) Resident roe harvester's license for harvesting on inland water of Indiana, one thousand dollars ($1,000).

(3) Roe dealer's license, one thousand dollars ($1,000).

(g) The commission may set license fees above the minimum fees established under subsection (f). The amount may not be more than is reasonably necessary to generate revenue sufficient to offset the costs incurred by the department in carrying out its responsibilities under this chapter.

(h) The department shall give priority in issuing licenses under this section to applicants who are residents of Indiana.

As added by P.L.165-2011, SEC.13. Amended by P.L.151-2012, SEC.22; P.L.289-2013, SEC.11.

IC 14-22-13-3

Tags

Sec. 3. The director shall prescribe and cause to be affixed to each seine, net, basket net, basket trap, trap-net, fyke-net, or other commercial fishing gear licensed under this chapter a tag that will identify the net or other gear with the license issued.

As added by P.L.1-1995, SEC.15.

IC 14-22-13-4

Unlicensed individuals accompanying licensee

Sec. 4. An individual, while commercially fishing for a person whose nets or other commercial fishing gear are properly licensed or tagged and the licenses or tags are properly affixed, is not required to possess a license or tag if the individual is accompanied by the licensee.

As added by P.L.1-1995, SEC.15.

IC 14-22-13-5

Possession of certain gear; permit required

Sec. 5. An individual may not possess a seine, a net, or commercial fishing gear, except as permitted in a specific permit from the department.
As added by P.L.1-1995, SEC.15.

IC 14-22-13-6
Repealed
(As added by P.L.1-1995, SEC.15. Amended by P.L.18-2009, SEC.5. Repealed by P.L.165-2011, SEC.32.)

IC 14-22-13-7
Taking or sale of fish; Ohio River license required
Sec. 7. An individual may not:
(1) take fish with the use of commercial fishing gear from the Ohio River within Indiana; or
(2) sell or offer for sale fish taken from the Ohio River;
without having an Ohio River commercial fishing license issued by Indiana or Kentucky.
As added by P.L.1-1995, SEC.15.

IC 14-22-13-8
Separate fishing license not needed
Sec. 8. An individual who has an Ohio River commercial fishing license does not need a fishing license under IC 14-22-11-8 to fish in the Ohio River.
As added by P.L.1-1995, SEC.15.

IC 14-22-13-9
Validity; expiration
Sec. 9. A license issued under this chapter:
(1) is valid for one (1) year; and
(2) expires December 31 of the year for which the license is valid.
As added by P.L.1-1995, SEC.15. Amended by P.L.165-2011, SEC.14.

IC 14-22-13-10
Penalties
Sec. 10. (a) A person who knowingly or intentionally fails to comply with the requirements of:
(1) a license issued under this chapter;
(2) this chapter; or
(3) rules adopted under this article to implement this chapter;
is subject to suspension or revocation of the person's license.
(b) A license revoked under this section may not be reinstated.
(c) A person who knowingly or intentionally violates this chapter commits a Class A misdemeanor.
As added by P.L.165-2011, SEC.15.

IC 14-22-14

Chapter 14. Commercial Fishing License for Lake Michigan

IC 14-22-14-1

"Commercial fishing" defined

Sec. 1. As used in this chapter, "commercial fishing" means the taking of fish by means of commercial fishing gear.

As added by P.L.1-1995, SEC.15.

IC 14-22-14-2

"Commercial fishing gear" defined

Sec. 2. As used in this chapter, "commercial fishing gear" means fishing equipment, including boats, nets, and other equipment, used to take fish from Lake Michigan to sell at wholesale or retail.

As added by P.L.1-1995, SEC.15.

IC 14-22-14-3

"Commercial fishing license" defined

Sec. 3. As used in this chapter, "commercial fishing license" refers to a commercial fishing license issued under this chapter.

As added by P.L.1-1995, SEC.15.

IC 14-22-14-4

"Lake Michigan" defined

Sec. 4. As used in this chapter, "Lake Michigan" refers to the waters of Lake Michigan that are within Indiana.

As added by P.L.1-1995, SEC.15.

IC 14-22-14-5

License requirement

Sec. 5. A person must have a commercial fishing license to take fish from Lake Michigan with commercial fishing gear.

As added by P.L.1-1995, SEC.15.

IC 14-22-14-6

Conditions

Sec. 6. To be eligible to hold a commercial fishing license, the following conditions must be met:

(1) If the person is not a corporation, all individuals comprising the person must be residents of Indiana.

(2) If the person is a corporation, the corporation must be an Indiana corporation and all shareholders in the corporation must be residents of Indiana.

As added by P.L.1-1995, SEC.15.

IC 14-22-14-7

Renewal powers of department

Sec. 7. The department may renew a commercial fishing license,

but may not issue an original commercial fishing license.
As added by P.L.1-1995, SEC.15.

IC 14-22-14-8
Classes of licenses

Sec. 8. Commercial fishing licenses are designated as follows:

(1) Class 1.
(2) Class 2.
(3) Class 3.

As added by P.L.1-1995, SEC.15.

IC 14-22-14-9
Expiration, renewal, or reservation; report on yellow perch

Sec. 9. (a) A commercial fishing license:

(1) expires December 31 of the year for which the license was issued or reserved;
(2) may be renewed or reserved annually; however, if an application to renew or reserve a license is not received by the department before February 1 of the year following the expiration or reserved period of the license, the license may not be renewed, reserved, or reinstated;
(3) that is reserved is inactive and may not be used, merged, transferred, or converted during the reserved year; and
(4) may be reserved for one (1) year for a fee of twenty-five dollars ($25).

(b) The department shall report annually to the natural resources committees of the house of representatives and the senate for the purpose of updating the status of yellow perch in Lake Michigan as it affects sport and commercial fishing and fishermen in Indiana.
As added by P.L.1-1995, SEC.15. Amended by P.L.136-1997, SEC.5.

IC 14-22-14-10
Renewal fees

Sec. 10. The renewal fees for commercial fishing licenses are as follows:

(1) Class 1, three thousand dollars ($3,000).
(2) Class 2, six thousand dollars ($6,000).
(3) Class 3, nine thousand dollars ($9,000).

As added by P.L.1-1995, SEC.15.

IC 14-22-14-11
Transfer of licenses

Sec. 11. Except as provided under section 9 of this chapter, and subject to section 12 of this chapter, a commercial fishing license may be transferred from one (1) person to another.
As added by P.L.1-1995, SEC.15. Amended by P.L.136-1997, SEC.6.

IC 14-22-14-12
Interest in more than one license

Sec. 12. (a) Except as provided in sections 13 and 14 of this chapter, a person may not hold or have an interest in more than one (1) commercial fishing license.

(b) If a person having an interest in one (1) commercial fishing license acquires an interest in a second commercial fishing license:

(1) the second license is valid; and

(2) the person is considered to have surrendered the first license. The first license may not be reinstated.

As added by P.L.1-1995, SEC.15.

IC 14-22-14-13

Merger of licenses

Sec. 13. A person holding a Class 1 or Class 2 license may acquire another license for the purpose of merging the licenses to form a Class 2 or Class 3 license as follows:

(1) At the time a person holding a Class 1 license acquires another Class 1 license, the two (2) licenses merge and become a Class 2 license.

(2) At the time a person holding:

(A) a Class 1 license acquires a Class 2 license; or

(B) a Class 2 license acquires a Class 1 license;

the two (2) licenses merge and become a Class 3 license.

As added by P.L.1-1995, SEC.15.

IC 14-22-14-14

Conversion of licenses

Sec. 14. A person holding a Class 1 license and a person holding a Class 3 license may convert the licenses to two (2) Class 2 licenses.

As added by P.L.1-1995, SEC.15.

IC 14-22-14-15

Rules for transfer, merger, or conversion of licenses; fees

Sec. 15. (a) The commission may adopt rules to establish procedures for the:

(1) transfer;

(2) merger; or

(3) exchange;

of commercial fishing licenses.

(b) The fee for processing:

(1) a transfer;

(2) a merger; or

(3) an exchange;

of a commercial fishing license under this chapter is one hundred dollars ($100).

As added by P.L.1-1995, SEC.15.

IC 14-22-14-16

Surrender and exchange of license

Sec. 16. A Class 2 or Class 3 commercial fishing license may be

surrendered to the department in exchange for a Class 1 or Class 2 license. This is not considered to be the issuance of an original license.
As added by P.L.1-1995, SEC.15.

IC 14-22-14-17
Documentation

Sec. 17. Each boat engaged in commercial fishing must carry documentation specified by rules adopted by the commission that the boat is operating under the authority of a commercial fishing license.
As added by P.L.1-1995, SEC.15.

IC 14-22-14-18
Designation of captain

Sec. 18. (a) The holder of a commercial fishing license must, in the manner established by rules adopted by the commission, designate an individual as captain of a boat operated by the holder of a commercial fishing license. A designated captain must meet the following conditions:

(1) Be a resident of Indiana.
(2) Have experience as a commercial fisherman.
(3) Possess other qualifications established by rules adopted by the commission.

(b) Except in an emergency, as defined under rules adopted by the commission, an individual who is designated as a captain by the holder of one (1) commercial fishing license may not:

(1) be designated as a captain by; or
(2) work for;

the holder of another commercial fishing license. Notice to the department of the emergency designation of a captain must be provided under rules adopted by the commission.
As added by P.L.1-1995, SEC.15.

IC 14-22-14-19
Presence of captain on boat

Sec. 19. An individual designated as captain under section 18 of this chapter must be aboard each commercial fishing boat of the holder of the commercial fishing license while the boat is engaged in an activity related to commercial fishing.
As added by P.L.1-1995, SEC.15.

IC 14-22-14-20
Powers of department to protect resources

Sec. 20. (a) The department shall regulate commercial fishing in Lake Michigan to protect the resource of fish for commercial and sport fishing.

(b) To protect the resource of fish in Lake Michigan, the department shall regulate the number of nets that may be used by persons who have been issued a commercial fishing license as

follows:

(1) Persons who have a Class 2 license are entitled to use two (2) times the number of nets as persons who have a Class 1 license.

(2) Persons who have a Class 3 license are entitled to use three (3) times the number of nets as persons who have a Class 1 license.

As added by P.L.1-1995, SEC.15.

IC 14-22-14-21
Rules to protect resources

Sec. 21. The commission may adopt rules to establish restrictions on the following:

(1) Localities that may be fished.

(2) The kind, mesh size, and quantity of fishing gear that may be used.

(3) The quantity of fish that may be taken.

(4) Other restrictions the commission considers necessary to protect the fishing resource in Lake Michigan.

As added by P.L.1-1995, SEC.15.

IC 14-22-14-22
Gill nets prohibited

Sec. 22. (a) Fish may not be taken from Lake Michigan by means of a gill net.

(b) The commercial fishing license of a person who takes fish from Lake Michigan by means of a gill net:

(1) terminates at the time of the violation; and

(2) may not be reinstated.

As added by P.L.1-1995, SEC.15.

IC 14-22-14-23
Records and reports

Sec. 23. (a) A person who has a commercial fishing license must keep accurate records of each day's catch showing the following:

(1) The number of pounds of each kind of fish taken.

(2) The locality fished.

(3) The kind and amount of fishing gear employed.

(4) The length of time each unit of gear was fished without being lifted.

(5) Other information the commission considers to be relevant under this chapter.

(b) Before the sixteenth day of each month, each person holding a commercial fishing license shall report, under oath when requested to do so, all the data for the preceding month required under subsection (a) to the director upon forms furnished by the director. The reports required by this section shall be made each month whether or not any fish were taken during the preceding month. If no fish were taken, that fact shall be noted.

As added by P.L.1-1995, SEC.15.

IC 14-22-14-24
Making reports condition of issuance of license

Sec. 24. A commercial fishing license is issued upon the condition that the licensee agrees to make all reports to the director required by the following:

(1) This chapter.
(2) Rules adopted under this chapter.

As added by P.L.1-1995, SEC.15.

IC 14-22-14-25
Inadvertent noncompliance

Sec. 25. Inadvertent failure to comply with the terms of:

(1) a license;
(2) this chapter or IC 14-2-12 (before its repeal); or
(3) rules adopted or orders issued under:
    (A) IC 14-2-12 (before its repeal); or
    (B) this chapter;

is grounds for suspension of the license for not more than one (1) year.

As added by P.L.1-1995, SEC.15.

IC 14-22-14-26
Knowing or intentional noncompliance

Sec. 26. (a) Knowing or intentional failure to comply with the terms of:

(1) a license;
(2) this chapter or IC 14-2-12 (before its repeal); or
(3) rules adopted or orders issued under:
    (A) IC 14-2-12 (before its repeal); or
    (B) this chapter;

is grounds for revocation of the license.

(b) A license revoked under this section may not be reinstated.

As added by P.L.1-1995, SEC.15.

IC 14-22-14-27
Implementation of chapter

Sec. 27. (a) The director may do all things necessary to carry out this chapter.

(b) The commission shall adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.1-1995, SEC.15.

IC 14-22-15

Chapter 15. Charter Fishing Boat Operator's License

IC 14-22-15-1

License requirement

Sec. 1. An individual may not take another individual sport fishing for hire on:

(1) Indiana waters;

(2) waters containing state owned fish; or

(3) boundary waters of Indiana;

without a fishing guide's license issued by the director.

As added by P.L.1-1995, SEC.15. Amended by P.L.165-2011, SEC.16.

IC 14-22-15-2

Annual fee

Sec. 2. The annual fee for a fishing guide's license for a resident or a nonresident is one hundred dollars ($100).

As added by P.L.1-1995, SEC.15. Amended by P.L.165-2011, SEC.17.

IC 14-22-15-3

Validity; expiration

Sec. 3. A fishing guide's license:

(1) is valid for one (1) year; and

(2) expires December 31 of the year for which the license is issued.

As added by P.L.1-1995, SEC.15. Amended by P.L.165-2011, SEC.18.

IC 14-22-15-4

Records and reports

Sec. 4. (a) An individual having a fishing guide's license shall keep an accurate record of the following:

(1) Each day's catch of fish.

(2) Other related information that the department requires by rule.

(b) Before the fifteenth day of each month, the fishing guide shall report the previous month's record required under subsection (a) to the department on forms furnished by the department. The report shall be made even if no fish are caught.

As added by P.L.1-1995, SEC.15. Amended by P.L.165-2011, SEC.19.

IC 14-22-15-5

Failure to keep records or make reports

Sec. 5. The director may:

(1) refuse under IC 4-21.5-3-5 to grant, renew, or restore; or

(2) suspend or revoke under IC 4-21.5-3-6;

a license of an individual who fails to keep a record or make a report required by section 4 of this chapter.
As added by P.L.1-1995, SEC.15.

IC 14-22-15-6
Operation without license

Sec. 6. An individual who acts as a fishing guide without a license in violation of section 1 of this chapter commits a Class B infraction.
As added by P.L.1-1995, SEC.15. Amended by P.L.165-2011, SEC.20.

IC 14-22-15-7
Violations regarding records and reports

Sec. 7. An individual who recklessly, knowingly, or intentionally:

(1) fails to keep accurate records in violation of section 4(a) of this chapter; or

(2) fails to report monthly to the department in violation of section 4(b) of this chapter;

commits a Class C misdemeanor.
As added by P.L.1-1995, SEC.15. Amended by P.L.165-2011, SEC.21.

IC 14-22-16
Chapter 16. Bait Dealer's License

IC 14-22-16-1
Application; fee

Sec. 1. (a) A person engaging in or continuing to engage in the business of selling or bartering live minnows or crayfish for bait shall file an application with the division for a bait dealer's license. The application and the license must be on forms prescribed by the director.

(b) The fee for a license is as follows:

(1) Ten dollars ($10) for residents.

(2) Fifty dollars ($50) for nonresidents.

As added by P.L.1-1995, SEC.15. Amended by P.L.151-2012, SEC.23.

IC 14-22-16-2
Issuance

Sec. 2. The director:

(1) may, after investigation, issue a license to the applicant; or

(2) shall, if the applicant is engaged in hatching and raising the applicant's own stock, issue a license.

As added by P.L.1-1995, SEC.15.

IC 14-22-16-3
Expiration

Sec. 3. A license expires December 31 following the date of issue.

As added by P.L.1-1995, SEC.15.

IC 14-22-16-4
Permit to possess minnows or crayfish

Sec. 4. A person desiring to possess in Indiana at one (1) time more than:

(1) five hundred (500) live minnows; or

(2) five hundred (500) live crayfish;

not intended for the purpose of engaging in the business of selling or bartering live minnows or crayfish for bait must procure a permit to possess the minnows or crayfish.

As added by P.L.1-1995, SEC.15. Amended by P.L.155-2015, SEC.16.

IC 14-22-17
Chapter 17. Mussels License

IC 14-22-17-1
"Resident" defined

Sec. 1. As used in this chapter, "resident" means a person who:

(1) has continuously resided in Indiana for at least three hundred sixty-five (365) consecutive days immediately before applying for a license under this chapter; and

(2) possesses:

(A) an Indiana motor vehicle operator's license; or

(B) an identification card;

issued by the bureau of motor vehicles.

As added by P.L.1-1995, SEC.15.

IC 14-22-17-2
License requirement

Sec. 2. A person may not:

(1) take mussels or mussel shells from the water of the state; or

(2) ship, offer to sell, buy, or offer to buy mussels or mussel shells taken from the water of the state;

without having a license issued by the department.

As added by P.L.1-1995, SEC.15.

IC 14-22-17-3
Issuance; fees

Sec. 3. The department may issue the following license to take, ship, sell, buy, or export mussels or mussel shells taken from the water of the state under rules adopted under IC 4-22-2 for the protection of mussels and upon payment of the following applicable license fees:

(1) A resident yearly license to take, ship, and sell mussels or mussel shells, one hundred dollars ($100).

(2) A resident yearly license to buy, ship, sell, or export mussels or mussel shells, one thousand five hundred dollars ($1,500).

(3) A nonresident yearly license to buy, ship, sell, or export mussels or mussel shells, five thousand dollars ($5,000).

As added by P.L.1-1995, SEC.15.

IC 14-22-17-4
Violations

Sec. 4. A person who violates section 2 of this chapter commits a Class A misdemeanor.

As added by P.L.1-1995, SEC.15.

IC 14-22-18

Chapter 18. Free Sport Fishing Days

IC 14-22-18-1

Designation of free sport fishing days

Sec. 1. The director may, with the approval of the commission, designate not more than four (4) days in each year as free sport fishing days. If the director designates more than one (1) day in a year as free sport fishing days, the days may be consecutive or nonconsecutive.

As added by P.L.1-1995, SEC.15. Amended by P.L.151-2012, SEC.24.

IC 14-22-18-2

Rights and privileges

Sec. 2. During a free sport fishing day designated under this chapter, a resident of Indiana may, without possessing a license to fish issued under this article or paying a fee:

(1) fish in:

(A) waters containing state owned fish;

(B) waters of the state; and

(C) boundary waters of the state; and

(2) exercise the same privileges to which the resident would be entitled if the resident held:

(A) a resident yearly license to fish issued under IC 14-22-12-1(1); and

(B) a resident yearly stamp to fish for trout and salmon issued under IC 14-22-12-1(11).

As added by P.L.1-1995, SEC.15.

IC 14-22-18-3

Compliance with laws and rules

Sec. 3. A resident who fishes during a free sport fishing day without possessing a license to fish issued under this article is subject to and is considered as agreeing to comply with the following:

(1) The terms, conditions, and rules made by the director under this article and incorporated in or attached to:

(A) a resident yearly license to fish issued under IC 14-22-12-1(1); and

(B) a resident yearly stamp to fish for trout and salmon issued under IC 14-22-12-1(11).

(2) This article.

As added by P.L.1-1995, SEC.15.

IC 14-22-18-4

Applicability of other license requirements

Sec. 4. Section 2 of this chapter does not authorize a resident to fish during a free sport fishing day in violation of the license

requirements set forth in the following:

(1) IC 14-22-13.
(2) IC 14-22-14.
(3) IC 14-22-15.
(4) IC 14-22-16.
(5) IC 14-22-17.

As added by P.L.1-1995, SEC.15.

IC 14-22-19

Chapter 19. Licenses for Furbearing Mammals

IC 14-22-19-1

License requirement

Sec. 1. A person must have a license issued by the department to engage in the business of buying furbearing mammals or the untanned hides or furs of furbearing mammals in Indiana.

As added by P.L.1-1995, SEC.15.

IC 14-22-19-2

Types of licenses; fees

Sec. 2. The department may issue the following licenses to engage in the business of buying furbearing mammals or the untanned hides, skins, and furs of furbearing mammals in Indiana upon payment of the following license fees:

(1) A resident buyer's license, authorizing purchases direct from trappers or from other licensed buyers, seventy-five dollars ($75).

(2) A nonresident buyer's license, authorizing purchases direct from trappers or from other licensed buyers, one hundred twenty-five dollars ($125).

As added by P.L.1-1995, SEC.15.

IC 14-22-19-3

Issuance; expiration

Sec. 3. Upon receipt of an application containing the proper information and the prescribed fee, the department shall issue a license to the applicant. The license:

(1) expires June 30 after the date of issue; and

(2) entitles the holder to purchase:

(A) furbearing mammals; or

(B) the untanned hides, skins, or furs of furbearing mammals.

As added by P.L.1-1995, SEC.15.

IC 14-22-19-4

Agents or employees of license holders

Sec. 4. The agents or employees of a person who is licensed are exempt from procuring a license to purchase:

(1) furbearing mammals; or

(2) the untanned hides, skins, or furs of furbearing mammals;

at the office or place of business of the person for whom the license was issued.

As added by P.L.1-1995, SEC.15.

IC 14-22-19-5

Direct purchases from trappers

Sec. 5. Purchases direct from trappers may be made only during the open season on the furbearing mammals and the grace period provided by this article.
As added by P.L.1-1995, SEC.15.

IC 14-22-19-6
Reports

Sec. 6. Every licensed fur buyer shall make a report in writing to the department of all purchases of furbearing mammals made during the preceding open season. The report must be submitted to the department not later than June 30 following the open season.
As added by P.L.1-1995, SEC.15. Amended by P.L.289-2013, SEC.12; P.L.155-2015, SEC.17.

IC 14-22-20
Chapter 20. Breeder's License

IC 14-22-20-1
Issuance; fee

Sec. 1. The department may, under rules adopted under IC 4-22-2, issue to a resident of Indiana, upon the payment of a fee of fifteen dollars ($15), a license to:

(1) propagate in captivity; and

(2) possess, buy, or sell for this purpose only;

game birds, game mammals, or furbearing mammals protected by Indiana law.

As added by P.L.1-1995, SEC.15.

IC 14-22-20-2
Sales authorized; application

Sec. 2. A license issued under this chapter authorizes the sale of nonmigratory game birds, game mammals, or furbearing mammals for breeding purposes, for release, or for food purposes. An individual who:

(1) acquires a furbearing mammal alive, legally in open season; or

(2) purchases the bird or mammal from a licensed game breeder;

may apply for a breeder's license within five (5) days after acquiring the animal from the licensed game breeder or within five (5) days after the last day of the open season for the animal. Otherwise, the animal shall be released.

As added by P.L.1-1995, SEC.15. Amended by P.L.151-2012, SEC.25.

IC 14-22-20-3
Importation of out-of-state animals

Sec. 3. An animal raised domestically by an out-of-state breeder may be imported into Indiana and sold for food purposes. A purchaser of such an animal raised domestically by an out-of-state breeder must be able to show legal proof of out-of-state origin for all animals possessed.

As added by P.L.1-1995, SEC.15.

IC 14-22-20-4
Exemption for certain animals

Sec. 4. (a) This section applies to the following:

(1) Marten.

(2) Mink.

(3) Chinchilla.

(4) Domesticated rabbits, except cottontail.

(b) The:

(1) breeding, raising, and producing in captivity; and

(2) marketing;

of an animal listed in subsection (a) is considered an agricultural pursuit. All animals so raised in captivity are considered domestic animals so that a game breeding license is not required to possess such an animal.

(c) A person engaged in the breeding, raising, and producing in captivity and marketing of the furbearing mammals listed in subsection (a) shall, upon request, do the following:

(1) Register with the department.

(2) Make annual reports concerning the number of animals held and sold. These reports are confidential.

As added by P.L.1-1995, SEC.15. Amended by P.L.151-2012, SEC.26.

IC 14-22-20.5

Chapter 20.5. Cervidae and Cervidae Products

IC 14-22-20.5-1

"Cervidae"

Sec. 1. As used in this chapter, "cervidae" means privately owned members of the cervidae family, including deer, elk, moose, reindeer, and caribou.

As added by P.L.93-2005, SEC.4.

IC 14-22-20.5-2

"Cervidae livestock operation"

Sec. 2. As used in this chapter, "cervidae livestock operation" means an operation that:

(1) has a game breeders license issued by the department of natural resources under IC 14-22-20;

(2) contains privately owned cervidae; and

(3) involves the breeding, propagating, purchasing, selling, and marketing of cervidae or cervidae products;

but does not involve the hunting of privately owned cervidae.

As added by P.L.93-2005, SEC.4.

IC 14-22-20.5-3

"Cervidae products"

Sec. 3. As used in this chapter, "cervidae products" means products, coproducts, or byproducts of cervidae.

As added by P.L.93-2005, SEC.4.

IC 14-22-20.5-4

Ownership of cervidae and cervidae products

Sec. 4. Cervidae and cervidae products legally produced, purchased, possessed, or acquired within Indiana or imported into Indiana are the exclusive property of the owner.

As added by P.L.93-2005, SEC.4.

IC 14-22-20.5-5

Sale of privately owned cervidae and cervidae products

Sec. 5. Meat and products derived from privately owned cervidae that are from a cervidae livestock operation may be sold to the general public, subject to IC 15-17-5.

As added by P.L.93-2005, SEC.4. Amended by P.L.2-2008, SEC.31.

IC 14-22-21

Chapter 21. Taxidermist License

IC 14-22-21-1

"Taxidermist" defined

Sec. 1. As used in this chapter, "taxidermist" means a person who receives wild animals or parts of wild animals for the purpose of performing taxidermy service for any other person.

As added by P.L.1-1995, SEC.15.

IC 14-22-21-2

Issuance; fee

Sec. 2. The department may, under rules adopted under IC 4-22-2, issue to a person, upon payment of a fee of fifteen dollars ($15), a license to possess for taxidermy purposes a wild animal or the hide or skin of a wild animal:

(1) protected by Indiana law; and

(2) during the closed season for the animal.

As added by P.L.1-1995, SEC.15.

IC 14-22-21-3

Expiration

Sec. 3. A taxidermist license expires December 31 after the date of issue.

As added by P.L.1-1995, SEC.15.

IC 14-22-21-4

Possession of wild animals for taxidermy purposes

Sec. 4. A person may:

(1) without a license; and

(2) for taxidermy purposes;

possess a wild animal not protected by Indiana law.

As added by P.L.1-1995, SEC.15.

IC 14-22-21-5

Possession of mounted wild animals

Sec. 5. A person may possess at any time a wild animal legally taken in open season and mounted.

As added by P.L.1-1995, SEC.15.

IC 14-22-22

Chapter 22. Scientific Purposes License

IC 14-22-22-1

Issuance

Sec. 1. The department may issue to a properly accredited individual a license authorizing the individual to collect and possess:

(1) wild birds;

(2) the nests and eggs of wild birds; or

(3) other wild animals;

in Indiana for scientific purposes only under rules adopted under IC 4-22-2.

As added by P.L.1-1995, SEC.15.

IC 14-22-22-2

Application; fee

Sec. 2. An application for a license must:

(1) bear the signature of two (2) relevant scientists as references to:

(A) the character;

(B) academic and scientific accomplishments; and

(C) fitness;

of the applicant; and

(2) be accompanied by a fee of ten dollars ($10).

As added by P.L.1-1995, SEC.15.

IC 14-22-23

Chapter 23. Falconry License

IC 14-22-23-1

License requirement

Sec. 1. An individual may not practice falconry in Indiana without a license issued under this chapter.

As added by P.L.1-1995, SEC.15. Amended by P.L.165-2011, SEC.22.

IC 14-22-23-2

Out-of-state license

Sec. 2. An individual who:

(1) resides in a state other than Indiana; and

(2) has a valid license to practice falconry in the individual's state of residence;

is not required to obtain a license under this chapter.

As added by P.L.1-1995, SEC.15. Amended by P.L.165-2011, SEC.23.

IC 14-22-23-3

Fee

Sec. 3. The fee for a falconry license is sixty dollars ($60).

As added by P.L.1-1995, SEC.15.

IC 14-22-23-4

Expiration

Sec. 4. A falconry license issued under this chapter expires on the last day of February of the third year following the year in which the license is issued.

As added by P.L.1-1995, SEC.15.

IC 14-22-23-5

Possession of hunting license and stamp also required

Sec. 5. To take wildlife in the practice of falconry, an individual must:

(1) hold a license issued under this chapter;

(2) have in the individual's possession the type of hunting license required under this article for the taking of the wildlife; and

(3) have in the individual's possession the stamp required by IC 14-22-7 or IC 14-22-8 for the taking of the wildlife if a stamp is required.

As added by P.L.1-1995, SEC.15. Amended by P.L.165-2011, SEC.24.

IC 14-22-24
Chapter 24. Field Trial Permit

IC 14-22-24-1
Permit requirement
Sec. 1. A person may not conduct a field trial without a permit issued by the department.
As added by P.L.1-1995, SEC.15.

IC 14-22-24-2
Issuance; fee; rules
Sec. 2. The department may issue a permit for a fee of ten dollars ($10) to a person to conduct a field trial under rules adopted under IC 4-22-2 for the protection of wild animals. The rules shall be incorporated in or attached to the permit when issued.
As added by P.L.1-1995, SEC.15.

IC 14-22-24-3
Field trial to be sanctioned
Sec. 3. A permit to conduct a field trial may not be issued to a person unless the field trial is to be a sanctioned trial under the rules of a national or regional hunting dog association recognized or approved by the department.
As added by P.L.1-1995, SEC.15.

IC 14-22-24-4
Field trials out of season
Sec. 4. A person may not conduct a field trial if wild animals are being pursued out of season except:
(1) in the areas and at the times that are approved by the department; and
(2) under this article.
As added by P.L.1-1995, SEC.15.

IC 14-22-24-5
Repealed
(As added by P.L.1-1995, SEC.15. Repealed by P.L.289-2013, SEC.13.)

IC 14-22-24.5

Chapter 24.5. Dog Training Ground Permit

IC 14-22-24.5-1

Issuance of permits; rules

Sec. 1. The department may issue a dog training ground permit without charge to a person to train dogs at any time of year inside or outside of an enclosure under rules adopted under IC 4-22-2 for the protection of wild animals.

As added by P.L.219-2014, SEC.27.

IC 14-22-24.5-2

Enclosures

Sec. 2. An enclosure used under this chapter does not constitute possession of the wild animal if the enclosure does not meet the requirements for an enclosure for that species under:

(1) a game breeder's license issued under IC 14-22-20; or

(2) a wild animal permit issued under IC 14-22-26.

As added by P.L.219-2014, SEC.27.

IC 14-22-25

Chapter 25. Importation Permit

IC 14-22-25-1

Applicability of chapter

Sec. 1. This chapter does not apply to the following:

(1) Animals imported into Indiana for the purpose of being confined and exhibited in a zoo or other public display of animals.

(2) Other animals that the department designates.

(3) Animals regulated under IC 14-22-31-7.

As added by P.L.1-1995, SEC.15. Amended by P.L.289-2013, SEC.14.

IC 14-22-25-2

Permit requirement

Sec. 2. A person may not bring into Indiana, for the purpose of release or selling for release in Indiana, live fish, the fry of live fish, or any other living wild animal without a permit issued by the department.

As added by P.L.1-1995, SEC.15.

IC 14-22-25-3

Application; fee

Sec. 3. An application for a permit must be filed with the director not less than ten (10) days before the proposed date of importation. A fee of five dollars ($5) must accompany the application.

As added by P.L.1-1995, SEC.15.

IC 14-22-25-4

Permit conditions and restrictions

Sec. 4. (a) A permit may be granted only upon satisfactory proof that the specific animals intended to be imported meet the following conditions:

(1) The animals are free of a communicable disease at the time of importation.

(2) The animals will not become a nuisance.

(3) The animals will not cause damage to a native wild or domestic species.

(b) The director may incorporate in the permit the restrictions that the director considers necessary.

As added by P.L.1-1995, SEC.15.

IC 14-22-26

Chapter 26. Wild Animal Permit

IC 14-22-26-1

Applicability of chapter

Sec. 1. This chapter does not apply to licensed commercial animal dealers, zoological parks, circuses, or carnivals.

As added by P.L.1-1995, SEC.15.

IC 14-22-26-2

"Zoological park" defined

Sec. 2. As used in this chapter, "zoological park" means:

(1) a permanent establishment that is a member of the American Association of Zoological Parks and Aquariums; or

(2) an agency of local government, open to and administered for the public, to provide education, conservation, and preservation of the earth's fauna.

As added by P.L.1-1995, SEC.15.

IC 14-22-26-3

Rules regarding permits

Sec. 3. The director may adopt rules under IC 4-22-2 to require and issue the following:

(1) A permit to possess a wild animal protected by statute or rule.

(2) A permit to possess a wild animal that may be harmful or dangerous to plants or animals. A separate permit is required for each wild animal described in this subdivision.

As added by P.L.1-1995, SEC.15.

IC 14-22-26-4

Form; issuance; expiration; fee

Sec. 4. A permit issued under this chapter:

(1) must be in the form prescribed by the director;

(2) may not be issued unless the director is satisfied that the permit should be issued;

(3) has an expiration date fixed by the director; and

(4) has a fee of ten dollars ($10).

As added by P.L.1-1995, SEC.15.

IC 14-22-26-5

Suspension of permit; seizure and holding of animals; adjudicative proceedings; costs

Sec. 5. (a) If an emergency exists, the director may summarily suspend a permit issued under this chapter. The director may summarily seize and hold an animal for which a permit is required under this chapter, pending the outcome of the proceedings under this section, if either of the following conditions exist:

(1) A permit has not been issued to possess the animal.

(2) A permit has been issued to possess the animal, but the director believes that an emergency exists because at least one (1) of the following conditions exists:

(A) The animal is in a position to harm another animal.

(B) The life or health of the animal is in peril.

(b) After suspending a permit or seizing and holding an animal under subsection (a), the department shall proceed as quickly as feasible to provide the opportunity for completed adjudicative proceedings under IC 4-21.5. The proceedings may result in the revocation, temporary suspension, or modification of the permit. Provision may be made for a final disposition with respect to the wild animal, including confiscation of the animal. IC 4-21.5 provides the exclusive remedy available to a person aggrieved by a determination of the department under this section.

(c) The director may contract with experts in the handling of animals for which a permit is required under this chapter to assist the director in seizing and holding an animal under this section. A person who seizes and holds an animal under a contract with the director is not subject to legal action arising from the seizure or holding to the same extent as if the person was an employee of the department.

(d) The owner of an animal seized under this section is liable for the costs of seizing and holding the animal and of the proceedings under this section, including a trial, if any.

As added by P.L.1-1995, SEC.15.

IC 14-22-26-6

Rules regarding safety and health

Sec. 6. Rules adopted under this chapter must provide for the following:

(1) The safety of the public.

(2) The health of the animals.

As added by P.L.1-1995, SEC.15.

IC 14-22-27
Chapter 27. Fish Stocking Permit

IC 14-22-27-1
Issuance of permit

Sec. 1. The department may issue to a person a permit to stock fish in:

(1) waters containing state owned fish;
(2) waters of the state; or
(3) boundary waters of the state;

under rules adopted by the department.
As added by P.L.1-1995, SEC.15.

IC 14-22-27-2
Fee

Sec. 2. The fee for a permit under this chapter is three dollars ($3).
As added by P.L.1-1995, SEC.15.

IC 14-22-28

Chapter 28. Permit to Take, Kill, or Capture Wild Animal Damaging Property

IC 14-22-28-1

Issuance of permit

Sec. 1. The director may issue to a person that owns or has an interest in property:

(1) being damaged;

(2) threatened with damage; or

(3) on which a health or safety threat to persons or domestic animals is posed;

by a wild animal protected by this article a free permit to take the wild animal.

As added by P.L.1-1995, SEC.15. Amended by P.L.155-2002, SEC.7 and P.L.158-2002, SEC.6; P.L.219-2014, SEC.28.

IC 14-22-28-2

Conditions and rules

Sec. 2. Notwithstanding any other prohibition or requirement of this article or the rules adopted under this article, the director shall prescribe the following:

(1) The manner of taking the wild animal.

(2) The expiration of the permit.

(3) The rules the director considers necessary.

(4) The disposition of the animal.

As added by P.L.1-1995, SEC.15. Amended by P.L.155-2002, SEC.8 and P.L.158-2002, SEC.7.

IC 14-22-28-3

Incorporation of conditions and rules

Sec. 3. The conditions and rules prescribed under section 2 of this chapter shall be incorporated in or attached to the permit when issued.

As added by P.L.1-1995, SEC.15.

IC 14-22-28-4

Investigations; denial of permit

Sec. 4. The director may have an investigation made of a complaint that wild animals are causing damage or posing a health or safety threat to persons or domestic animals. If it is found that:

(1) the damage has not been caused by wild animals; or

(2) the person has not complied with the requirements under this chapter or a rule adopted under this chapter;

a permit shall be denied according to the procedures in IC 4-21.5.

As added by P.L.1-1995, SEC.15. Amended by P.L.219-2014, SEC.29.

IC 14-22-28-5

Disposal of protected wild animals

Sec. 5. A protected wild animal killed, captured, or taken during the closed season shall be disposed of in the manner that the director considers necessary.

As added by P.L.1-1995, SEC.15.

IC 14-22-29

Chapter 29. Illegal Fishing Device Permit

IC 14-22-29-1

Issuance of permit

Sec. 1. The director may issue to a person who is the owner of a private pond a free permit to:

(1) possess on the person's premises; and

(2) use in the person's private pond only;

an otherwise illegal fishing device under the rules that the director considers necessary.

As added by P.L.1-1995, SEC.15.

IC 14-22-30

Chapter 30. Permit for Explosives in Water

IC 14-22-30-1

Permit requirement

Sec. 1. A person may not use, set, or discharge dynamite or other explosives in any of the waters of this state without having a permit from the director.

As added by P.L.1-1995, SEC.15.

IC 14-22-30-2

Issuance

Sec. 2. The director may issue to a person, upon application, a free permit to use or discharge dynamite or other explosives in the waters of this state under the rules that the director prescribes for the protection of fish in the waters of the state.

As added by P.L.1-1995, SEC.15.

IC 14-22-31
Chapter 31. Shooting Preserves

IC 14-22-31-1
Application for license

Sec. 1. A person who:
(1) owns;
(2) holds; or
(3) controls by lease for a term of not less than five (5) years;
a contiguous tract of land containing an area of not less than one hundred (100) acres and not more than six hundred forty (640) acres, and who desires to establish a license shooting preserve must apply to the division for a license.
As added by P.L.1-1995, SEC.15.

IC 14-22-31-2
Fee

Sec. 2. An application for a license under section 1 of this chapter must be accompanied by a fee of one hundred dollars ($100) with the application.
As added by P.L.1-1995, SEC.15.

IC 14-22-31-3
Restrictions

Sec. 3. A shooting preserve may not be established within a distance of one (1) mile of a state owned game refuge or state public hunting ground. Duck shooting is not permitted if:
(1) prohibited by a rule adopted under IC 14-22-2-6; or
(2) wild ducks, geese, or other migratory game birds frequent the area where the captive reared and properly marked mallard ducks are to be held, released, and flighted for shooting.
As added by P.L.1-1995, SEC.15. Amended by P.L.59-2006, SEC.1.

IC 14-22-31-4
Inspection; issuance of license

Sec. 4. Upon receipt of an application, the department shall do the following:
(1) Inspect the following:
(A) The proposed shooting preserve.
(B) The facilities for propagating the game birds or exotic mammals.
(C) The cover.
(D) The capability of the applicant to maintain such an operation.
(2) If found feasible, approve the application and issue a license to the applicant.
As added by P.L.1-1995, SEC.15.

IC 14-22-31-5
Expiration of license

Sec. 5. A license issued under this chapter expires April 30 of each year.

As added by P.L.1-1995, SEC.15.

IC 14-22-31-6
Repealed

(As added by P.L.1-1995, SEC.15. Repealed by P.L.219-2014, SEC.30.)

IC 14-22-31-7
Animals that may be propagated and offered for hunting

Sec. 7. A person issued a license under section 4 of this chapter may propagate and offer for hunting the following animals that are captive reared and released:

(1) Pheasant, quail, chukar partridges, properly marked mallard ducks, and other game bird species that the department determines by rule.

(2) Species of exotic mammals that the department determines by rule.

As added by P.L.1-1995, SEC.15.

IC 14-22-31-8
Hunting license required; special licenses

Sec. 8. (a) An individual may not take game birds and exotic mammals on a shooting preserve unless the individual has a hunting license required under this article, except nonresidents of Indiana, who must possess a special license issued by the department under this section to shoot on licensed shooting preserves.

(b) The department:

(1) shall issue special licenses described in subsection (a); and

(2) may appoint owners or managers of shooting preserves as agents to sell the special licenses.

(c) A special license expires April 30 immediately following the date the license is effective.

(d) The fee for a special license issued under this section is equal to the fee for a resident annual hunting license under IC 14-22-12-1(a)(2). All fees collected under this section shall be deposited in the fish and wildlife fund.

As added by P.L.1-1995, SEC.15. Amended by P.L.151-2012, SEC.27; P.L.289-2013, SEC.15.

IC 14-22-31-9
Season

Sec. 9. A person may take wild animals from a shooting preserve only during September, October, November, December, January, February, March, or April.

As added by P.L.1-1995, SEC.15.

IC 14-22-31-10
Bill of sale

Sec. 10. The licensee of a shooting preserve shall issue a bill of sale designating game birds or exotic mammals lawfully taken upon the shooting preserve. The bill of sale must accompany all game birds and exotic mammals removed from the shooting preserve. The licensee shall retain a copy of all bills of sale issued to persons removing game birds or exotic mammals from the shooting preserve. The bills of sale are subject to inspection by the fish and wildlife division at any time.

As added by P.L.1-1995, SEC.15.

IC 14-22-31-11
Daily register; records

Sec. 11. (a) The licensee of a shooting preserve must keep a daily register to show the following:

(1) The number of wild animals and the species released and taken from the shooting preserve each day.

(2) The number of hunters participating.

(b) An annual computation of the record:

(1) shall be sent to the department on May 10 each year; and

(2) shall be filed under oath as to the number and species of wild animals released and taken.

(c) Failure to keep and forward the records to the department is sufficient cause for:

(1) revocation of the license for the shooting preserve; or

(2) refusal to issue a license for the following year.

As added by P.L.1-1995, SEC.15.

IC 14-22-31-12
Inspections by department

Sec. 12. (a) The following must be available to the department for inspection:

(1) The daily records.

(2) The pens.

(3) The wild animals.

(4) The shooting preserves.

(b) An inspection of a shooting preserve shall be conducted under this chapter and rules adopted under IC 14-22-2-6. The department shall consult with the state veterinarian if the inspection reveals a potential animal health threat that contravenes programs for the prevention, control, or eradication of diseases in domestic animals.

As added by P.L.1-1995, SEC.15.

IC 14-22-31-13
Falsification of reports

Sec. 13. (a) A licensee may not falsify a report that must be kept under this chapter.

(b) A license may not be issued to a licensee who is convicted of

violating subsection (a) or IC 14-2-7-10(i) (repealed).
As added by P.L.1-1995, SEC.15.

IC 14-22-31-14
Carnivores prohibited

Sec. 14. (a) A licensee may not import or keep carnivores.

(b) The license of a licensee who is convicted of violating subsection (a) shall be revoked.
As added by P.L.1-1995, SEC.15.

IC 14-22-31.5

Chapter 31.5. Shooting Ranges

IC 14-22-31.5-1

"Local unit of government" defined

Sec. 1. As used in this chapter, "local unit of government" means a county, city, town, or township.

As added by P.L.134-1996, SEC.4.

IC 14-22-31.5-2

"Person" defined

Sec. 2. As used in this chapter, "person" means an individual, an association, a business entity, or a governmental entity.

As added by P.L.134-1996, SEC.4.

IC 14-22-31.5-3

"Shooting range" defined

Sec. 3. As used in this chapter, "shooting range" means an area designed and operated for the use of archery, rifles, shotguns, pistols, muskets, or similar firearms that are fired at silhouettes, skeet, trap, paper, stillboard, or other similar targets.

As added by P.L.134-1996, SEC.4.

IC 14-22-31.5-4

Repealed

(As added by P.L.134-1996, SEC.4. Repealed by P.L.57-2002, SEC.1.)

IC 14-22-31.5-5

Local government regulation

Sec. 5. Except as specifically prohibited by this chapter and subject to IC 35-47-11.1, a local unit of government may regulate the location, use, operation, safety, and construction of a shooting range.

As added by P.L.134-1996, SEC.4. Amended by P.L.152-2011, SEC.1.

IC 14-22-31.5-6

Liability relating to noise

Sec. 6. A person who owns, operates, or uses a shooting range is not liable in any civil or criminal matter relating to noise or noise pollution that results from the operation or use of the shooting range if the construction and operation of the shooting range were legal at the time of its initial construction or initial operation, and the shooting range continues to operate in a manner that would have been legal at the time of the inception or initial operation.

As added by P.L.134-1996, SEC.4. Amended by P.L.289-2013, SEC.16.

IC 14-22-31.5-7

Powers of ranges in existence before July 1, 1996

Sec. 7. Notwithstanding any ordinance adopted by a local unit of government, a shooting range that is in existence before July 1, 1996, may do the following within the geographic boundaries of the shooting range as it existed on June 30, 1996:

(1) Repair, remodel, or reinforce a building or structure that is needed to ensure public safety or to secure the continued use of the building or structure.

(2) Reconstruct, repair, restore, or resume the use of a nonconforming building that has been damaged by fire, collapse, explosion, act of nature, or war after July 1, 1996. However, the reconstruction, repair, or restoration must be completed not more than one (1) year after the date of the damage to the building or the settlement of the property damage claim. If the reconstruction, repair, or restoration is not completed within one (1) year, the local unit of government may terminate the continuation of the nonconforming use.

(3) Expand or increase the membership of the shooting range or opportunities for public participation at the shooting range.

As added by P.L.134-1996, SEC.4.

IC 14-22-32

Chapter 32. Game Bird and Exotic Mammal Regulation

IC 14-22-32-1

Applicability of chapter

Sec. 1. This chapter does not apply to the following:

(1) Conservation officers or other law enforcement officers.

(2) Game birds or exotic mammals in shooting preserves licensed under IC 14-22-31.

(3) A person who takes a feral exotic mammal when the feral exotic mammal is causing damage to property that is owned or leased by the person.

(4) A person who is authorized by the department under extraordinary circumstances to take an exotic mammal.

As added by P.L.1-1995, SEC.15.

IC 14-22-32-2

Prohibitions

Sec. 2. A person may not do any of the following:

(1) Offer a game bird or an exotic mammal for hunting, trapping, or chasing by a person using a weapon or device that is not a shotgun, muzzle loading gun, handgun, or bow and arrow.

(2) Hunt, trap, or chase a game bird or an exotic mammal with a weapon or device that is not a shotgun, muzzle loading gun, handgun, or bow and arrow.

As added by P.L.1-1995, SEC.15.

IC 14-22-32-3

Violations

Sec. 3. A person who knowingly or intentionally violates section 2 of this chapter commits a Class A misdemeanor.

As added by P.L.1-1995, SEC.15.

IC 14-22-32-4

Issuance of shooting preserve license precluded

Sec. 4. A person who violates section 2(1) of this chapter may not be issued a license under IC 14-22-31.

As added by P.L.1-1995, SEC.15.

IC 14-22-32-5

Orders to dispose of game birds or exotic mammals

Sec. 5. If a person violates section 2(1) of this chapter, the department shall enter a recommended order to dispose of any game bird or exotic mammal the person owns, keeps, harbors, or otherwise possesses. Before the order becomes a final determination of the department, a hearing must be held under IC 4-21.5-3. The hearing shall be conducted by an administrative law judge for the

commission. The determination of the administrative law judge is a final agency action under IC 4-21.5-1-6.
As added by P.L.1-1995, SEC.15.

IC 14-22-32-6
Adoption of rules

Sec. 6. The department shall adopt rules under IC 4-22-2 to properly administer this chapter consistent with any applicable federal statutes and regulations.
As added by P.L.1-1995, SEC.15.

IC 14-22-32-7
Other actions not precluded

Sec. 7. This chapter does not preclude the state or another person from bringing other actions under the Indiana Code.
As added by P.L.1-1995, SEC.15.

IC 14-22-33
Chapter 33. Federal Laws, Projects, and Coordination

IC 14-22-33-1
Migratory birds; effect of federal laws, regulations, and treaties

Sec. 1. (a) The:

(1) laws of the United States;

(2) migratory bird treaties of the United States with other countries; and

(3) regulations issued and promulgated by a department of the United States government;

concerning migratory birds in effect on January 1, 1979, have the force and effect of law in Indiana, except as otherwise provided in this chapter.

(b) Except as otherwise provided in this chapter, a:

(1) person in Indiana may not violate; and

(2) person may not hunt, shoot, take, kill or possess, sell or offer to sell, purchase or offer to purchase, ship or transport, carry or deliver, or receive for shipment, transportation, or carriage in Indiana a migratory bird in violation of;

a law, a treaty, or a regulation described in subsection (a).

(c) At any time, the director may establish a season and bag limit for migratory birds identical to that established by:

(1) federal law;

(2) treaty of the United States with another country; or

(3) regulation promulgated by a department of the United States government;

concerning migratory birds. The director shall establish the season and bag limit by giving notice by publication in an Indianapolis newspaper of general circulation at least one (1) week before the season and bag limit are to take effect.

As added by P.L.1-1995, SEC.15.

IC 14-22-33-2
Consent to establishment of migratory bird reservations

Sec. 2. Consent of Indiana is given to the acquisition by the United States, by purchase, gift, devise, or lease, of the areas of land and water in Indiana that the United States considers necessary for the establishment of migratory bird reservations in accordance with 16 U.S.C. 715 et seq. reserving, however, to Indiana full and complete jurisdiction and authority over all the areas not incompatible with administration, maintenance, protection, and control of the areas by the United States under 16 U.S.C. 715 et seq.

As added by P.L.1-1995, SEC.15.

IC 14-22-33-3
Authorization for federal fish hatching, operations, and investigations

Sec. 3. To promote fish culture and the increase of useful food and

game fish in the lakes and streams of Indiana and notwithstanding Indiana fish or game law, full authority is granted to the United States Fish and Wildlife Service to conduct fish hatching and all operations and investigations connected with fish hatching in the manner and at the time that is considered necessary and proper.
As added by P.L.1-1995, SEC.15.

IC 14-22-33-4
Assent to federal aid for wildlife restoration projects

Sec. 4. (a) Indiana hereby assents to 16 U.S.C. 669 et seq.

(b) The director shall perform the acts that are necessary to the conduct and establishment of cooperative wildlife-restoration projects in compliance with 16 U.S.C. 669 et seq. and regulations promulgated by the United States Secretary of the Interior under 16 U.S.C. 669 et seq.

(c) Money accruing to the state from license fees paid by hunters may not be diverted for a purpose other than:

(1) the administration of the division of fish and wildlife; and

(2) the enforcement of laws concerning the taking, chasing, selling, and possession of animals.

As added by P.L.1-1995, SEC.15. Amended by P.L.140-1997, SEC.1.

IC 14-22-33-5
Assent to federal aid for fisheries restoration projects

Sec. 5. (a) Indiana hereby assents to 16 U.S.C. 777 et seq.

(b) The director shall perform the acts that are necessary to the conduct and establishment of cooperative fisheries-restoration projects in compliance with 16 U.S.C. 777 et seq. and regulations promulgated by the United States Secretary of the Interior under 16 U.S.C. 777 et seq.

(c) Money accruing to the state from license fees paid by anglers may not be diverted for any other purpose than:

(1) the administration of the division of fish and wildlife; and

(2) the enforcement of laws concerning the taking, chasing, selling, and possession of animals.

As added by P.L.1-1995, SEC.15. Amended by P.L.140-1997, SEC.2.

IC 14-22-34

Chapter 34. Nongame and Endangered Species Conservation

IC 14-22-34-1

"Endangered species"

Sec. 1. (a) As used in this chapter, "endangered species" means any species or subspecies of wildlife whose prospects of survival or recruitment within Indiana are in jeopardy or are likely within the foreseeable future to become so due to any of the following factors:

(1) The destruction, drastic modification, or severe curtailment of the habitat of the wildlife.

(2) The overutilization of the wildlife for scientific, commercial, or sporting purposes.

(3) The effect on the wildlife of disease, pollution, or predation.

(4) Other natural or manmade factors affecting the prospects of survival or recruitment within Indiana.

(5) Any combination of the factors described in subdivisions (1) through (4).

(b) The term includes any species or subspecies of fish and wildlife appearing on the United States list of endangered and threatened wildlife (50 CFR 17.11).

As added by P.L.1-1995, SEC.15. Amended by P.L.7-2015, SEC.40.

IC 14-22-34-2

"Fund" defined

Sec. 2. As used in this chapter, "fund" refers to the nongame fund established by this chapter.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-3

"Management" defined

Sec. 3. (a) As used in this chapter, "management" means the collection and application of biological information for the purposes of increasing the number of individuals within species and populations of wildlife up to the optimum carrying capacity of their habitat and maintaining those levels.

(b) The term includes the following:

(1) The entire range of activities that constitute a modern scientific resource program, including research, census, law enforcement, habitat acquisition and improvement, and education.

(2) When and where appropriate, the periodic or total protection of species or populations as well as regulated taking.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-4

"Nongame species" defined

Sec. 4. As used in this chapter, "nongame species" means any wild

mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other wild animal not otherwise legally classified by Indiana statute or rule.
As added by P.L.1-1995, SEC.15.

IC 14-22-34-5
"Take" defined

Sec. 5. As used in this chapter, "take" means to:

(1) harass, hunt, capture, or kill; or

(2) attempt to harass, hunt, capture, or kill;

wildlife.
As added by P.L.1-1995, SEC.15.

IC 14-22-34-6
"Wildlife" defined

Sec. 6. As used in this chapter, "wildlife" means:

(1) any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, or other wild animal; or

(2) any part, product, egg or offspring, or the dead body or parts of the wild animal.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-7
Investigations of nongame species; adoption of rules

Sec. 7. (a) The director shall conduct investigations on nongame species to determine the species that are in need of management. The director may consider information relating to the following:

(1) Population.

(2) Distribution.

(3) Habitat needs.

(4) Limiting factors.

(5) Other biological and ecological data.

(b) On the basis of the determination made under subsection (a), the director shall adopt rules that do the following:

(1) Designate the species or subspecies of nongame species that the director considers in need of management under this section, giving the common and scientific names by species and subspecies.

(2) Develop management programs designed to ensure the continued ability of nongame species in need of management to perpetuate themselves successfully.

(c) The director shall conduct ongoing investigations of nongame species to determine if the rules need to be amended.
As added by P.L.1-1995, SEC.15.

IC 14-22-34-8
Limits on taking or possession of nongame species

Sec. 8. The director shall adopt rules to establish proposed limitations relating to:

(1) taking;

(2) possession;
(3) transportation;
(4) exportation;
(5) use;
(6) processing;
(7) sale or offer for sale; or
(8) shipment;

of nongame species that are considered necessary to manage the species.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-9

Unlawful taking or possession of nongame species

Sec. 9. Except as provided in rules adopted by the director:

(1) a person may not take, possess, transport, export, process, sell, or offer for sale or shipment nongame species considered by the director to be in need of management under this section; and

(2) a common or contract carrier may not knowingly transport or receive for shipment nongame species considered by the director to be in need of management under this section.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-10

Endangered species list

Sec. 10. On the basis of:

(1) investigations on nongame species required by section 7 of this chapter; and

(2) other available scientific and commercial data;

and after consultation with other state wildlife agencies, appropriate federal agencies, and other interested persons and organizations, the director shall adopt rules to propose a list of those species and subspecies of wildlife indigenous to Indiana that are determined to be endangered in Indiana, giving the common and scientific names by species and subspecies.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-11

Review of endangered species list

Sec. 11. (a) The director:

(1) shall conduct a review of the state list of endangered species at least every two (2) years; and

(2) may amend the list by the additions or deletions that are considered appropriate.

(b) The director shall submit to the governor a summary report of the data used in support of all amendments to the state list during the preceding biennium.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-12
Unlawful taking or possession of endangered species

Sec. 12. (a) Except as otherwise provided in this chapter, a person may not take, possess, transport, export, process, sell or offer for sale, or ship, and a common or contract carrier may not knowingly transport or receive for shipment a species or subspecies of wildlife appearing on any of the following:

(1) The list of wildlife indigenous to Indiana determined to be endangered in Indiana under this chapter.

(2) The United States list of endangered wildlife (50 CFR 17.11) as in effect on January 1, 1979.

(3) The list of endangered species developed under section 13 of this chapter.

(b) A species or subspecies of wildlife appearing on a list described in subsection (a) that:

(1) enters Indiana from another state or from a point outside the territorial limits of the United States; and

(2) is transported across Indiana destined for a point beyond Indiana;

may be so entered and transported without restriction in accordance with the terms of a federal permit or permit issued under the laws of another state.

(c) A person who:

(1) violates subsection (a) or (b); or

(2) fails to procure or violates the terms of a permit issued under:

(A) section 15 of this chapter; or

(B) section 16 of this chapter;

commits a Class A misdemeanor.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-13
Additions to endangered species list

Sec. 13. If in the determination of the director a species:

(1) should be designated endangered; and

(2) has not been designated endangered by the federal government;

the director may adopt rules to make the addition, whether or not a species or subspecies indigenous to Indiana is involved, under section 12 of this chapter.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-14
Management of nongame species

Sec. 14. (a) The director shall establish the programs, including acquisition of land or aquatic habitat, that are considered necessary for the management of nongame species. The director shall use all authority vested in the department to carry out the purposes of this section.

(b) In carrying out programs authorized by this section, the director may enter into agreements with:

(1) federal agencies;

(2) political subdivisions of the state; or

(3) private persons;

for administration and management of an area established under this section or used for management of nongame species.

(c) The governor shall do the following:

(1) Review other programs administered by the governor and, to the extent practicable, use the programs to further the purposes of this chapter.

(2) Encourage other state and federal agencies to use their authorities to further the purposes of this chapter.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-15

Taking of endangered species for scientific purposes

Sec. 15. The director may permit, under the terms and conditions that are prescribed by rule, the taking, possession, transportation, exportation, or shipment of species or subspecies of wildlife that have been designated by rule as in need of management or appear on the:

(1) state list of endangered species;

(2) United States list of endangered native fish and wildlife, as amended;

(3) list of wildlife added under section 13 of this chapter; or

(4) United States list of endangered foreign fish and wildlife, as modified after July 26, 1973;

for scientific, zoological, or educational purposes, for propagation in captivity of the wildlife, or for other special purposes.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-16

Removal, capture, or destruction of endangered species

Sec. 16. (a) Upon good cause shown, and if necessary to alleviate damage to property or to protect human health, endangered species or species in need of management may be removed, captured, or destroyed:

(1) except as provided in subsection (b), under a permit issued by the director; and

(2) if possible, by or under the supervision of an agent of the department.

(b) An endangered species or a species in need of management may be removed, captured, or destroyed without a permit by a person in an emergency situation involving an immediate threat to human life.

(c) The director shall adopt rules under section 7 of this chapter for the removal, capture, or destruction of nongame species for the purposes set forth in this section.

As added by P.L.1-1995, SEC.15.

IC 14-22-34-17
Adoption of rules

Sec. 17. The director shall adopt rules under IC 4-22-2 that are necessary to carry out the purposes of this chapter.
As added by P.L.1-1995, SEC.15.

IC 14-22-34-18
Applicability of chapter to wildlife possessed on July 26, 1973

Sec. 18. The provisions of this chapter prohibiting the taking, possessing, transportation, exporting, processing, sale, or offer to sell do not apply to wildlife in the possession of a person in Indiana on July 26, 1973.
As added by P.L.1-1995, SEC.15.

IC 14-22-34-19
Cost of programs; transfer of funds

Sec. 19. The costs of the programs established under this chapter may not be paid with money dedicated to fish and game purposes. However, transfers may be made from money dedicated for fish and game purposes to the nongame fund established under section 20 of this chapter.
As added by P.L.1-1995, SEC.15. Amended by P.L.69-2009, SEC.10.

IC 14-22-34-20
Fund

Sec. 20. (a) The nongame fund is established as a dedicated fund.

(b) The department shall administer the fund.

(c) In recognition of the importance of preserving the natural heritage of Indiana, it is the intent of the general assembly to provide a fund to be used exclusively for the protection, conservation, management, and identification of nongame and endangered species of wildlife primarily through the acquisition of the natural habitat of the animals. The department may expend the money in the fund exclusively for the preservation of nongame and endangered species of wildlife under this chapter.

(d) Money in the fund does not revert to the state general fund at the end of a state fiscal year. However, if the fund is abolished, the money in the fund reverts to the state general fund.
As added by P.L.1-1995, SEC.15.

IC 14-22-34-21
Entrance fees

Sec. 21. If the commission establishes entrance fees for admission to fish and wildlife areas, the fees shall be deposited in the fund. However, the holder of a hunting or fishing license under this article may not be charged a fee for admission to fish and wildlife areas.
As added by P.L.1-1995, SEC.15.

IC 14-22-35
Chapter 35. Hunting Safety

IC 14-22-35-1
Establishment of course of instruction

Sec. 1. (a) The department shall establish a course of instruction in hunter safety, principles of conservation, and sportsmanship.

(b) To carry out subsection (a), the department may cooperate with a reputable association or organization having as an objective the promotion of hunter safety, principles of conservation, and sportsmanship.

As added by P.L.1-1995, SEC.15.

IC 14-22-35-2
Conservation officer to administer program

Sec. 2. The director shall designate a conservation officer to administer the program. The officer shall do the following:

(1) Outline all phases of instruction.

(2) Conduct general supervision of individual programs.

(3) Distribute information on the programs.

As added by P.L.1-1995, SEC.15.

IC 14-22-35-3
Public target ranges

Sec. 3. The department may construct, operate, and maintain public outdoor and indoor target ranges.

As added by P.L.1-1995, SEC.15.

IC 14-22-35-4
Reports required for federal assistance

Sec. 4. The department shall prepare the reports necessary to seek approval under 16 U.S.C. 669g for federal assistance in the program of hunter safety, conservation, and sportsmanship.

As added by P.L.1-1995, SEC.15.

IC 14-22-36

Chapter 36. Trapper Training

IC 14-22-36-1

Establishment of training program

Sec. 1. (a) The department shall establish a trapper training program, including a course of instruction in trapping wild animals, that emphasizes methods, laws, ethics, responsibilities, natural history, wildlife management, and other matters associated with trapping.

(b) To carry out subsection (a), the department may cooperate with an organization that promotes the responsible trapping of wild animals.

As added by P.L.1-1995, SEC.15.

IC 14-22-36-2

Division designated to administer program

Sec. 2. The director shall designate one (1) of the divisions of the department to administer the trapper training program.

As added by P.L.1-1995, SEC.15.

IC 14-22-36-3

Reports required for federal assistance

Sec. 3. The department may prepare the reports that are necessary to obtain federal or other assistance for the trapper training program.

As added by P.L.1-1995, SEC.15.

IC 14-22-37

Chapter 37. Harassment of Hunters, Trappers, and Fishermen

IC 14-22-37-1

"Game animal" defined

Sec. 1. As used in this chapter, "game animal" means an animal that may be legally taken under this article.

As added by P.L.1-1995, SEC.15.

IC 14-22-37-2

Violations

Sec. 2. (a) A person who knowingly or intentionally interferes with the legal taking of a game animal by another person with intent to prevent the taking commits a Class C misdemeanor.

(b) A person who knowingly or intentionally:

(1) disturbs a game animal; or

(2) engages in an activity or places an object or substance that will tend to disturb or otherwise affect the behavior of a game animal;

with intent to prevent or hinder the legal taking commits a Class C misdemeanor.

(c) A person who knowingly or intentionally enters or remains:

(1) upon public land; or

(2) upon private land without permission of the owner or the owner's agent;

with intent to violate this section commits a Class C misdemeanor.

As added by P.L.1-1995, SEC.15.

IC 14-22-37-3

Failure to obey orders of law enforcement officer

Sec. 3. A person who fails to obey the order of a law enforcement officer to desist from conduct in violation of section 2 of this chapter commits a Class B misdemeanor if the law enforcement officer:

(1) observed the person engaged in conduct that violates section 2 of this chapter; or

(2) has reasonable grounds to believe that the person:

(A) has engaged in the conduct that day; or

(B) plans or intends to engage in the conduct that day on specific premises.

As added by P.L.1-1995, SEC.15.

IC 14-22-38
Chapter 38. Violations

IC 14-22-38-1
Violations generally

Sec. 1. (a) Except as otherwise provided in this article and subject to subsection (b), a person who violates this article commits a Class C infraction.

(b) Except as otherwise provided in this article, a person who knowingly or intentionally violates this article commits a Class C misdemeanor.

(c) A person may not be charged with both:

(1) a Class C misdemeanor; and

(2) a Class C infraction;

under this section for the same act or omission.

As added by P.L.1-1995, SEC.15. Amended by P.L.195-2014, SEC.16.

IC 14-22-38-2
Separate offenses

Sec. 2. The:

(1) taking, catching, killing, possession, or transportation of each animal or part of an animal; or

(2) possession of each fishing, hunting, or trapping apparatus, appliance, or device;

in violation of this article constitutes a separate offense. Each day's possession of an animal or each day's possession of a fishing, hunting, or trapping apparatus, appliance, or device the possession of which is prohibited by this article constitutes a separate offense.

As added by P.L.1-1995, SEC.15.

IC 14-22-38-3
Unlawful taking of deer or wild turkey

Sec. 3. A person who takes a deer or a wild turkey in violation of this article commits a Class B misdemeanor. However, the offense is a Class A misdemeanor if the person has a prior conviction under:

(1) IC 14-2-3-8(c) (repealed); or

(2) this section.

As added by P.L.1-1995, SEC.15.

IC 14-22-38-4
Fines; unlawful taking of deer or wild turkey; sale of deer meat; use of silencer

Sec. 4. (a) If a person commits an offense that involves:

(1) unlawfully taking or possessing a deer or wild turkey;

(2) taking or possessing a deer or wild turkey by illegal methods or with illegal devices; or

(3) except as provided in subsections (c) and (d), selling, offering to sell, purchasing, or offering to purchase a deer or

wild turkey or a part of a deer or wild turkey;

the court may order the person to reimburse the state five hundred dollars ($500) for the first violation and one thousand dollars ($1,000) for each subsequent violation.

(b) The money shall be deposited in the conservation officers fish and wildlife fund. This penalty is in addition to any other penalty under the law.

(c) Notwithstanding section 6 of this chapter, if a properly tagged deer is brought to a meat processing facility and the owner of the deer:

(1) fails to pick up the processed deer within a reasonable time; or

(2) notifies the meat processing facility that the owner does not want the processed deer;

the deer meat may be given away by the meat processing facility to another person. The meat processing facility may charge the person receiving the deer meat a reasonable and customary processing fee.

(d) Notwithstanding section 6 of this chapter, deer meat and products from farm raised deer that meet the requirements under IC 15-17 may be sold to the public.

(e) In addition to being liable for the reimbursement required under subsection (a), a person who recklessly, knowingly, or intentionally violates subsection (a)(1) or (a)(2) while using or possessing:

(1) a sound suppressor designed for use with or on a firearm, commonly called a silencer; or

(2) a device used as a silencer;

commits unlawful hunting while using or possessing a silencer, a Class C misdemeanor.

As added by P.L.1-1995, SEC.15. Amended by P.L.75-2005, SEC.1; P.L.2-2008, SEC.32; P.L.289-2013, SEC.17; P.L.195-2014, SEC.17.

IC 14-22-38-4.5

Use of silencer; penalty

Sec. 4.5. A person who recklessly, knowingly, or intentionally:

(1) violates IC 14-22-10-1(1) by hunting on privately owned land without the consent of the owner or tenant; and

(2) while committing the violation described in subdivision (1), uses or possesses:

(A) a sound suppressor designed for use with or on a firearm, commonly called a silencer; or

(B) a device used as a silencer;

commits unauthorized hunting on private land while using or possessing a silencer, a Class B misdemeanor.

As added by P.L.289-2013, SEC.18.

IC 14-22-38-5

Fines; unlawful taking of other wild animals

Sec. 5. (a) A person who takes or possesses a wild animal, except

a deer or turkey, in violation of this article shall reimburse the state as follows:

(1) Twenty dollars ($20) for the first violation.

(2) Thirty-five dollars ($35) for each subsequent violation.

(b) The money shall be deposited in the conservation officers fish and wildlife fund.

As added by P.L.1-1995, SEC.15.

IC 14-22-38-6

Unlawful sale or shipment of wild animals, nests, or eggs; unlawful guide services

Sec. 6. (a) As used in this section, "guide services" means fishing or hunting guide or outfitter services that are offered or provided for money or other consideration. The term includes services by a person who for money or other consideration:

(1) offers or advertises to transport an individual for the purpose of hunting or fishing; and

(2) transports an individual to a location for the purpose of hunting or fishing.

(b) As used in this section, "sell" includes barters, purchases, and offers to sell, barter, or purchase.

(c) As used in this section, "ship" includes transporting, delivering for shipment or transport, and causing to be shipped or transported.

(d) As used in this section, "wild animal" includes the following:

(1) A living or dead wild animal.

(2) A part of a living or dead wild animal.

(e) A person who knowingly or intentionally:

(1) sells or ships wild animals, nests, or eggs; or

(2) provides guide services to take, acquire, receive, transport, or possess wild animals;

that are protected by law and have an aggregate market value of less than five hundred dollars ($500) commits a Class C misdemeanor.

(f) A person who:

(1) provides guide services; and

(2) knowingly or intentionally transports an individual to private property to hunt or fish without the permission or consent of the landowner;

commits a Class A misdemeanor.

(g) A person who knowingly or intentionally:

(1) sells or ships wild animals, nests, or eggs; or

(2) provides guide services to take, acquire, receive, transport, or possess wild animals;

that are protected by law and have an aggregate market value of at least five hundred dollars ($500) but less than five thousand dollars ($5,000) commits a Level 6 felony.

(h) A person who knowingly or intentionally:

(1) sells or ships wild animals, nests, or eggs; or

(2) provides guide services to take, acquire, receive, transport, or possess wild animals;

that are protected by law and have an aggregate market value of at least five thousand dollars ($5,000) commits a Level 5 felony.
As added by P.L.1-1995, SEC.15. Amended by P.L.158-2013, SEC.204; P.L.219-2014, SEC.31; P.L.38-2015, SEC.1.

IC 14-22-38-7
Hunter orange

Sec. 7. (a) As used in this section, "hunter orange" means a daylight fluorescent orange with the dominant wavelength 595-605 nm, a purity of not less than eighty-five percent (85%), and a luminance factor of not less than forty percent (40%).

(b) As used in this section, "wear hunter orange" means to expose on one's person as an outer garment one (1) or more of the following articles of clothing that are solid hunter orange in color:

(1) A vest.
(2) A coat.
(3) A jacket.
(4) Coveralls.
(5) A hat.
(6) A cap.

However, articles of clothing specified under this section with logos, patches, insignia, or printing that does not substantially hinder the visibility of the hunter orange material are allowed under this section.

(c) This subsection applies only during the season when hunting by firearms (as defined in IC 14-22-40-3) is permitted under 312 IAC. A person who hunts for:

(1) deer by firearm or bow and arrow;
(2) cottontail rabbit;
(3) squirrel, unless from a boat, during the period:
    (A) beginning on the first Friday that follows November 3; and
    (B) ending on January 31 of the following year;
(4) woodcock;
(5) pheasant;
(6) quail; or
(7) ruffed grouse;

must wear hunter orange.

(d) A person who violates the requirement to:

(1) wear hunter orange; or
(2) display hunter orange on an occupied ground blind;

as specified in 312 IAC 9 commits a Class D infraction.
As added by P.L.104-2001, SEC.3. Amended by P.L.289-2013, SEC.19.

IC 14-22-39
Chapter 39. Enforcement

IC 14-22-39-1
Concurrent power of attorney general and prosecuting attorneys

Sec. 1. The attorney general has concurrent power with prosecuting attorneys to enforce this article, including the power to approve and file an affidavit charging a violation of law under this article.

As added by P.L.1-1995, SEC.15.

IC 14-22-39-2
Summons; failure to appear

Sec. 2. (a) A conservation officer may issue a summons for a violation committed within the view of the conservation officer.

(b) A defendant who fails to appear as commanded by the summons is in contempt of court.

(c) Upon a failure to appear, the court shall issue a warrant for the arrest of the defendant.

(d) This subsection applies to a warrant issued under subsection (c) for the arrest of a defendant who is an Indiana resident. If the warrant is not executed within thirty (30) days after issue, the court shall promptly forward the court copy of the summons to the bureau of motor vehicles indicating that the defendant failed to appear in court as ordered. The court shall then mark the case as failure to appear on the court's records.

(e) This subsection applies to a warrant issued under subsection (c) for the arrest of a defendant who is not an Indiana resident. If the warrant is not executed within thirty (30) days after issue, the court shall promptly forward the court copy of the summons to the bureau of motor vehicles. The bureau of motor vehicles shall notify the bureau of motor vehicles commission of the state of the nonresident defendant of the defendant's failure to appear and also of any action taken by the bureau of motor vehicles relative to the Indiana driving privileges of the defendant. The court shall then mark the case as failure to appear on the court's records.

(f) If the bureau of motor vehicles receives a copy of the summons or a summons for failure to appear in court, the bureau of motor vehicles shall suspend the driving privileges of the defendant until the defendant appears in court and the case has been disposed of. The order of suspension may be served upon the defendant by mailing the order by certified mail, return receipt requested, to the defendant at the last address shown for the defendant in the records of the bureau of motor vehicles. The order takes effect on the date the order is mailed.

(g) For nonresidents of Indiana, the order of suspension shall be mailed to the defendant at the address given to the arresting conservation officer by the defendant as shown by the signed

summons. The order takes effect on the date of mailing. A copy of the order shall also be sent to the bureau of motor vehicles of the state of the nonresident defendant. If:

(1) the defendant's failure to appear in court has been certified to the bureau of motor vehicles under this chapter; and

(2) the defendant subsequently appears in court to answer the charges against the defendant;

the court shall proceed to hear and determine the case in the same manner as other cases pending in the court. Upon final determination of the case, the court shall notify the bureau of motor vehicles of the determination upon forms prescribed by the bureau of motor vehicles. The notification shall be made by the court within ten (10) days after the final determination of the case, and the original copy of the summons must accompany the notification.

As added by P.L.1-1995, SEC.15. Amended by P.L.186-2003, SEC.65.

IC 14-22-39-3

Searches of effects; entry onto property

Sec. 3. (a) As used in this section, "public or private property" does not include dwellings.

(b) The director and conservation officers may:

(1) search a boat, a conveyance, a vehicle, an automobile, a fish box, a fish basket, a game bag, a game coat, or other receptacle in which game may be carried; and

(2) enter into or upon private or public property for the purposes of subdivision (1) or for the purpose of patrolling or investigating;

if the director or conservation officer has good reason to believe that the director or conservation officer will secure evidence of a violation of this article or a law for the propagation or protection of fish, frogs, mussels, game, furbearing mammals, or birds.

As added by P.L.1-1995, SEC.15.

IC 14-22-39-4

Search warrants; issuance

Sec. 4. (a) A court may issue a warrant to search a house or place for the following:

(1) Seines, fishnets, fish traps, fish-spears, or any implement or device used or kept for use for taking wild animals illegally.

(2) Wild animals or parts of wild animals whose possession is unlawful.

(b) Search warrants, affidavits for search warrants, and all procedure concerning search warrants must be in the form and substance provided by law for search warrants and issuance of search warrants in other cases.

As added by P.L.1-1995, SEC.15.

IC 14-22-39-5

Search warrants; execution and service

Sec. 5. The director or a conservation officer may execute and serve any place in Indiana with the warrants and processes issued by a court having jurisdiction under a law that the director has the duty to enforce.

As added by P.L.1-1995, SEC.15.

IC 14-22-39-6

Seizure of animals and equipment

Sec. 6. (a) Conservation officers and other police officers may seize:

(1) wild animals;

(2) remains of wild animals; or

(3) hides or furs of furbearing animals;

taken or attempted to be taken in violation of this article or IC 14-2 (before its repeal). Upon conviction, the items seized are forfeited to the state, and the director shall dispose of the items according to the discretion of the director.

(b) Notwithstanding IC 35-47-3, conservation officers and other police officers may seize all equipment, devices, or machinery used by a person to:

(1) take or attempt to take a wild animal; or

(2) store or transport carcasses, hides, or furs of furbearing animals;

in violation of this article or IC 14-2 (before its repeal). Upon conviction, the equipment, devices, or machinery seized are forfeited to the state and the director shall dispose of the items according to the discretion of the director.

As added by P.L.1-1995, SEC.15. Amended by P.L.155-2015, SEC.18.

IC 14-22-40

Chapter 40. Shooting at Law Enforcement Decoys

IC 14-22-40-1

"Bow"

Sec. 1. As used in this chapter, "bow" means any device that is intended to shoot an arrow. The term includes a crossbow.

As added by P.L.133-1996, SEC.7.

IC 14-22-40-2

"Decoy"

Sec. 2. As used in this chapter, "decoy" means a three-dimensional object that:

(1) resembles; and

(2) is intended to resemble;

a game animal or other animal when placed in the animal's habitat.

As added by P.L.133-1996, SEC.7.

IC 14-22-40-3

"Firearm"

Sec. 3. As used in this chapter, "firearm" means any weapon that is designed to expel a projectile by means of an explosion.

As added by P.L.133-1996, SEC.7.

IC 14-22-40-4

"Game animal"

Sec. 4. As used in this chapter, "game animal" means an animal that may be legally taken under this article.

As added by P.L.133-1996, SEC.7.

IC 14-22-40-5

"Law enforcement officer"

Sec. 5. As used in this chapter, "law enforcement officer" has the meaning set forth in IC 35-31.5-2-185. The term includes a conservation officer.

As added by P.L.133-1996, SEC.7. Amended by P.L.26-2008, SEC.17; P.L.114-2012, SEC.37.

IC 14-22-40-6

Unlawful shooting at law enforcement decoys

Sec. 6. (a) Except as provided in subsection (b), a person who with a firearm or bow intentionally, knowingly, or recklessly:

(1) shoots; or

(2) shoots at;

a decoy used by a law enforcement officer to enforce this article commits a Class C misdemeanor.

(b) A person described in subsection (a) does not commit the offense defined in subsection (a) if the person, in:

(1) shooting with the firearm or bow; and

(2) hunting the game animal that the decoy is intended to represent;

does not otherwise violate this article.

As added by P.L.133-1996, SEC.7.

IC 14-22-40-7

Reimbursement

Sec. 7. To compensate for harm caused to decoys, a person convicted of an offense under section 6 of this chapter shall reimburse the state one hundred dollars ($100) for each commission of the offense. The reimbursement required by this section is in addition to any penalty imposed on the person under IC 35-50-3.

As added by P.L.133-1996, SEC.7.

IC 14-22-40-8

Collection and deposit of reimbursement

Sec. 8. The court that convicts a person of an offense under section 6 of this chapter shall collect the reimbursement required by section 7 of this chapter and transmit the reimbursement to the department. The department shall deposit the reimbursement in the conservation officers fish and wildlife fund established by IC 14-9-8-21.

As added by P.L.133-1996, SEC.7.

IC 14-22-41

Chapter 41. Wildlife Violator Compact

IC 14-22-41-1

Name

Sec. 1. This compact may be referred to as the wildlife violator compact.

As added by P.L.23-1999, SEC.2.

IC 14-22-41-2

Adoption

Sec. 2. Indiana adopts the wildlife violator compact with all other states that legally join in the compact in a form substantially the same as this chapter.

As added by P.L.23-1999, SEC.2.

IC 14-22-41-3

Findings, policy, and purpose

Sec. 3. ARTICLE I

(a) The participating states find the following:

(1) Wildlife resources are managed in trust by the respective states for the benefit of all residents and visitors.

(2) The protection of the wildlife resources of a state is materially affected by the degree of compliance with state statutes, laws, regulations, ordinances, and administrative rules relating to the management of wildlife resources.

(3) The preservation, protection, management, and restoration of wildlife contributes immeasurably to the aesthetic, recreational, and economic aspects of wildlife natural resources.

(4) Wildlife resources are valuable without regard to political boundaries; therefore, every person should be required to comply with wildlife preservation, protection, management, and restoration laws, ordinances, and administrative rules and regulations of the participating states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap, or possess wildlife.

(5) Violation of wildlife laws interferes with the management of wildlife resources and may endanger the safety of persons and property.

(6) The mobility of many wildlife law violators necessitates the maintenance of channels of communication among the various states.

(7) In some states, a person who is cited for a wildlife violation in a state other than the person's home state:

(A) is required to post collateral or a bond to secure appearance for a trial at a later date;

(B) is taken into custody until the collateral or bond is posted; or

(C) is taken directly to court for an immediate appearance.

(8) The purpose of the enforcement practices set forth in subdivision (7) is to ensure compliance with the terms of a wildlife citation by the cited person who, if permitted to continue on the person's way after receiving the citation, could return to the person's home state and disregard the person's duty under the terms of the citation.

(9) In most instances, a person receiving a wildlife citation in the person's home state is permitted to accept the citation from the officer at the scene of the violation and immediately continue on the person's way after agreeing or being instructed to comply with the terms of the citation.

(10) The practices described in subdivision (7) cause unnecessary inconvenience and, at times, a hardship for the person who is unable at the time to post collateral, furnish a bond, stand trial, or pay a fine, and thus is compelled to remain in custody until some alternative arrangement is made.

(11) The enforcement practices described in subdivision (7) consume an undue amount of law enforcement time.

(b) It is the policy of the participating states to do the following:

(1) Promote compliance with the statutes, laws, ordinances, regulations, and administrative rules relating to management of wildlife resources in their respective states.

(2) Recognize the suspension of wildlife license privileges of any person whose license privileges have been suspended by a participating state and treat the suspension as if it had occurred in their state provided the violation that resulted in the suspension could have been the basis for suspension in their state.

(3) Allow a violator, except as provided in section 5(b) of this chapter, to accept a wildlife citation and, without delay, proceed on the person's way, whether or not a resident of the state in which the citation was issued, provided that the violator's home state is party to this compact.

(4) Report to the appropriate participating state, as provided in the compact manual, any conviction recorded against any person whose home state was not the issuing state.

(5) Allow the home state to recognize and treat convictions recorded against the home state's residents that occurred in a participating state as though the convictions had occurred in the home state.

(6) Extend cooperation to its fullest extent among the participating states for enforcing compliance with the terms of a wildlife citation issued in a participating state to a resident of another participating state.

(7) Maximize effective use of law enforcement personnel and information.

(8) Assist court systems in the efficient disposition of wildlife violations.

(c) The purpose of this compact is to do the following:

(1) Provide a means through which a participating state may join in a reciprocal program to effectuate the policies enumerated in subsection (b) in a uniform and orderly manner.

(2) Provide for the fair and impartial treatment of wildlife violators operating within participating states in recognition of the violator's right to due process and the sovereign status of a participating state.

As added by P.L.23-1999, SEC.2.

IC 14-22-41-4
Definitions

Sec. 4. ARTICLE II

(a) "Citation" means any summons, complaint, summons and complaint, ticket, penalty assessment, or other official document issued to a person by a wildlife officer or other law enforcement officer for a wildlife violation that contains an order requiring the person to respond.

(b) "Collateral" means cash or other security deposited to secure an appearance for trial in connection with the issuance by a wildlife officer or other law enforcement officer of a citation for a wildlife violation.

(c) "Compliance", with respect to a citation, means the act of answering a citation through an appearance in a court or tribunal or through the payment of fines, costs, and surcharges, if any.

(d) "Conviction" means a conviction, including any court conviction, for any offense related to the preservation, protection, management, or restoration of wildlife that is prohibited by state statute, law, regulation, ordinance, or administrative rule. The term includes the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, the payment of a penalty assessment, a plea of nolo contendere, and the imposition of a deferred or suspended sentence by the court.

(e) "Court" means a court of law, including a magistrate's court and a justice of the peace court.

(f) "Home state" means the state of primary residence of a person.

(g) "Issuing state" means the participating state that issues a wildlife citation to the violator.

(h) "License" means any license, permit, or other public document that conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any wildlife regulated by statute, law, regulation, ordinance, or administrative rule of a participating state.

(i) "Licensing authority" means the department or division within each participating state that is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.

(j) "Participating state" means any state that enacts legislation to become a member of the wildlife violator compact.

(k) "Personal recognizance" means an agreement made by a

person at the time of issuance of the wildlife citation that the person will comply with the terms of the citation.

(l) "State" means any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the provinces of Canada, and other countries.

(m) "Suspension" means any revocation, denial, or withdrawal of any or all license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by any license.

(n) "Terms of the citation" means those conditions and options expressly stated upon the citation.

(o) "Wildlife" means all species of animals including mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans that are defined as "wildlife" and are protected or otherwise regulated by statute, law, regulation, ordinance, or administrative rule in a participating state. Species included in the definition of wildlife vary from state to state and determination of whether a species is wildlife for the purposes of this compact is based on local law.

(p) "Wildlife law" means any statute, law, regulation, ordinance, or administrative rule developed and enacted for the management and uses of wildlife resources.

(q) "Wildlife officer" means any individual authorized by a participating state to issue a citation for a wildlife violation.

(r) "Wildlife violation" means any cited violation of a statute, law, regulation, ordinance, or administrative rule developed and enacted for the management and uses of wildlife resources.

(s) Unless the context requires otherwise, the definitions of this section apply throughout the chapter.

As added by P.L.23-1999, SEC.2.

IC 14-22-41-5

Citations in participating state

Sec. 5. ARTICLE III

(a) When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any person whose primary residence is in a participating state in the same manner as the officer would issue a citation to a resident of the issuing state and may not require the person to post collateral to secure appearance, subject to the exception in subsection (b), if the officer receives the recognizance of the person that the person will comply with the terms of the citation.

(b) Personal recognizance is acceptable if:

(1) not prohibited by local law or the compact manual; and

(2) the violator provides adequate proof of identification to the wildlife officer.

(c) Upon conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate official shall report the conviction or failure to comply to the licensing authority of the participating state in which the wildlife citation was issued. The report must be made in accordance with procedures specified by the

issuing state.

(d) Upon receipt of the report of conviction or noncompliance under subsection (c), the licensing authority of the issuing state shall transmit to the licensing authority of the home state of the violator the information in the form and content prescribed in the compact manual.

As added by P.L.23-1999, SEC.2.

IC 14-22-41-6

Treatment by home state of noncompliance or conviction

Sec. 6. ARTICLE IV

(a) Upon receipt of a report from the licensing authority of the issuing state reporting the failure of a violator to comply with the terms of a citation, the licensing authority of the home state shall:

(1) notify the violator;

(2) initiate a suspension action in accordance with the home state's suspension procedures; and

(3) suspend the violator's license privileges until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority.

Due process safeguards must be accorded.

(b) Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state shall enter the conviction in its records and treat the conviction as though it occurred in the home state for the purposes of the suspension of license privileges.

(c) The licensing authority of the home state shall maintain a record of actions taken and make reports to issuing states.

As added by P.L.23-1999, SEC.2.

IC 14-22-41-7

Suspension of license privileges

Sec. 7. ARTICLE V

(a) Each participating state shall recognize the suspension of license privileges of any person by any participating state as though the violation resulting in the suspension had occurred in their state and could have been the basis for suspension of license privileges in their state.

(b) Each participating state shall communicate suspension information to other participating states in form and content as contained in the compact manual.

As added by P.L.23-1999, SEC.2.

IC 14-22-41-8

Application of laws and other agreements not affected

Sec. 8. ARTICLE VI

Except as expressly required by provisions of this compact, nothing in this compact affects the right of any participating state to

apply any of its laws relating to license privileges to any person or circumstance or to invalidate or prevent any agreement or other cooperative arrangement between a participating state and a nonparticipating state concerning wildlife law enforcement.
As added by P.L.23-1999, SEC.2.

IC 14-22-41-9
Board of compact administrators

Sec. 9. ARTICLE VII

(a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board is composed of one (1) representative, known as the compact administrator, from each of the participating states. The compact administrator shall be appointed by the head of the licensing authority of each participating state and serve and be subject to removal in accordance with the laws of the state the compact administrator represents. A compact administrator may provide for the discharge of the compact administrator's duties and the performance of the compact administrator's function as a board member by an alternate. An alternate is not entitled to serve on the board unless written notification of the alternate's identity has been given to the board.

(b) Each member of the board of compact administrators is entitled to one (1) vote. An action of the board is not binding unless taken at a meeting at which a majority of the total number of the board's votes are cast in favor of the action. Action by the board must be at a meeting at which a majority of the participating states are represented.

(c) The board shall elect annually from its membership a chair and vice chair.

(d) The board shall adopt bylaws consistent with the provisions of this compact or the laws of a participating state for the conduct of its business and shall have the power to amend and rescind its bylaws.

(e) The board may accept for any of its purposes and functions under this compact any and all donations and grants of money, equipment, supplies, materials, and services conditional or otherwise, from any state, the United States, or any governmental agency, and may receive, use, and dispose of the same.

(f) The board may contract with, or accept services or personnel from, any governmental or intergovernmental agency, individual, firm, or corporation or any private nonprofit organization or institution.

(g) The board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted under board action must be contained in a compact manual.
As added by P.L.23-1999, SEC.2.

IC 14-22-41-10
Effectiveness of compact

Sec. 10. ARTICLE VIII

(a) This compact becomes effective when it is adopted in a substantially similar form by two (2) or more states.

(b) Entry into the compact must be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the chair of the board. The resolution must substantially be in the form and content as provided in the compact manual and include the following:

(1) A citation of the authority from which the state is empowered to become a party to this compact.

(2) An agreement of compliance with the terms and provisions of this compact.

The effective date of entry shall be specified by the applying state but may not be less than sixty (60) days after notice has been given by the chair of the board of the compact administrators or by the secretary of the board to each participating state that the resolution from the applying state has been received.

(c) A participating state may withdraw from participation in this compact by official written notice to each participating state, but withdrawal is not effective until ninety (90) days after the notice of withdrawal is given. The notice must be directed to the compact administrator of each member state. No withdrawal of any state shall affect the validity of this compact as to the remaining participating states.

As added by P.L.23-1999, SEC.2.

IC 14-22-41-11
Amendments

Sec. 11. ARTICLE IX

(a) This compact may be amended from time to time. Amendments must be presented in resolution form to the chair of the board of compact administrators and be initiated by one (1) or more participating states.

(b) Adoption of an amendment requires endorsement by all participating states and becomes effective thirty (30) days after the date of the last endorsement.

As added by P.L.23-1999, SEC.2.

IC 14-22-41-12
Construction

Sec. 12. ARTICLE X

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States, or the applicability thereof to any government, agency, individual, or circumstance is held

invalid, the validity of the remainder of this compact shall not be affected by the declaration. If this compact is held contrary to the constitution of any participating state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the participating state affected as to all severable matters. *As added by P.L.23-1999, SEC.2.*

IC 14-23

ARTICLE 23. FORESTRY

IC 14-23-1

Chapter 1. Duties of Department

IC 14-23-1-1

Duties of department

Sec. 1. The department shall do the following:

(1) Have the care, custody, and control of the forest land owned by the state, exclusive of state parks.

(2) Adopt necessary rules to properly enforce this chapter.

(3) Establish, operate, and maintain nurseries for the production of trees to be used in reforestation. The trees may be:

(A) used to reforest land owned by the state;

(B) supplied to owners of private land at a price not exceeding cost of production; or

(C) used for planting on public roads or land under the terms that are considered by the department to be for the public benefit.

(4) Prepare, print, post, or distribute printed matter relating to forestry.

(5) Make investigations or experiments with regard to forestry questions.

(6) Subject to the approval of the governor, purchase land and forests. For the purpose of acquiring land and forests, the commission may exercise the right of eminent domain in the manner provided in IC 14-17-3.

(7) Receive and accept, in the name of the people of Indiana, by gift or devise, the fee or other estate in land or forests.

(8) Examine the forest land owned by the state or by a state institution for the purpose of advising and cooperating in securing proper forest management of the land.

(9) Employ, with approval of the authorities having control of the state penal institutions, convicts committed to a penal institution for the purpose of producing or planting trees, building roads, or doing other work in the forests and in clearing, draining, or developing land purchased or acquired by the state for forestry purposes.

(10) Propagate trees and shrubs for state institutions or for planting along highways. A common carrier may transport trees or shrubs grown by the state at a rate less than the established tariff to and from points within Indiana.

(11) Have the custody of all abstracts of title, papers, contracts, or related memoranda, except original deeds to the state, for land purchased or received under this section.

(12) Examine private forest land:

(A) upon request of; and

(B) at the expense of;

the owner for the purpose of advising the owner on the proper methods of forest management.

As added by P.L.1-1995, SEC.16.

IC 14-23-1-2

Nursery stock and wildflower seed sales

Sec. 2. (a) This section does not apply to the following:

(1) The sale or distribution of nursery stock or wildflower seeds to the following:

(A) An individual who resides in Indiana.

(B) A governmental entity.

(C) A nonprofit organization or an educational institution.

(D) An agricultural research program.

(2) The exchange of nursery stock or wildflower seeds with a person or an entity.

(b) The department may not sell or distribute nursery stock or wildflower seeds to the following:

(1) An individual who resides in a state other than Indiana, unless the individual:

(A) owns land in Indiana; and

(B) submits an affidavit that affirms that the nursery stock or wildflower seeds will be planted in Indiana.

(2) A retail business that sells nursery stock or wildflower seeds.

(3) A wholesale business that sells nursery stock or wildflower seeds.

As added by P.L.82-2007, SEC.3.

IC 14-23-2

Chapter 2. Status Report

IC 14-23-2-1

Collection of information; recommendation of plans

Sec. 1. The department shall do the following:

(1) Collect, digest, and classify information respecting forests, timber land, forest preservation, and timber culture.

(2) Recommend plans and methods for forest preservation and timber culture and for the establishment of state forest reserves.

As added by P.L.1-1995, SEC.16.

IC 14-23-2-2

Annual reports

Sec. 2. The department shall annually, on or before December 1, file with the governor a report of the information, plans, and methods prepared under section 1 of this chapter.

As added by P.L.1-1995, SEC.16.

IC 14-23-3

Chapter 3. State Forestry Fund

IC 14-23-3-0.3

Effect of expiration of section 3 of chapter; deposit of delinquent property taxes

Sec. 0.3. IC 1-1-5-1 applies to the expiration of section 3 of this chapter, as amended by P.L.146-2008. Liability and penalties for delinquent tax payments for a property tax imposed under section 3 of this chapter before January 1, 2009, are not extinguished as a result of the expiration of section 3 of this chapter under P.L.146-2008. Delinquent property taxes collected after December 31, 2008, from a property tax imposed under section 3 of this chapter before January 1, 2009, shall be deposited and used after December 31, 2008, as provided in section 3 of this chapter (before its expiration), as effective December 30, 2008.

As added by P.L.220-2011, SEC.299.

IC 14-23-3-1

"Fund" defined

Sec. 1. As used in this chapter, "fund" refers to the state forestry fund established by this chapter.

As added by P.L.1-1995, SEC.16.

IC 14-23-3-2

Establishment of fund

Sec. 2. The state forestry fund is established.

As added by P.L.1-1995, SEC.16.

IC 14-23-3-3

Repealed

(As added by P.L.1-1995, SEC.16. Amended by P.L.198-2001, SEC.96; P.L.1-2002, SEC.71; P.L.272-2003, SEC.7; P.L.146-2008, SEC.424. Repealed by P.L.1-2010, SEC.156.)

IC 14-23-3-4

Purposes of fund

Sec. 4. The department shall expend the fund for the following:

(1) The purchase, supervision, and development of state forests and state forest land.

(2) The growing and distribution of forest tree seedlings for state and private forest planting.

(3) The organized prevention, detection, control, and suppression of forest fires in the forests, woodlands, and plantations within Indiana.

(4) The providing of forestry assistance to farmers and private forest landowners for the purpose of providing for the better protection, management, development, and utilization of forest products and forests located in Indiana.

As added by P.L.1-1995, SEC.16.

IC 14-23-3-5
Deposits of income

Sec. 5. All income derived from the sale of state forest land or the products of state forest land shall be deposited in the fund.
As added by P.L.1-1995, SEC.16.

IC 14-23-4
Chapter 4. State Forest Management

IC 14-23-4-1
Legislative intent

Sec. 1. (a) It is the public policy of Indiana to protect and conserve the timber, water resources, wildlife, and topsoil in the forests owned and operated by the division of forestry for the equal enjoyment and guaranteed use of future generations. However, by the employment of good husbandry, timber that has a substantial commercial value may be removed in a manner that benefits the growth of saplings and other trees by thinnings, improvement cuttings, and harvest processes and at the same time provides a source of revenue to the state and counties and provides local markets with a further source of building material.

(b) Notwithstanding subsection (a), IC 13-12-4 does not apply to forestry management practices of the division of forestry.

As added by P.L.1-1995, SEC.16. Amended by P.L.66-2006, SEC.27.

IC 14-23-4-2
"Merchantable timber" defined

Sec. 2. As used in this chapter, "merchantable timber" means timber, trees, and parts of trees that can be used for sawtimber, veneer, poles, posts, pulp, and any other product using wood or parts of trees.

As added by P.L.1-1995, SEC.16. Amended by P.L.66-2006, SEC.28.

IC 14-23-4-3
Permits, leases, and contracts

Sec. 3. (a) The department may issue permits, execute leases, or contract for the removal of merchantable timber from the state forests under this chapter. A permit, lease, or contract must do the following:

(1) Determine and fix the area within which it is lawful and in the best interests of the state to permit the removal of timber.

(2) Specify the nature of the timber to be removed.

(b) A permit, lease, or contract must include specific provisions for at least the following:

(1) Adequate fire prevention measures.

(2) The completion of harvesting operations, which includes the disposition of the slash and repair of rights-of-way.

(3) Granting of rights-of-way.

(4) Compliance with rules adopted by the department to carry out this chapter.

(5) Reports to the department by the person authorized to remove the timber.

(6) Authorization for the state forester or the state forester's designee to inspect the activities.

(7) Revocation of permits for failure to comply with any of the

following:
(A) This chapter.
(B) Rules adopted under this chapter.
As added by P.L.1-1995, SEC.16.

IC 14-23-4-4
Removal and sale of merchantable timber; investigations and inspections

Sec. 4. (a) The state forester or the state forester's designee shall investigate the feasibility of the department entering into arrangements for removal and sale of merchantable timber, taking into consideration the following:
(1) Local market conditions.
(2) Adaptability of terrain for cutting and removal of timber.
(3) Potential hazards to surrounding stands of timber.
(4) Other matters that the department requests.

(b) The state forester or the state forester's designee shall inspect areas in which timber is removed to determine if cutting and removal of timber is conducted in a manner that protects and preserves topsoil and surrounding growths.
As added by P.L.1-1995, SEC.16.

IC 14-23-4-5
Allocation of receipts

Sec. 5. (a) The net receipts derived from or by virtue of a permit, lease, or contract entered into or issued under this chapter or from or by any operations under this chapter shall be paid as follows:
(1) Eighty-five percent (85%) of the net receipts shall be deposited in the state forestry fund.
(2) Fifteen percent (15%) of the net receipts shall be deposited in the general fund of the county in which the state forest is located.

(b) If the land of a state forest is situated in at least two (2) counties, the receipts shall be allocated to the counties pro rata as determined on the basis of the acreage of each county that is:
(1) within the state forest; and
(2) subject to the permit, lease, or contract.

(c) All distributions under this section shall be made after deducting all costs incurred by the department relating to the operations.
As added by P.L.1-1995, SEC.16.

IC 14-23-4-6
Payments to counties; distributions to fire departments

Sec. 6. (a) Pro rata payments to a county shall be made at the close of each fiscal year on a fiscal year basis. The payments shall be made to the county by certification on the part of the department of the specific amounts due the county upon submission by the county of state vouchers stating the amounts due. The payments shall be made

by the department in the same manner and procedure as other voucher claims upon the state are paid.

(b) Subject to subsection (c), fifty percent (50%) of the payments made to each county under this section shall be appropriated and equally distributed to the volunteer fire departments within the county that have a cooperative lease agreement or contract with the division of forestry.

(c) Unless the county legislative body allows a greater distribution, each fire department is limited to receiving a maximum annual distribution under this section of one thousand dollars ($1,000).

As added by P.L.1-1995, SEC.16. Amended by P.L.66-2006, SEC.29.

IC 14-23-5
Chapter 5. Forest Firefighting

IC 14-23-5-1
Establishment of firefighting organization

Sec. 1. The department, acting through the director and the state forester, shall establish and equip a firefighting organization within the division of forestry for the purpose of detecting, preventing, fighting, and controlling fires in state forest land. The department may extend the same fire detection, prevention, fighting, and control services established to other state land under the department's supervision and control. The department may also establish the same services for land not owned by the state and not lying within a city or town for the purpose of protecting the forests, fields, and grassland of the state.

As added by P.L.1-1995, SEC.16.

IC 14-23-5-2
Rights and immunities

Sec. 2. In fighting fires under this chapter, the officers and employees of the department have the following:

(1) All the rights and immunities guaranteed to municipal firefighters by law.

(2) The right to enter upon the land of an individual, a firm, a limited liability company, a corporation, a municipal corporation, a city, a town, a county, or the state to carry out their duties.

(3) The authority to set back fires, dig trenches, cut lanes, and use all other customary and accepted modern methods of firefighting on private land.

As added by P.L.1-1995, SEC.16.

IC 14-23-6

Chapter 6. Volunteer Forest Firefighters

IC 14-23-6-1

Duties of department

Sec. 1. The department shall do the following:

(1) Organize, establish, and maintain a program of education, training, and service throughout Indiana to combat forest, brush, or open fires occurring in Indiana.

(2) Establish an organization of trained volunteer forest firefighters to be known and designated as the Indiana volunteer forest firefighters service.

(3) Cooperate with local firefighting services and the division of fire and building safety to combat fires under this section.

As added by P.L.1-1995, SEC.16. Amended by P.L.1-2006, SEC.214.

IC 14-23-6-2

Duties of state forester

Sec. 2. The state forester shall do the following:

(1) Direct the Indiana volunteer forest firefighters service.

(2) Recommend to the commission rules for the service.

(3) Provide education and training for the service.

(4) Use the service in times of emergency due to fire.

As added by P.L.1-1995, SEC.16.

IC 14-23-6-3

Medical and hospital services

Sec. 3. If a qualified member of the Indiana volunteer forest firefighters service is injured or made sick while engaged in fighting fire under the direction of the state forester or an authorized fire warden of the division of forestry, the member may be provided medical and hospital services to be paid out of the money of the division of forestry.

As added by P.L.1-1995, SEC.16.

IC 14-23-6.5

Chapter 6.5. Indiana Rural Fire Protection Initiative (INRFPI)

IC 14-23-6.5-1

"Program" defined

Sec. 1. As used in this chapter, "program" refers to the Indiana rural fire protection initiative established in section 4 of this chapter.

As added by P.L.55-1999, SEC.4.

IC 14-23-6.5-2

"Rural community" defined

Sec. 2. As used in this chapter, "rural community" means a city, town, village, or community having a population of ten thousand (10,000) or less.

As added by P.L.55-1999, SEC.4.

IC 14-23-6.5-3

"Rural fire department" defined

Sec. 3. As used in this chapter, "rural fire department" means a recognized organization providing primary fire protection to a rural area or rural community.

As added by P.L.55-1999, SEC.4.

IC 14-23-6.5-4

Establishment

Sec. 4. The Indiana rural fire protection initiative is established.

As added by P.L.55-1999, SEC.4.

IC 14-23-6.5-5

Required components of program

Sec. 5. The program must include the following components:

(1) Financial assistance to rural fire departments for organizing, training, and equipment.

(2) Financial assistance to enable rural fire departments to continue to provide fire protection service.

(3) Assistance to rural fire departments in meeting safety and administrative requirements placed on these departments by Indiana and United States governments.

As added by P.L.55-1999, SEC.4.

IC 14-23-6.5-6

Grant programs

Sec. 6. The program must complement grant programs established by the United States government for the program.

As added by P.L.55-1999, SEC.4.

IC 14-23-6.5-7

Duties of department

Sec. 7. The department shall do the following:

(1) Administer the program.

(2) Administer grants provided by the United States government for the program.

As added by P.L.55-1999, SEC.4.

IC 14-23-7

Chapter 7. Emergency Fire Hazard Areas

IC 14-23-7-1

"Area" defined

Sec. 1. As used in this chapter, "area" includes the state and the entirety or a part of a county, a township, a city, a town, or an unincorporated settlement that is in danger of fire as proclaimed under this chapter.

As added by P.L.1-1995, SEC.16.

IC 14-23-7-2

Declaration of emergency fire hazard area

Sec. 2. If the governor receives information from:

(1) the director;

(2) the county commissioners of a county; or

(3) the executive of a city or town;

that because of drought conditions existing in an area the lives of the people, forests, fields, woodland, livestock, structures, or other property are endangered by a fire hazard, the governor may, in the interest of public health, safety, and welfare, after investigation, declare an area within Indiana as an emergency fire hazard area.

As added by P.L.1-1995, SEC.16.

IC 14-23-7-3

Notice of proclamation

Sec. 3. The designation of an emergency fire hazard area may be made at any time and becomes effective upon proclamation by the governor. Public notice of the proclamation shall be given by:

(1) publication in at least one (1) newspaper of general circulation in the area affected; or

(2) posting conspicuously in at least ten (10) public places within the area.

As added by P.L.1-1995, SEC.16.

IC 14-23-7-4

Restrictions on hunting, fishing, and trapping seasons

Sec. 4. For the purpose of this chapter, the governor may, upon proper information from the department, close, postpone, or abridge by proclamation the hunting, fishing, and trapping seasons for the duration of the emergency fire hazard in an area designated by the proclamation.

As added by P.L.1-1995, SEC.16.

IC 14-23-7-5

Open burning prohibited

Sec. 5. (a) As used in this section, "open burning" means burning under such conditions that the products of combustion are emitted

directly into the surrounding air and are not conducted into the air through a stack, chimney, duct, or pipe. The term includes above ground or underground smoldering fires.

(b) A person who:

(1) throws from a vehicle matches, ashes, or burning material; or

(2) conducts open burning;

during the period of a proclamation commits a Class C misdemeanor.

As added by P.L.1-1995, SEC.16.

IC 14-23-7-6

Annulment of proclamation

Sec. 6. If, after the issuing of a proclamation, the governor is satisfied that the occasion has passed for maintaining the proclamation, the governor may annul the proclamation with another proclamation.

As added by P.L.1-1995, SEC.16.

IC 14-23-8

Chapter 8. Youth Conservation Corps

IC 14-23-8-1

Purposes of chapter

Sec. 1. The purposes of this chapter are to provide the youth of Indiana with the opportunity for short term employment and the opportunity to gain an appreciation for the state's natural environment by working with the department and others for the conservation and maintenance of the state forests and other publicly owned land.

As added by P.L.1-1995, SEC.16.

IC 14-23-8-2

"Agency" defined

Sec. 2. As used in this chapter, "agency" means:

(1) a political subdivision (as defined in IC 36-1-2-13); or

(2) a private entity desiring to participate in a corps program.

As added by P.L.1-1995, SEC.16.

IC 14-23-8-3

"Corps" defined

Sec. 3. As used in this chapter, "corps" refers to the youth conservation corps established by this chapter.

As added by P.L.1-1995, SEC.16.

IC 14-23-8-4

Establishment of corps

Sec. 4. The youth conservation corps is established to carry out the purposes of this chapter. The department shall administer the corps.

As added by P.L.1-1995, SEC.16.

IC 14-23-8-5

Members

Sec. 5. (a) The corps consists of persons who are:

(1) employed by:

(A) the department; or

(B) an agency designated by the department; and

(2) at least fifteen (15) years of age but less than nineteen (19) years of age.

(b) A person may not be employed as a member of the corps more than one hundred twenty (120) days during a calendar year.

(c) The department shall establish recruitment guidelines for accepting applications to the corps.

As added by P.L.1-1995, SEC.16.

IC 14-23-8-6

Corps camps; services and equipment

Sec. 6. (a) The department may establish corps camps if there is

sufficient money available to establish a corps camp for the youth of Indiana.

(b) The department may provide transportation, lodging, subsistence, and other services and equipment for the members of the corps.

As added by P.L.1-1995, SEC.16.

IC 14-23-8-7

Participation in corps camp program

Sec. 7. (a) For an agency to participate in the corps camp program for a particular year, the agency must submit an application for participation to the department in the form and in the manner required by the department.

(b) Each participating agency shall, from the agency's general money, contribute an amount of money determined by the department, but not less than twenty percent (20%) of the total amount of:

(1) money expended;

(2) the value of services, materials, or property used; or

(3) both;

in the area under the agency's jurisdiction for purposes of the corps camp.

(c) Instead of the amount of money or a part of the amount of money determined under subsection (b), the agency may contribute labor, materials, or property equivalent in value to the amount of money to carry out this chapter.

As added by P.L.1-1995, SEC.16.

IC 14-23-8-8

Compensation and conditions of employment

Sec. 8. The department shall establish the rates of pay, hours, and other conditions of employment in the corps.

As added by P.L.1-1995, SEC.16.

IC 14-23-8-9

Contracts for services or equipment

Sec. 9. The department may contract with a governmental agency or a private person for any of the services or equipment necessary or required to carry out this chapter.

As added by P.L.1-1995, SEC.16.

IC 14-23-8-10

Cooperation in recruitment

Sec. 10. At the request of the department, the department of education shall assist in carrying out the recruitment and selection of students to participate in the corps program. School corporations and governmental agencies are encouraged to cooperate with the department in recruiting for the corps program.

As added by P.L.1-1995, SEC.16.

IC 14-23-8-11

Instruction and work experience plan

Sec. 11. The department may cooperate with a school corporation, governmental agency, college, or university to develop an instruction and work experience plan that provides for high school or college credit for students participating in the corps program.

As added by P.L.1-1995, SEC.16.

IC 14-23-9

Chapter 9. Planting Seedlings

IC 14-23-9-1

Establishment of program

Sec. 1. The department shall establish a program for the annual distribution and planting of seedlings by every third grade student in Indiana who attends a school that asks to participate in the program.
As added by P.L.1-1995, SEC.16.

IC 14-23-9-2

Guidelines

Sec. 2. Seedlings planted under section 1 of this chapter shall be planted according to guidelines established by the department.
As added by P.L.1-1995, SEC.16.

IC 14-24

ARTICLE 24. ENTOMOLOGY AND PLANT PATHOLOGY

IC 14-24-1

Chapter 1. Organization of Division

IC 14-24-1-1

Department to administer article

Sec. 1. The department shall administer this article.

As added by P.L.1-1995, SEC.17.

IC 14-24-1-2

Director as administrative head

Sec. 2. The division director, who shall be appointed by the director, is the administrative head of the division and the state entomologist.

As added by P.L.1-1995, SEC.17.

IC 14-24-1-3

Employment of personnel

Sec. 3. The division director shall employ the personnel of the division.

As added by P.L.1-1995, SEC.17.

IC 14-24-1-4

Commission as ultimate authority for department

Sec. 4. The commission is the ultimate authority (as defined in IC 4-21.5-1-15) for the department under this article.

As added by P.L.1-1995, SEC.17.

IC 14-24-1-5

Delegation of commission's powers and duties

Sec. 5. The commission may delegate any of the commission's powers and duties under this article to the director, deputy director, division director, or another employee of the department.

As added by P.L.1-1995, SEC.17.

IC 14-24-2

Chapter 2. Duties of Division Director

IC 14-24-2-1

Powers regarding pests or pathogens

Sec. 1. The division director may cooperate with a person in Indiana to locate, check, or eradicate a pest or pathogen.

As added by P.L.1-1995, SEC.17.

IC 14-24-2-2

Cooperation with federal government or other states

Sec. 2. The division director may, on behalf of the department, enter into a cooperative agreement with the United States government, the government of another state, or an agency of the United States or another state to carry out this article.

As added by P.L.1-1995, SEC.17.

IC 14-24-2-3

Pamphlets describing pests and pathogens

Sec. 3. The division director shall periodically cause to be prepared and disseminated a pamphlet describing a pest or pathogen that is significant in Indiana. The pamphlet must indicate how to detect a pest or pathogen and what methods may lawfully be used for control and treatment.

As added by P.L.1-1995, SEC.17.

IC 14-24-2-4

Duties regarding bee and honey industry

Sec. 4. The division director shall aid and assist in the development and protection of the bee and honey industry in Indiana.

As added by P.L.1-1995, SEC.17.

IC 14-24-2-5

Emergency action

Sec. 5. The division director shall initiate appropriate emergency action to implement this article. Appropriate emergency action under this section includes the following:

(1) Orders to treat a pest or pathogen.

(2) Orders to prevent the movement or to require the destruction of a plant or element of beekeeping that contains a pest or pathogen that may pose an environmental, a health, or an economic hazard to Indiana.

As added by P.L.1-1995, SEC.17.

IC 14-24-3
Chapter 3. Rules

IC 14-24-3-1
Adoption of rules
Sec. 1. The commission shall adopt rules under IC 4-22-2 to implement this article.
As added by P.L.1-1995, SEC.17.

IC 14-24-3-2
Standards within infested areas
Sec. 2. The commission shall provide standards for operation and maintenance within an infested area declared under IC 14-24-4.
As added by P.L.1-1995, SEC.17.

IC 14-24-3-3
Control of pests and pathogens
Sec. 3. The commission shall establish standards for the control of pests and pathogens.
As added by P.L.1-1995, SEC.17.

IC 14-24-3-4
Regulation of nurseries
Sec. 4. The commission shall regulate nurseries, nurserymen, and dealers.
As added by P.L.1-1995, SEC.17.

IC 14-24-3-5
Special service fees
Sec. 5. The commission may establish special service fees under IC 14-24-10-2.
As added by P.L.1-1995, SEC.17.

IC 14-24-3-6
Declaration of pests or pathogens
Sec. 6. The commission may declare species or subspecies to be pests or pathogens. This identification must include any species or subspecies of bee that may endanger the bee and honey industry.
As added by P.L.1-1995, SEC.17.

IC 14-24-3-7
Quarantine regulations
Sec. 7. The commission shall develop quarantine regulations needed to carry out this article.
As added by P.L.1-1995, SEC.17.

IC 14-24-3-8
Protection of bee and honey industry

Sec. 8. The commission shall establish measures for the protection of the bee and honey industry in Indiana.
As added by P.L.1-1995, SEC.17.

IC 14-24-3-9
Expenses and attorney's fees
Sec. 9. The commission shall establish standards for determining expenses and attorney's fees under IC 14-24-11-5.
As added by P.L.1-1995, SEC.17.

IC 14-24-4

Chapter 4. Control of Pests and Pathogens

IC 14-24-4-1

Inspections

Sec. 1. The division may inspect any site in Indiana where agricultural, horticultural, or sylvan products are being grown, shipped, sold, or stored to determine if a pest or pathogen is present.

As added by P.L.1-1995, SEC.17.

IC 14-24-4-2

Declaration of infested areas

Sec. 2. If as a result of an inspection under section 1 of this chapter a site is determined to be infested with a pest or pathogen that is likely to spread or communicate to adjacent or contiguous territory in an adjoining area, the director may prescribe the boundaries of an area where the pest or pathogen is located and declare the area to be an infested area.

As added by P.L.1-1995, SEC.17. Amended by P.L.17-2009, SEC.2.

IC 14-24-4-3

Standards for operation of premises within infested areas; destruction of plant products producing or disseminating pests or pathogens

Sec. 3. All farms and premises located within an area declared to be an infested area shall be operated and managed according to standards approved by the commission. An agricultural, a horticultural, or a sylvan product capable of producing and disseminating the pest or pathogen shall be destroyed, treated, or otherwise disposed of as the department orders.

As added by P.L.1-1995, SEC.17. Amended by P.L.151-2012, SEC.28.

IC 14-24-4-4

Notice to destroy plant products

Sec. 4. After written notice by the department and within the prescribed period, a person having charge of an agricultural, a horticultural, or a sylvan product described under section 3 of this chapter shall have the product destroyed, treated, or otherwise disposed of as directed by the department.

As added by P.L.1-1995, SEC.17.

IC 14-24-4-5

Noncompliance with notice to destroy plant products

Sec. 5. (a) If the person having charge of the product does not comply with the written notice given under section 4 of this chapter, the department or the department's agent may take the necessary action and incur the expenses required to satisfy the directive contained in the written order.

(b) Expenses incurred by the department under this section shall be certified to the auditor of the county where the site is located. The county auditor shall place the assessment on the tax duplicates of the county, and the assessment shall be collected as state and county taxes are collected and paid over to the department.
As added by P.L.1-1995, SEC.17.

IC 14-24-4.5
Repealed

(Repealed by P.L.113-2014, SEC.96; P.L.219-2014, SEC.32.)

IC 14-24-5
Chapter 5. Nurseries

IC 14-24-5-1
"Vital" defined

Sec. 1. As used in this chapter, "vital" means that a plant is physiologically vibrant and does not suffer unreasonably from mechanical or pathological stress.
As added by P.L.1-1995, SEC.17.

IC 14-24-5-2
Inspections

Sec. 2. (a) The division shall inspect each nursery in Indiana at least one (1) time each year if the nursery:

(1) imports nursery stock from outside Indiana; or
(2) exports nursery stock from Indiana.

(b) The division director may authorize nursery inspections in addition to those nursery inspections described in subsection (a).
As added by P.L.1-1995, SEC.17. Amended by P.L.43-1999, SEC.1.

IC 14-24-5-3
Certification of nursery stock; preferred fumigation treatment

Sec. 3. (a) The division shall issue a certificate following an inspection that discloses that the nursery stock is apparently free from pests and pathogens.

(b) The certificate shall be prepared on a commission form and must state the following:

(1) That the nursery stock has been inspected by the division.
(2) That to the best knowledge and belief of the nurseryman, the nursery stock is free from pests and pathogens.

(c) A copy of the certificate must be attached to each package of nursery stock before shipment of the stock by a nurseryman.

(d) A certificate issued under this section expires December 31 following the date the certificate becomes effective.

(e) The division shall communicate to nurserymen that methyl bromide soil fumigation is preferred to produce pest and disease free forest seedlings. Fumigation with methyl bromide of seedling beds before seeding is an official control treatment to assure pest free nursery stock.
As added by P.L.1-1995, SEC.17. Amended by P.L.69-2009, SEC.11; P.L.151-2012, SEC.29.

IC 14-24-5-4
Labels on nursery stock

Sec. 4. Every package of nursery stock shipped into Indiana from another state must be labeled on the outside with the following:

(1) The name of the consignor.
(2) The name of the consignee.

(3) A certificate from the other state showing that the contents have been examined and found free from pests and pathogens.
As added by P.L.1-1995, SEC.17.

IC 14-24-5-5
Duties regarding imported nursery stock

Sec. 5. (a) A person that receives nursery stock from a foreign country shall notify the division of the arrival and contents of the shipment and the name of the consignor.

(b) The person shall hold the shipment unopened until inspected or released by the division.
As added by P.L.1-1995, SEC.17.

IC 14-24-5-6
Right of entry upon premises

Sec. 6. The division may enter upon any premises in Indiana and examine the trees, plants, shrubs, vines, fruit, and propagated material on the premises in the discharge of the division's duties under this chapter.
As added by P.L.1-1995, SEC.17.

IC 14-24-5-7
Notice to destroy pests or pathogens

Sec. 7. (a) If a pest or pathogen is discovered by an inspection under this chapter, the division shall provide a written notice to the person that owns or controls the premises or plant where the pest or pathogen is located.

(b) The notice must include the following:

(1) A description of the action that is needed to destroy or control the pest or pathogen.

(2) The date by which the action must be taken.

(c) The notice may provide that infested plants may not be sold or transported from the site of inspection until the pest or pathogen is successfully treated.

(d) A written notice issued under this section is effective when served. A person that is aggrieved by the notice may request administrative review under IC 4-21.5-3-6. In addition, an aggrieved person may seek temporary relief from the notice under IC 4-21.5-4. Unless otherwise agreed to by the parties, a hearing on temporary relief must be conducted within five (5) days of receipt of the hearing request in the county where the infested plants are located.
As added by P.L.1-1995, SEC.17.

IC 14-24-5-8
Notices of violation

Sec. 8. (a) The division may issue a notice of violation to a person against whom a written notice is directed under section 7 of this chapter if the person does not:

(1) comply with the directives contained in the notice; or

(2) request a hearing under section 7(d) of this chapter.

This subsection does not preclude the issuance of a notice of violation if the department receives a final determination in the department's favor from the review of a written notice issued under section 7 of this chapter.

(b) A notice of violation issued under subsection (a) may be accompanied by a civil penalty, which may not exceed five hundred dollars ($500) for each day a violation continues.

(c) A notice of violation and a penalty issued under this section is subject to IC 4-21.5-3-6.

As added by P.L.1-1995, SEC.17.

IC 14-24-5-9

Nonvital plants

Sec. 9. (a) If as a result of an inspection under this chapter, a plant is discovered that is not vital, the division may direct that the plant not be sold or given away.

(b) A person that rehabilitates a plant described in subsection (a) may request the division to reinspect the plant and declare the plant to be vital.

(c) A person that is aggrieved by a determination made under this section may request a proceeding under IC 4-21.5-3-6.

As added by P.L.1-1995, SEC.17.

IC 14-24-5-10

Inspection required for renewal of license to sell or ship nursery stock

Sec. 10. (a) A person that desires to renew a license to sell or ship nursery stock must make a written application on a commission form before July 1 of the year of renewal for an inspection of the nursery stock.

(b) A person that does not comply with this section is liable for extra charges to cover the traveling expenses incurred by the division in performing the inspection.

As added by P.L.1-1995, SEC.17.

IC 14-24-6

Chapter 6. Regulation of Nursery Stock Sales

IC 14-24-6-1

Purpose of chapter

Sec. 1. The purpose of this chapter is to protect the public from dishonest and unethical practices concerning the sale of nursery stock that is unlikely to properly grow or survive in the climate of Indiana.

As added by P.L.1-1995, SEC.17.

IC 14-24-6-2

"Hardiness zone" defined

Sec. 2. As used in this chapter, "hardiness zone" means a designated geographic area found on the Plant Hardiness Zone Map prepared and amended by the Agricultural Research Service of the United States Department of Agriculture.

As added by P.L.1-1995, SEC.17.

IC 14-24-6-3

"Nursery stock" defined

Sec. 3. As used in this chapter, "nursery stock" means botanically classified hardy perennial or biennial trees, shrubs, vines, and plants, evergreens, fruit pits, and other plants or plant parts capable of propagation. The term does not include corms, tubers, field vegetables, or flower seeds.

As added by P.L.1-1995, SEC.17.

IC 14-24-6-4

Administration of chapter

Sec. 4. The state entomologist shall administer this chapter.

As added by P.L.1-1995, SEC.17.

IC 14-24-6-5

Adoption of rules

Sec. 5. The department:

(1) shall adopt rules under IC 4-22-2 to prescribe the label described under section 6 of this chapter; and

(2) may adopt other rules under IC 4-22-2 to implement this chapter.

As added by P.L.1-1995, SEC.17.

IC 14-24-6-6

Labeling of imported nursery stock

Sec. 6. (a) This section does not apply to nursery stock that is:

(1) imported into Indiana by a nursery grower; and

(2) transplanted, grown, and held by the grower for at least five (5) years after the date of import.

(b) If a person imports nursery stock into Indiana from outside the

forty-eight (48) contiguous states of the United States, the nursery stock must have a label attached that contains the following information:

(1) The hardiness zone of the nursery stock.

(2) The common name and botanical name of the nursery stock.

As added by P.L.1-1995, SEC.17.

IC 14-24-6-7

Removal of labels prohibited

Sec. 7. (a) A person may not remove a label described under section 6 of this chapter from nursery stock until the nursery stock has been sold for the ultimate use or purpose of the nursery stock in Indiana.

(b) A person who violates this section commits a Class C infraction.

As added by P.L.1-1995, SEC.17. Amended by P.L.195-2014, SEC.18.

IC 14-24-7
Chapter 7. Nursery Dealers

IC 14-24-7-1
License; requirement

Sec. 1. (a) Subject to subsection (b), a person must obtain a dealer's license from the division under this chapter before selling or soliciting an order for nursery stock or otherwise conducting the business of a dealer.

(b) A person who operates one (1) or more grocery stores in Indiana at which nursery stock is sold is not required to obtain more than one (1) dealer's license under this chapter.

As added by P.L.1-1995, SEC.17. Amended by P.L.136-1996, SEC.1.

IC 14-24-7-2
License; application

Sec. 2. (a) A dealer's license application must be completed on a commission form and must include an affidavit or affirmation that the dealer will do the following:

(1) Only buy and sell stock that has been inspected and certified by an authorized inspector.

(2) Maintain with the division a list of all persons from whom the dealer secures stock.

(b) A person with a principal place of business outside Indiana must, in addition to the requirements contained in subsection (a), include documentation in the application, as specified by rule, that establishes the person as an authorized dealer in the other state.

As added by P.L.1-1995, SEC.17.

IC 14-24-7-3
License; issuance

Sec. 3. The division director shall issue a dealer's license certificate to a dealer upon completion of an application.

As added by P.L.1-1995, SEC.17.

IC 14-24-7-4
License; expiration

Sec. 4. Each license expires December 31 following the day the license becomes effective.

As added by P.L.1-1995, SEC.17.

IC 14-24-7-5
Applicability of IC 14-24-5

Sec. 5. The requirements of IC 14-24-5 apply to a dealer.

As added by P.L.1-1995, SEC.17.

IC 14-24-7-6
Violations

Sec. 6. A person who violates section 1 of this chapter commits a Class C infraction.
As added by P.L.195-2014, SEC.19.

IC 14-24-8
Chapter 8. Apiaries

IC 14-24-8-1
Examinations

Sec. 1. The division may examine an apiary in Indiana to determine if a pest or pathogen is present.
As added by P.L.1-1995, SEC.17.

IC 14-24-8-2
Notice to destroy pests or pathogens

Sec. 2. (a) If a pest or pathogen is discovered as a result of an inspection under this chapter, the division shall provide a written notice of the discovery to the person that owns or controls the apiary.

(b) The notice must include the following:

(1) A description of the action needed to destroy or control the pest or pathogen.

(2) The date by which the action must be taken.

(c) The notice may provide that bees may not be sold or transported from the apiary until the pest or pathogen is successfully treated. The notice may require that bees shall be transferred to movable frame hives within a specified time and that, if the transfer is not performed as specified, the division director may order the destruction of all hives and bees dwelling in the hives.

(d) A written notice issued under this section is effective when served. A person who is aggrieved by the notice may request administrative review under IC 4-21.5-3-6. In addition, an aggrieved person may seek temporary relief from the notice under IC 4-21.5-4. Unless otherwise agreed by the parties, a hearing on temporary relief must be conducted within five (5) days of receipt of the hearing request in the county where the apiary is located.
As added by P.L.1-1995, SEC.17.

IC 14-24-8-3
Notices of violation

Sec. 3. (a) The division may issue a notice of violation to a person against whom a written notice is directed under section 2 of this chapter if the person does not:

(1) comply with the directives contained in the notice; or

(2) request a hearing under section 2(d) of this chapter.

This subsection does not preclude the issuance of a notice of violation if the department receives a final determination in the department's favor from the review of a written notice issued under section 2 of this chapter.

(b) A notice of violation under subsection (a) may be accompanied by a civil penalty of not more than five hundred dollars ($500) for each day a violation continues.

(c) A notice of violation and penalty issued under this section is

subject to IC 4-21.5-3-6.
As added by P.L.1-1995, SEC.17.

IC 14-24-8-4
Imported beekeeping elements

Sec. 4. (a) A beekeeper may not ship or bring elements of beekeeping into Indiana from another state or country unless the elements of beekeeping are accompanied by a permit issued by the division under this section.

(b) An application for a permit to ship elements of beekeeping into Indiana from another state or country must be on a commission form and accompanied by a certificate from the place of origin. The certificate must state that the following conditions have been met:

(1) The apiary from which elements of beekeeping, except queens and combless bees, are to be shipped was inspected not more than thirty (30) days before shipment.

(2) The apiary from which the queens or combless bees are to be shipped into Indiana was inspected not more than sixty (60) days before shipment.

(3) The inspection took place during active brood rearing and was found free of pests and pathogens.

(c) The permit application must state the approximate date of proposed entry into Indiana and the final destination of the shipment.

(d) The division may enter a written order for the removal of elements of beekeeping shipped into Indiana in violation of this section. A person in charge or in possession of property described in the order shall comply with the order as soon as practicable and not later than five (5) days after service.

(e) The division shall destroy elements of beekeeping shipped into Indiana that contain a pest or pathogen.
As added by P.L.1-1995, SEC.17.

IC 14-24-8-5
Noncompliance with order to destroy pests or pathogens

Sec. 5. (a) If a person in charge or in possession of elements of beekeeping does not carry out an order issued under:

(1) this chapter; or

(2) IC 14-7-8 (before its repeal);

the department may proceed to treat or destroy the elements of beekeeping that contain a pest or pathogen.

(b) The division director shall certify the expense incurred by the department to the county auditor of the county where the property is located. The county auditor shall place the certified amount upon the tax duplicate. The amount shall be collected at the same time and in the same manner that state and county taxes are collected and paid over to the department.
As added by P.L.1-1995, SEC.17.

IC 14-24-9
Chapter 9. Treatment Affidavits and Special Authorizations

IC 14-24-9-1
Affidavit filed by person served with notice or order

Sec. 1. (a) If, as a result of an inspection under this article, a written notice or order is issued for the treatment, removal, or destruction of a plant or element of beekeeping, the division may require that an affidavit be filed by the person to whom the notice or order was issued.

(b) The affidavit described in subsection (a) shall be completed on a commission form and must specify the following:

(1) That the terms of the notice or order have been satisfied to the best of the affiant's ability.

(2) That the work was effective for the purpose prescribed.

As added by P.L.1-1995, SEC.17.

IC 14-24-9-2
Permit to move plants or beekeeping elements containing pests or pathogens

Sec. 2. A person may not cause the movement of a plant or an element of beekeeping that contains a pest or pathogen without a permit issued by the division director. A permit issued under this section must provide adequate measures to assure that communication will not occur to areas that are not afflicted with a pest or pathogen.

As added by P.L.1-1995, SEC.17.

IC 14-24-9-3
Designation of persons to perform inspections

Sec. 3. The director may appoint an agent, an employee, or a representative of the United States Department of Agriculture to perform, on behalf of the department, an inspection authorized by this article.

As added by P.L.1-1995, SEC.17.

IC 14-24-9-4
Violations

Sec. 4. A person who violates section 2 of this chapter commits a Class C infraction.

As added by P.L.195-2014, SEC.20.

IC 14-24-10
Chapter 10. Fees

IC 14-24-10-1
Fees deposited in entomology and plant pathology fund

Sec. 1. (a) The department shall collect the following fees:

(1) For each license issued to a dealer, fifty dollars ($50). However, a certified nurseryman who has paid an inspection fee may obtain a dealer's license for twenty dollars ($20).

(2) For the inspection of a nursery, fifty dollars ($50) plus an additional fee of three dollars ($3) for each acre of land containing nursery stock.

(b) The fees collected under this section shall be deposited in the entomology and plant pathology fund established by section 3 of this chapter.

As added by P.L.1-1995, SEC.17. Amended by P.L.186-2003, SEC.66.

IC 14-24-10-2
Fees for special services

Sec. 2. The division may collect fees for special services provided to a person who is not described in section 1 of this chapter. Fees collected under this section:

(1) must be prescribed by rule;

(2) may not exceed the expense incurred by the department to provide those services; and

(3) shall be deposited in the entomology and plant pathology fund.

As added by P.L.1-1995, SEC.17.

IC 14-24-10-3
Entomology and plant pathology fund

Sec. 3. (a) The entomology and plant pathology fund is established for the purpose of assisting the division in carrying out the division's objectives. The department shall administer the fund.

(b) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.1-1995, SEC.17.

IC 14-24-10-4
Internet directory

Sec. 4. The department shall publish on the Internet a directory of persons who have obtained nursery certificates and nursery dealer licenses from the division under IC 14-24-5 and IC 14-24-7.

As added by P.L.186-2003, SEC.67.

IC 14-24-11
Chapter 11. Offenses and Penalties

IC 14-24-11-1
Prohibitions

Sec. 1. A person who does any of the following violates this article:

(1) Sells, barters, or gives away a plant that contains a pest or pathogen that is likely to cause harm.

(2) Exposes an element of beekeeping to the danger of other bees or elements of beekeeping infected with disease.

(3) Conceals the presence of a pest or pathogen.

(4) Refuses to allow the department to inspect a site that the department is authorized to inspect under this article.

(5) Hinders or impedes the department in performing the department's duties under this article.

(6) Violates any of the following:

(A) This article.

(B) A rule adopted under this article.

(C) A notice or an order issued under this article or under IC 14-7 (before its repeal).

As added by P.L.1-1995, SEC.17.

IC 14-24-11-2
Revocation of permit, certification, or other authorization

Sec. 2. The commission may revoke a permit, certification, or other authorization issued under this article if the commission finds at least one (1) of the following:

(1) The permit, certification, or other authorization was issued as a result of fraud or misrepresentation by the recipient.

(2) The person who holds the permit, certification, or other authorization has violated any of the following:

(A) This article.

(B) A rule adopted under this article.

As added by P.L.1-1995, SEC.17.

IC 14-24-11-3
Civil action to restrain violations

Sec. 3. The commission may bring a civil action in the name of the state through the attorney general, in a circuit or superior court having jurisdiction in a county in which the property involved is located or in which a person resides, to restrain the person from commencing or continuing to violate any of the following:

(1) This article.

(2) A rule adopted under this article.

(3) An order entered under this article or under IC 14-7 (before its repeal).

As added by P.L.1-1995, SEC.17.

IC 14-24-11-4
Violations

Sec. 4. (a) A person, other than the state or a political subdivision of the state, that recklessly disturbs or molests an apiary, a honeybee hive, a honeybee colony, or other honeybee habitat, natural or manmade, without the permission of the owner commits a Class B misdemeanor.

(b) A person who introduces a pest or pathogen into Indiana without a permit issued under:

(1) IC 14-7-9-2 (before its repeal); or

(2) IC 14-24-9-2;

commits a Class A infraction.

(c) Each day a violation occurs under this section is a separate offense.

As added by P.L.1-1995, SEC.17. Amended by P.L.195-2014, SEC.21.

IC 14-24-11-5
Assessment of expenses

Sec. 5. If an order is issued:

(1) under this article or under IC 14-7 (before its repeal); or

(2) as a result of an administrative proceeding under this article or IC 14-7 (before its repeal);

the court or the director may assess against a party to the proceeding the costs and expenses, including attorney's fees, incurred by the person with respect to the proceedings, including a judicial review of a final agency action. The award of attorney's fees shall be based on a schedule of attorney's fees established by rules of the commission.

As added by P.L.1-1995, SEC.17.

IC 14-24-12
Chapter 12. Purple Loosestrife and Multiflora Roses

IC 14-24-12-1
"Agency" defined

Sec. 1. As used in this chapter, "agency" means any state administration, agency, authority, board, bureau, commission, committee, council, department, division, institution, office, service, or other similar body of state government.

As added by P.L.132-1996, SEC.5.

IC 14-24-12-2
"Director" defined

Sec. 2. As used in this chapter, "director" refers to:

(1) the director of the department of natural resources appointed under IC 14-9-2-1; or

(2) a designee of the director.

As added by P.L.132-1996, SEC.5.

IC 14-24-12-3
"Division director" defined

Sec. 3. As used in this chapter, "division director" refers to the director of the division of entomology and plant pathology appointed under IC 14-24-1-2.

As added by P.L.132-1996, SEC.5.

IC 14-24-12-4
"Person" defined

Sec. 4. As used in this chapter, "person" means:

(1) an individual;

(2) a limited liability company;

(3) a corporation;

(4) an unincorporated organization or association;

(5) the state of Indiana;

(6) a unit of local government;

(7) an agency; or

(8) a group of persons acting in concert.

As added by P.L.132-1996, SEC.5.

IC 14-24-12-5
Permits for rosa multiflora

Sec. 5. (a) Except as provided in section 6 of this chapter, a person may not plant any variety of rosa multiflora in Indiana unless the person has a permit issued by the division director authorizing the planting of the variety of rosa multiflora.

(b) The only purpose for which the division director may issue a permit authorizing the planting of rosa multiflora under subsection (a) is for the use of rosa multiflora in controlled experiments.

As added by P.L.132-1996, SEC.5.

IC 14-24-12-6
Exception to permit requirement

Sec. 6. A nurseryman:

(1) whose nursery has been inspected and certified under IC 14-24-5; and

(2) who holds a dealer's license under IC 14-24-7;

may plant the rosa multiflora for use as a grafting root stock in growing roses.

As added by P.L.132-1996, SEC.5.

IC 14-24-12-7
Permits for lythrum

Sec. 7. A person may not:

(1) sell;

(2) offer for sale;

(3) give away;

(4) plant; or

(5) otherwise distribute;

seeds, roots, or plants of any species of lythrum in Indiana unless the person has a permit issued by the division director authorizing the planting or distribution of lythrum.

As added by P.L.132-1996, SEC.5.

IC 14-24-12-8
Enforcement

Sec. 8. The director shall enforce this chapter.

As added by P.L.132-1996, SEC.5.

IC 14-24-12-9
Rules

Sec. 9. The department may adopt rules under IC 4-22-2 to administer this chapter.

As added by P.L.132-1996, SEC.5.

IC 14-24-12-10
Violations

Sec. 10. A person who violates section 5 or 7 of this chapter commits a Class C infraction.

As added by P.L.195-2014, SEC.22.

IC 14-25

ARTICLE 25. WATER RIGHTS AND RESOURCES

IC 14-25-1

Chapter 1. Water Rights; Surface Water

IC 14-25-1-1

Legislative findings regarding use of surface waters

Sec. 1. The general welfare of the people of Indiana requires that:

(1) surface water resources of Indiana be put to beneficial uses to the fullest extent;

(2) the use of water for nonbeneficial uses be prevented; and

(3) public and private money for the promotion and expansion of the beneficial uses of surface water resources be invested to the end that the best interests and welfare of the people of Indiana will be served.

As added by P.L.1-1995, SEC.18.

IC 14-25-1-2

Waters declared natural resource

Sec. 2. (a) Water in a natural stream, natural lake, or another natural body of water in Indiana that may be applied to a useful and beneficial purpose is declared to be:

(1) a natural resource and public water of Indiana; and

(2) subject to control and regulation for the public welfare as determined by the general assembly.

(b) Diffused surface water flowing vagrantly over the surface of the ground is not considered to be public water. The owner of the land on which the water falls, pools, or flows has the right to use the water.

As added by P.L.1-1995, SEC.18.

IC 14-25-1-3

Riparian rights to water for domestic purposes

Sec. 3. (a) The owner of land contiguous to or encompassing a public watercourse may use water from the public watercourse in the quantity necessary to satisfy the owner's needs for domestic purposes, including the following:

(1) Water for household purposes.

(2) Drinking water for livestock, poultry, and domestic animals.

(b) The use of water for domestic purposes has priority and is superior to all other uses.

As added by P.L.1-1995, SEC.18.

IC 14-25-1-4

Impoundment of excess waters

Sec. 4. (a) This section applies to land contiguous to or encompassing a public watercourse.

(b) The:

(1) owner or group of owners of the land; or

(2) person, firm, limited liability company, corporation, unit of government, or association for irrigation or other purposes owning the land;

may impound the water behind a dam in the natural stream bed or on the owner's land or by pumping or diverting the water from a stream or lake to a reservoir when the flow in the stream or the level of the lake exceeds existing reasonable uses at the time of the impoundment.

(c) An obstruction placed across a natural stream must include an outlet facility for release of water that the owner is not entitled to use under this chapter. The owner shall operate the outlet in accordance with this section.

(d) Action by an owner or a group of owners under this section must be approved by the commission before the action is taken.

As added by P.L.1-1995, SEC.18.

IC 14-25-1-5

Use of increased flowage of waters due to release from impoundment

Sec. 5. (a) A public utility, a person, a firm, a limited liability company, a corporation, a unit of government, or an association for irrigation or other purposes that creates additional stream volumes by releases from impoundments built and financed by the entity for the entity's purpose may use the increased flowage at all times. The amount of increased flowage shall be determined by well recognized engineering computations.

(b) Riparian owners do not have rights in increased flowage beyond normal stream flow.

As added by P.L.1-1995, SEC.18.

IC 14-25-1-6

Standards of measurement

Sec. 6. (a) The standard units for the measurement of the flow of water are a cubic foot per second and a gallon per minute.

(b) The standard units for the measurement of stored water are an acre-foot and a gallon.

(c) The standards and methods for the measurement of the volume of water flow that are either used or approved by the United States Geological Survey in cooperation with the various departments of the state and federal governments shall be accepted as prima facie reliable.

As added by P.L.1-1995, SEC.18.

IC 14-25-1-7

Diversion of floodwaters

Sec. 7. (a) Upon approval of the commission and subject to subsection (b), any person, whether or not the owner of land

contiguous to or encompassing a watercourse, may divert the flood water of a watercourse for any useful purpose, including the purpose of storage.

(b) A diversion under this section may not cause injury to landowners or the users of water in the watershed of the watercourse from which the flood flow is diverted.

(c) This section does not limit:

(1) any rights granted under section 4 of this chapter or under IC 13-2-1-3(2) (before its repeal); or

(2) any other legal right existing on March 12, 1959, to divert and store water.

As added by P.L.1-1995, SEC.18.

IC 14-25-1-8

Mediation of disputes

Sec. 8. Whenever a dispute arises between the users of surface water in a watershed area, any party to the dispute may request that the commission mediate the dispute using the mediation provisions under IC 4-21.5-3.5.

As added by P.L.1-1995, SEC.18. Amended by P.L.151-2012, SEC.30.

IC 14-25-1-9

Reports to commission regarding volume of water used

Sec. 9. A person who uses ground water or surface water shall, when requested by the commission, report to the commission the volume of water used by the person in a specific period. The commission may, in the commission's rules, prescribe the method of making the reports.

As added by P.L.1-1995, SEC.18.

IC 14-25-1-10

Public policy regarding regulation of public waters

Sec. 10. The policy that surface waters of Indiana are declared to be public waters and subject to regulation by the general assembly is the accepted policy of the state. Users of surface waters who:

(1) institute withdrawal of water for artificial uses from a natural stream, natural lake, or other natural body of water; or

(2) increase artificial uses;

are subject to regulation of the uses or increased uses that are enacted into law by the general assembly.

As added by P.L.1-1995, SEC.18.

IC 14-25-1-11

Findings; requirements for diversion of water outside the basin; rules

Sec. 11. (a) The general assembly finds that a diversion of water out of the basin, unless conducted under the Great Lakes—St. Lawrence River Basin Water Resources Compact, will impair or

destroy the Great Lakes. The general assembly further finds that the regulation of a diversion of water from the basin is consistent with the mandate of the Preamble to and Article 14, Section 1 of the Constitution of the State of Indiana, the United States Constitution, and the federal legislation according to which Indiana was granted statehood.

(b) Water may not be diverted outside the basin from that part of the basin within Indiana unless the diversion is:

(1) approved by the governor of each Great Lakes state under 42 U.S.C. 1962d-20 (Water Resources Development Act); or

(2) conducted:

(A) after the effective date of; and

(B) in accordance with the requirements of;

the Great Lakes—St. Lawrence River Basin Water Resources Compact.

(c) The commission shall adopt rules necessary to implement this section.

As added by P.L.1-1995, SEC.18. Amended by P.L.71-2004, SEC.2; P.L.4-2008, SEC.3.

IC 14-25-2
Chapter 2. Minimum Stream Flow and Water Sale Contracts

IC 14-25-2-1
Provision of minimum stream flow; sale of water

Sec. 1. (a) Except as provided in section 8 of this chapter, the commission may provide certain minimum quantities of stream flow or sell water on a unit pricing basis for water supply purposes from the water supply storage in reservoir impoundments or parts of the impoundments that are financed by the state. The water may be made available for direct withdrawal from the reservoir impoundment or released from the reservoir impoundment to create increased flowage beyond normal stream flow for use by the contracting party or purchaser at a downstream point. The withdrawals or releases may not exceed the storage allocated to water supply purposes in the authorizing legislation for water supply or multiple purpose reservoir projects.

(b) This section does not abrogate, limit, or affect in any manner prior or future sales of water from reservoirs constructed for or by the department in which adequate water for incidental water supply purposes is available.

As added by P.L.1-1995, SEC.18.

IC 14-25-2-2
Contracts on unit pricing basis

Sec. 2. (a) Except as provided in section 8 of this chapter and subject to section 2.5 of this chapter, the commission may contract with a person for the provision of certain minimum quantities of stream flow or for the sale of water on a unit pricing basis. A contract for the provision of minimum stream flows or for the sale of water on a unit pricing basis:

(1) must be executed by the commission; and

(2) is subject to approval by the following:

(A) The attorney general.

(B) The governor.

(C) The person desiring the use.

(b) A contract entered into under this chapter may not cover a period of more than fifty (50) years.

(c) Before the submission of the contract to the governor for approval, the commission shall submit a copy of the contract to the department. The department shall, within twenty (20) days of receipt, do the following:

(1) Prepare a memorandum relative to the effect that the contract might have on recreational facilities.

(2) Submit the memorandum to the governor for the governor's consideration.

As added by P.L.1-1995, SEC.18. Amended by P.L.231-2007, SEC.1.

IC 14-25-2-2.5

Request for water from reservoir; notice of request and public meeting; affected water utilities

Sec. 2.5. (a) As used in this chapter, "water utility" means:

(1) a public utility (as defined in IC 8-1-2-1(a));

(2) a municipally owned utility (as defined in IC 8-1-2-1(h));

(3) a not-for-profit utility (as defined in IC 8-1-2-125(a));

(4) a cooperatively owned corporation;

(5) a conservancy district established under IC 14-33; or

(6) a regional water district established under IC 13-26;

that provides water service to the public.

(b) A person that seeks to contract with the commission for the provision of certain minimum quantities of stream flow or the sale of water on a unit pricing basis under section 2 of this chapter must submit a request to the commission and the department. The commission shall not make a determination as to whether to enter into a contract with the person making the request until:

(1) the procedures set forth in this section have been followed; and

(2) the commission has reviewed and considered each report submitted to the commission under subsection (i).

(c) Not later than thirty (30) days after receiving a request under subsection (b), the department shall provide, by certified mail, written notice of the request to the following:

(1) Each person with whom the commission holds a contract for:

(A) the provision of certain minimum quantities of stream flow; or

(B) the sale of water on a unit pricing basis;

as of the date of the request.

(2) The executive and legislative body of each:

(A) county;

(B) municipality, if any; and

(C) conservancy district established under IC 14-33, if any;

in which the water sought in the request would be used.

(3) The executive and legislative body of each:

(A) county;

(B) municipality, if any; and

(C) conservancy district established under IC 14-33, if any;

in which the affected reservoir is located.

(d) Not later than seven (7) days after receiving a notice from the department under subsection (c), each person described in subsection (c)(1) shall, by certified mail, provide written notice of the request to each:

(1) water utility; or

(2) other person;

that contracts with the person described in subsection (c)(1) for the purchase of water for resale. Each person to whom notice is mailed under this subsection is in turn responsible for providing written

notice by certified mail to each water utility or other person that purchases water from that person for resale. A water utility or another person required to provide notice under this subsection shall mail the required notice not later than seven (7) days after it receives notice of the request from the water utility or other person from whom it purchases water for resale.

(e) At the same time that:

(1) a person described in subsection (c)(1); or

(2) a water utility or another person described in subsection (d);

mails any notice required under subsection (d), it shall also mail to the department, by certified mail, a list of the names and addresses of each water utility or other person to whom it has mailed the notice under subsection (d).

(f) In addition to the mailed notice required under subsection (c), the department shall publish notice of the request, in accordance with IC 5-3-1, in each county:

(1) in which a person described in section (c)(1) is located;

(2) in which the affected reservoir is located;

(3) in which the water sought in the request would be used; and

(4) in which a water utility or other person included in a list received by the department under subsection (e) is located.

Notwithstanding IC 5-3-1-6, in each county in which publication is required under this subsection, notice shall be published in at least one (1) general circulation newspaper in the county. The department may, in its discretion, publish public notices in a qualified publication (as defined in IC 5-3-1-0.7) or additional newspapers to provide supplementary notification to the public. The cost of publishing supplementary notification is a proper expenditure of the department.

(g) A notice required to be mailed or published under this section must:

(1) identify the person making the request;

(2) include a brief description of:

(A) the nature of the pending request; and

(B) the process by which the commission will determine whether to enter into a contract with the person making the request;

(3) set forth the date, time, and location of the public meeting required under subsection (h); and

(4) in the case of a notice that is required to be mailed under subsection (c)(1) or (d), a statement of the recipient's duty to in turn provide notice to any:

(A) water utility; or

(B) other person;

that purchases water for resale from the recipient, in accordance with subsection (d).

(h) The advisory council established by IC 14-9-6-1 shall hold a public meeting in each county in which notice is published under subsection (f). A public meeting required under this subsection must include the following:

(1) A presentation by the department describing:

(A) the nature of the pending request; and

(B) the process by which the commission will determine whether to enter into a contract with the person making the request.

(2) An opportunity for public comment on the pending request.

The advisory council may appoint a hearing officer to assist with a public meeting held under this subsection.

(i) Not later than thirty (30) days after a public meeting is held under subsection (h), the advisory council shall submit to the commission a report summarizing the public meeting.

As added by P.L.231-2007, SEC.2. Amended by P.L.3-2008, SEC.102.

IC 14-25-2-3

Rate of compensation

Sec. 3. A contract for the sale of water on a unit pricing basis that is entered into under this chapter or under IC 13-2-1-7 (before its repeal) after June 30, 1991, must provide for compensation to the state at the rate of thirty-three dollars ($33) per one million (1,000,000) gallons of water.

As added by P.L.1-1995, SEC.18.

IC 14-25-2-4

Water resources development fund

Sec. 4. (a) As used in this section, "fund" refers to the water resources development fund created by this section.

(b) The water resources development fund is created. Money paid to the state under a contract entered into under this chapter shall be deposited in the fund.

(c) The proceeds of the fund do not revert to the state general fund but constitute a revolving fund to be used exclusively for the purposes of this chapter.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from the investments shall be deposited in the fund.

(e) Money in the fund may be used for any of the following purposes:

(1) The development of new reservoirs.

(2) The investigation, development, and improvement of existing reservoirs.

(3) The acquisition of easements or purchase in fee simple of land and property to be used as reservoir sites.

(4) The financing, construction, operation, and maintenance of reservoir impoundments or parts of impoundments for water supply storage and uses, either independently or in cooperation with any person.

(5) The investigation of water resource availability, quality, and

water supply needs.
(6) Watershed protection.
(7) River enhancement.
(8) The preparation of a compilation and mapping of all community public water supplies under IC 14-25-7-13(d).
(9) The operation of the division of water.
(f) The department shall administer the fund.
As added by P.L.1-1995, SEC.18. Amended by P.L.184-1995, SEC.1; P.L.186-2003, SEC.68.

IC 14-25-2-5
Adoption of rules
Sec. 5. The commission shall adopt rules under IC 4-22-2 that are considered necessary for the proper administration of the following:
(1) The water resources development fund.
(2) This chapter.
As added by P.L.1-1995, SEC.18.

IC 14-25-2-6
Employment of personnel
Sec. 6. The commission may, subject to the approval of the budget agency, employ personnel necessary for the efficient administration of this chapter.
As added by P.L.1-1995, SEC.18.

IC 14-25-2-7
Contracts entered into before July 1, 1991, binding
Sec. 7. Except as provided in section 8 of this chapter, a contract for the sale of water on a unit pricing basis that was entered into under this chapter before July 1, 1991, is binding upon the commission. However, notwithstanding the terms of the contract, the rate of compensation for water sold under the contract on a unit pricing basis is thirty-three dollars ($33) per one million (1,000,000) gallons of water.
As added by P.L.1-1995, SEC.18.

IC 14-25-2-8
Primary source of water; compensation not required
Sec. 8. The state may not require compensation for water that:
(1) comes from a reservoir impoundment financed by the state; and
(2) is provided to water users in an area in which the outlet of the reservoir impoundment has been the primary source of water for domestic, industrial, and public use for at least fifty (50) years.
As added by P.L.1-1995, SEC.18.

IC 14-25-2-9
Primary source of water; contracts entered into before July 1,

1991, binding

Sec. 9. A contract that:

(1) was entered into under IC 13-2-1-7 (before its repeal) before July 1, 1991; and

(2) provides for the sale of water on a unit pricing basis in an area described in section 8 of this chapter;

is binding upon the commission. However, the opposite party to the contract is not required to pay compensation to the state for water provided in the area.

As added by P.L.1-1995, SEC.18.

IC 14-25-2-10

Primary source of water; contracts on measured basis

Sec. 10. The commission may enter into contracts under this chapter to provide certain minimum quantities of stream flow or to provide water on a measured basis in an area described in section 8 of this chapter. However, the opposite party to the contract is not required to pay compensation to the state for water provided in the area described in section 8 of this chapter.

As added by P.L.1-1995, SEC.18.

IC 14-25-2-11

Compensation owed by conservancy districts

Sec. 11. (a) As used in this section, "conservancy district" refers to a conservancy district established under IC 14-33 or under IC 13-3-3 (before its repeal) for the purpose of furnishing water supply for domestic, industrial, and public use.

(b) The state may not obtain compensation from a conservancy district under a contract for the sale of water on a unit pricing basis upon the basis of an estimate of the quantity of water provided to the conservancy district.

(c) The calculation of the compensation owed by a conservancy district under a contract must be based upon either of the following:

(1) The measurement of the quantity of water provided to the conservancy district.

(2) The measurement of the water furnished by the conservancy district to the persons who obtain water from the conservancy district, with a reasonable allowance made for water lost by the conservancy district in the process of obtaining, treating, and furnishing the water.

(d) This section does not affect the obligation of a conservancy district to pay a minimum yearly fee in a certain amount established by a contract.

As added by P.L.1-1995, SEC.18.

IC 14-25-3
Chapter 3. Water Rights; Ground Water

IC 14-25-3-1
"Person" defined

Sec. 1. As used in this chapter, "person" means an individual, a firm, a limited liability company, a corporation, an association, or a governmental agency. However, for purposes of sections 6 through 10 of this chapter, the term does not include a public utility privately or publicly owned engaged in supplying or furnishing public utility service to the residents and business institutions of a city, town, or public institution within a restricted use area.
As added by P.L.1-1995, SEC.18.

IC 14-25-3-2
"Waste" and "wasted" defined

Sec. 2. As used in this chapter, "waste" or "wasted" means any of the following:

(1) Permitting ground water to flow or taking or using ground water in any manner so that the ground water is not put to the full beneficial use.

(2) Transporting ground water from the water's source to the place of use in such a manner that there is an excessive loss in transit.

(3) Permitting or causing the pollution of a fresh water strata through an act that will cause salt water, highly mineralized water, or otherwise contaminated water to enter the strata.

As added by P.L.1-1995, SEC.18.

IC 14-25-3-3
Public policy regarding conservation of ground water

Sec. 3. It is a public policy of the state in the interest of the economy, health, and welfare of Indiana and the citizens of Indiana to conserve and protect the ground water resources of Indiana and for that purpose to provide reasonable regulations for the most beneficial use and disposition of ground water resources.
As added by P.L.1-1995, SEC.18.

IC 14-25-3-4
Restricted use areas; designation

Sec. 4. (a) The department may by rule or order, when the department has reason to believe it is necessary and in the public interest, designate certain areas of Indiana where the withdrawal of ground waters exceeds or threatens to exceed natural replenishment as restricted use areas. Before the department designates an area as a restricted use area, the department shall do the following:

(1) Have surveys made of the ground water resources of the area.

(2) Determine the safe annual yield of the basin.

(b) The department may do the following:

(1) Cooperate with the agencies of the federal government engaged in making ground water surveys.

(2) Accept and use the findings of other agencies of the federal and state governments as a basis of the department's decisions.

As added by P.L.1-1995, SEC.18.

IC 14-25-3-5

Restricted use areas; orders, rules, and notice of hearing

Sec. 5. (a) Whenever the department designates a restricted use area, the department shall approve an order to that effect and adopt a rule under IC 4-22-2.

(b) In addition to the publication of notice provided for in IC 4-22-2, the department shall, for the purposes of this chapter only, do the following:

(1) Give notice by publication one (1) time each week for three (3) consecutive weeks in all of the newspapers of general circulation in the area to be designated as a restricted use area.

(2) Give ten (10) days written notice to all public utilities privately or publicly owned engaged in furnishing water to residents of the restricted use area.

(3) Give ten (10) days written notice to:

(A) the executive of each city and town;

(B) the president of each county executive in a county that does not have a consolidated city; and

(C) the county executive in a county that has a consolidated city;

in the restricted use area.

(4) Have the notice posted at least ten (10) days before the hearing as follows:

(A) At the door of the courthouse.

(B) At the city or town hall if there is a city or town hall in the restricted use area.

(C) In at least three (3) other public places.

(c) Proof of the notice shall be made at the hearing by the affidavits of the publishers of the newspapers and of the persons who posted and sent the other notices required by this section.

As added by P.L.1-1995, SEC.18.

IC 14-25-3-6

Withdrawal permits; requirement

Sec. 6. In a restricted use area, a person may not withdraw or use for any purpose ground water in quantities in excess of one hundred thousand (100,000) gallons per day in addition to the quantity the person is using at the time the order designating the area as a restricted use area becomes effective, unless the person has obtained a permit from the department to withdraw or use a greater quantity.

As added by P.L.1-1995, SEC.18.

IC 14-25-3-7
Withdrawal permits; application

Sec. 7. A person that:

(1) desires to withdraw or use a quantity greater than one hundred thousand (100,000) gallons per day in addition to the quantity being used at the time of the effective date of an order declaring an area as a restricted use area; or

(2) desires to withdraw or use a quantity greater than one hundred thousand (100,000) gallons per day if the applicant was not a prior user of ground water;

must apply for permission to do so to the department upon a form prescribed by the department.

As added by P.L.1-1995, SEC.18.

IC 14-25-3-8
Withdrawal permits; factors to consider

Sec. 8. In granting or refusing a permit, the department shall consider the following:

(1) The effect the withdrawal of additional ground water from the restricted use area will have on future supplies in the area.

(2) What use is to be made of the water.

(3) How the withdrawal will affect present users of ground water in the area.

(4) Whether the future natural replenishment is likely to become more or less.

(5) Whether future demands for ground water are likely to be greater or less.

(6) How the withdrawal of additional ground water will affect the health and best interests of the public.

As added by P.L.1-1995, SEC.18.

IC 14-25-3-9
Withdrawal permits; conditions

Sec. 9. In granting a permit, the department may do the following:

(1) Impose the conditions or stipulations that are necessary to conserve the ground water of the area and prevent waste, exhaustion, or impairment of the ground water.

(2) Require that ground water in a restricted area that is withdrawn and used be returned to the ground through wells, pits, or spreading grounds. If this condition is imposed, the water shall be returned under the rules that the department adopts subject to the approval of the environmental rules board to avoid pollution of underground water.

As added by P.L.1-1995, SEC.18. Amended by P.L.113-2014, SEC.97.

IC 14-25-3-10
Withdrawal permits; judicial review

Sec. 10. A refusal to grant a permit is subject to court review

under IC 4-21.5-5.
As added by P.L.1-1995, SEC.18.

IC 14-25-3-11
Statements of average daily use of ground water

Sec. 11. (a) All users of ground water in amounts exceeding one hundred thousand (100,000) gallons per day in an area designated by the department as a restricted use area shall file with the department a certified statement of the average daily amount of ground water used before the designation of the area as a restricted use area. The statement:

(1) shall be filed within ninety (90) days after the adoption of an order by the department designating the area as a restricted use area; and

(2) must be on a form furnished by the department upon request.

(b) Failure to file a certified statement as required by subsection (a) invalidates a user's prior claim to the withdrawal and use of ground water exceeding one hundred thousand (100,000) gallons per day without having secured a permit from the department under this chapter.
As added by P.L.1-1995, SEC.18.

IC 14-25-3-12
Records regarding drilling of new wells

Sec. 12. In a restricted use area, each well owner or the representatives of the well owner shall file with the department, on forms furnished by the department, a complete record of each new well drilled within the area. The record:

(1) shall be filed within thirty (30) days after the well has been completed and placed in operation; and

(2) must contain the following:

(A) A log of the following:

(i) The well.

(ii) The static water level.

(iii) The yield.

(iv) The drawdown.

(B) Other pertinent information that is required by the department.
As added by P.L.1-1995, SEC.18.

IC 14-25-3-13
Withdrawal permits; title or lease to property required

Sec. 13. A permit may not be issued to an applicant requesting permission to withdraw and use more than one hundred thousand (100,000) gallons per day of ground water from a designated restricted use area who does not:

(1) have title; or

(2) hold a lease;

to the property from which the water is to be withdrawn.

As added by P.L.1-1995, SEC.18.

IC 14-25-3-14
Meters

Sec. 14. The department may require a user of ground water in amounts exceeding one hundred thousand (100,000) gallons per day in designated restricted use areas to install a meter if any of the following conditions exist:

(1) The user is unable to furnish accurate information concerning the amounts of ground water being withdrawn and used.

(2) There is evidence of either of the following:

(A) The user's certified statement is false or inaccurate.

(B) The user is withdrawing and using a larger quantity than has been authorized by the department under this chapter.

As added by P.L.1-1995, SEC.18.

IC 14-25-3-15
Waste of water

Sec. 15. (a) In a restricted use area, the department may require a person found to be committing waste of ground water to return all or a part of the water to the ground if the following conditions are met:

(1) The water being wasted can safely and practicably be returned to the ground.

(2) Requirements are imposed as proportionately equal as is practicable on all persons committing waste.

(b) The use of ground water for cooling purposes may constitute waste if the water is:

(1) not used more than one (1) time in a cooling, air conditioning, or heating system; and

(2) not put to further beneficial use.

(c) In a restricted use area the department may require the owner of a flowing well:

(1) that exceeds a flow of one thousand five hundred (1,500) gallons per day; and

(2) whose water is being wasted;

to install the controls on the well that are necessary to diminish the daily flow to not more than one thousand five hundred (1,500) gallons.

As added by P.L.1-1995, SEC.18.

IC 14-25-3-16
Determination of quantity of ground water removed

Sec. 16. (a) As used in this section, "rated capacity of a pump" means the number of gallons of water a pump is capable of discharging in a given time as determined by the manufacturer or by certified pump tests.

(b) In determining the quantity of water being removed from or returned to the ground, the department may use the following:

(1) The rated capacity of the pump used for pumping the water.
(2) The rated capacity of the cooling system.
(3) Data furnished by the well driller or user.
(4) The standards or methods employed by the United States Geological Survey in determining quantities.
(5) Any other accepted method.

As added by P.L.1-1995, SEC.18.

IC 14-25-3-17
Adoption of rules

Sec. 17. The department may adopt the rules that are necessary to do the following:

(1) Determine within reasonable limits quantities of water being removed from the ground.
(2) Administer any of the other provisions of this chapter.

As added by P.L.1-1995, SEC.18.

IC 14-25-3-18
Violations

Sec. 18. A person who violates:

(1) section 6, 11, or 12 of this chapter; or
(2) a rule or order concerning a restricted use area;

commits a Class C infraction. Each day of violation constitutes a separate infraction.

As added by P.L.1-1995, SEC.18. Amended by P.L.195-2014, SEC.23.

IC 14-25-4

Chapter 4. Emergency Regulation of Ground Water Rights

IC 14-25-4-1

"Construction"

Sec. 1. As used in this chapter, "construction" means the process of building a building, highway, utility, or another structure. The term includes the following:

(1) The process of assembling materials.

(2) Disassembling and removing a structure.

(3) The preparation of the construction site.

(4) Related work.

As added by P.L.1-1995, SEC.18.

IC 14-25-4-2

"Dewatering well"

Sec. 2. As used in this chapter, "dewatering well" means a temporary water well that:

(1) is used as part of a construction project to remove water from a surface or subsurface area; and

(2) ceases to be used upon completion of the construction project or shortly after completion of the project.

As added by P.L.1-1995, SEC.18.

IC 14-25-4-3

"Nonsignificant ground water withdrawal facility"

Sec. 3. As used in this chapter, "nonsignificant ground water withdrawal facility" means the ground water withdrawal facility of a person that, in the aggregate, has a withdrawal capability of less than one hundred thousand (100,000) gallons of ground water in one (1) day.

As added by P.L.1-1995, SEC.18.

IC 14-25-4-4

"Owner"

Sec. 4. (a) As used in this chapter and subject to subsection (b), "owner" includes the following:

(1) The owner of an interest in property.

(2) A person in possession of property.

(b) For a temporary dewatering well, "owner" means the person who authorized the construction that necessitated the installation of the dewatering well.

As added by P.L.1-1995, SEC.18.

IC 14-25-4-5

"Potable water"

Sec. 5. As used in this chapter, "potable water" means water that at the point of use is acceptable for human consumption under

drinking water quality standards adopted by the environmental rules board under IC 13-18-4-1.
As added by P.L.1-1995, SEC.18. Amended by P.L.1-1996, SEC.65; P.L.113-2014, SEC.98.

IC 14-25-4-6
"Significant ground water withdrawal facility"
Sec. 6. As used in this chapter, "significant ground water withdrawal facility" means the ground water withdrawal facility of a person that, in the aggregate from all sources and by all methods, has the capability of withdrawing at least one hundred thousand (100,000) gallons of ground water in one (1) day.
As added by P.L.1-1995, SEC.18.

IC 14-25-4-7
"Water well"
Sec. 7. (a) As used in this chapter, "water well" means an excavation, however constructed, that is used for the purpose of withdrawing ground water for reasonable beneficial uses.
(b) The term does not include agricultural and urban drainage systems.
As added by P.L.1-1995, SEC.18.

IC 14-25-4-8
Investigations
Sec. 8. Within twenty-four (24) hours after receiving a written complaint from the owner of a nonsignificant ground water withdrawal facility that a water well on property in the owner's possession has:
(1) failed to furnish the well's normal supply of water; or
(2) failed to furnish potable water;
the director shall cause an onsite investigation to be made.
As added by P.L.1-1995, SEC.18.

IC 14-25-4-9
Ground water emergency; based on investigation
Sec. 9. If an investigation under section 8 of this chapter discloses:
(1) that the well has:
(A) failed to furnish the well's normal supply of water; or
(B) based upon reasonable evidence of prior potability supplied by the owner, failed to furnish potable water;
(2) that there has been a substantial lowering of the level of ground water in the area that has resulted in the failure of the well to:
(A) furnish the well's normal supply of water; or
(B) furnish potable water if the failure is caused by natural variations in the potability of water in the source aquifer;
(3) that the well and the well's equipment were functioning properly at the time of the failure;

(4) that the failure of the well was caused by the lowering of the ground water level in the area;
(5) that the lowering of the ground water level is such that the ground water level:
(A) exceeds normal seasonal water level fluctuations; and
(B) substantially impairs continued use of the ground water resource in the area; and
(6) that the lowering of the ground water level was caused by at least one (1) significant ground water withdrawal facility;
the director shall, by temporary order, declare a ground water emergency.
As added by P.L.1-1995, SEC.18.

IC 14-25-4-10
Ground water emergency; based on other evidence
Sec. 10. If the director has reasonable evidence that indicates that continued ground water withdrawals from a significant ground water withdrawal facility will exceed the recharge capability of the ground water resource of the area, the director shall, by temporary order, declare a ground water emergency.
As added by P.L.1-1995, SEC.18.

IC 14-25-4-11
Notice of hearing
Sec. 11. A temporary order under section 9 or 10 of this chapter must include a notice of hearing to be held under IC 4-21.5-4 as soon as practicable after the declaration of the ground water emergency. Following the hearing, the director may continue, amend, or terminate the ground water emergency. The emergency shall be terminated as soon as justified by changed conditions.
As added by P.L.1-1995, SEC.18.

IC 14-25-4-12
Restrictions on withdrawal of ground water
Sec. 12. (a) Except as provided in subsection (b), the director may restrict the quantity of ground water that may be extracted from a significant ground water withdrawal facility when the director declares a ground water emergency under section 9 or 10 of this chapter if:
(1) the:
(A) facility is reasonably believed to have caused the failure of the complainant's water well; and
(B) immediate temporary provision of an adequate supply of potable water required under sections 18(1) and 20(a) of this chapter is not carried out; or
(2) there is a reasonable belief that continued ground water withdrawals from the facility will exceed the recharge capability of the ground water resource of the area.
(b) If an operator of a significant ground water withdrawal facility

withdraws water by a means other than pumping, the director may temporarily restrict the quantity of ground water that may be extracted only if the provisions of subsection (a)(1) have not been met.
As added by P.L.1-1995, SEC.18.

IC 14-25-4-13
Adoption of rules

Sec. 13. The commission may adopt rules under IC 4-22-2 to administer this chapter. The rules must be consistent with IC 25-39 and rules adopted under IC 25-39.
As added by P.L.1-1995, SEC.18.

IC 14-25-4-14
Ground water emergency; when effective; notice

Sec. 14. (a) A declaration of a ground water emergency under this chapter is effective when a copy of a declaration is served under IC 4-21.5-3-1 upon a person who owns the significant ground water withdrawal facility that is reasonably believed to have caused the failure of the complainant's water well.

(b) As soon as possible after a declaration of a ground water emergency has been made, copies of the declaration shall be given to the newspapers of general circulation located in the affected county. The notification to newspapers required by this subsection is in addition to the minimum procedural duties required of the department under IC 4-21.5 and does not satisfy service of process by publication under IC 4-21.5-3-1(f).

(c) If the emergency requires action before service can be completed under subsection (a), oral notification in person by a representative of the department and authorized by the director is sufficient until service can be completed. Oral notification is effective for not more than ninety-six (96) hours.
As added by P.L.1-1995, SEC.18. Amended by P.L.32-2011, SEC.8.

IC 14-25-4-15
Effect on civil right of action

Sec. 15. This chapter does not:
(1) create a new; or
(2) abridge an existing;
civil right of action.
As added by P.L.1-1995, SEC.18.

IC 14-25-4-16
Violations; injunctions

Sec. 16. (a) A person who violates a rule or order adopted under this chapter concerning a ground water emergency commits a Class A infraction.

(b) The commission may, without proof of irreparable injury, maintain an action to enjoin a violation of this chapter.

As added by P.L.1-1995, SEC.18. Amended by P.L.195-2014, SEC.24.

IC 14-25-4-17
Right to compensation for impairment of nonsignificant ground water withdrawal facilities

Sec. 17. The owner of a significant ground water withdrawal facility shall, subject to an order issued under section 20 of this chapter or under IC 13-2-2.5-11 (before its repeal), provide timely and reasonable compensation to persons who own nonsignificant ground water withdrawal facilities if there is failure or substantial impairment of those facilities as set forth in section 8 of this chapter if both of the following conditions exist:

(1) The failure or substantial impairment was caused by the ground water withdrawals of the significant ground water withdrawal facility.

(2) Either:

(A) the affected nonsignificant ground water withdrawal facility was in existence before January 1, 1986; or

(B) if constructed after December 31, 1985, the facility conforms to the rules of the department issued under section 13 of this chapter. Water wells constructed after December 31, 1985, but before the adoption of rules under this chapter must conform to the Recommended Guidelines of the department in Information Bulletin No. 3 published at 9 IR 1242.

As added by P.L.1-1995, SEC.18.

IC 14-25-4-18
Measure of compensation

Sec. 18. Timely and reasonable compensation under section 17 of this chapter consists of and is limited to the following:

(1) The immediate temporary provision at the prior point of use of an adequate supply of potable water.

(2) Reimbursement of expenses reasonably incurred by the complainant to do the following:

(A) Obtain an immediate temporary provision at the prior point of use of an adequate supply of potable water.

(B) Provide timely and reasonable compensation as provided in subdivision (3)(A) and (3)(B).

(3) Either:

(A) the restoration of the affected nonsignificant ground water withdrawal facility to the facility's former relative capability;

(B) the permanent provision at the point of use of an alternative potable supply of equal quantity; or

(C) the permanent restriction or scheduling of the ground water withdrawals of the significant ground water withdrawal facility so that the affected water well continues

to produce:

(i) the well's normal supply of water; or

(ii) the normal supply of potable water if the well normally furnishes potable water.

As added by P.L.1-1995, SEC.18.

IC 14-25-4-19

Refusal of compensation

Sec. 19. The refusal of an owner of an affected nonsignificant ground water withdrawal facility to accept timely and reasonable compensation is sufficient grounds for the department to terminate an order imposed on a responsible significant ground water withdrawal facility. An owner may request a hearing under IC 4-21.5 if the owner does not believe compensation was timely or reasonable.

As added by P.L.1-1995, SEC.18.

IC 14-25-4-20

Ground water emergency; temporary provision of potable water

Sec. 20. (a) Upon the declaration of a ground water emergency under section 9 of this chapter, the director shall, by temporary order, require the immediate temporary provision at the prior point of use of an adequate supply of potable water. A temporary order under section 9 or 10 of this chapter remains in effect for ninety (90) days unless:

(1) terminated by the director before the expiration of ninety (90) days; or

(2) extended under IC 4-21.5-4-5(b) during the pendency of a proceeding under section 18(2) and 18(3) of this chapter.

(b) The commission shall implement section 18(2) and 18(3) of this chapter by order. Before the commission enters an initial determination of the order, the department shall conduct an investigation and provide affected persons with an informal opportunity to contribute to the investigation. All final orders of the commission shall be issued under IC 4-21.5-3.

As added by P.L.1-1995, SEC.18.

IC 14-25-4-21

Nonsignificant ground water withdrawal facilities to comply with rules

Sec. 21. (a) An owner of a new nonsignificant ground water withdrawal facility who desires to receive the protection of this chapter must construct the facility to conform to the rules adopted under section 13 of this chapter.

(b) Before a licensed water well drilling contractor or plumbing contractor drills and equips a ground water withdrawal facility for a person, the contractor must advise the person of the provisions of this chapter.

As added by P.L.1-1995, SEC.18.

IC 14-25-5

Chapter 5. Emergency Regulation of Surface Water Rights

IC 14-25-5-1

Applicability of chapter

Sec. 1. This chapter applies to each freshwater lake that contains at least ten (10) acres at the body of water's normal level.

As added by P.L.1-1995, SEC.18.

IC 14-25-5-2

"Financial responsibility bond" defined

Sec. 2. As used in this chapter, "financial responsibility bond" means a surety bond, a certificate of deposit, a cashier's check, or a letter of credit.

As added by P.L.1-1995, SEC.18.

IC 14-25-5-3

"Freshwater lake" defined

Sec. 3. (a) As used in this chapter, "freshwater lake" means a body of standing surface water that:

(1) is of natural origin; or

(2) was:

(A) originally constructed to permanently retain water; and

(B) in existence at least five (5) years before the commencement of water withdrawals by a significant water withdrawal facility.

(b) The term does not include Lake Michigan.

As added by P.L.1-1995, SEC.18.

IC 14-25-5-4

"Lake owner" defined

Sec. 4. As used in this chapter, "lake owner" means a person in possession of property that includes:

(1) a physical part of; or

(2) a legal interest in;

a freshwater lake.

As added by P.L.1-1995, SEC.18.

IC 14-25-5-5

"Significant water withdrawal facility" defined

Sec. 5. As used in this chapter, "significant water withdrawal facility" means a water pumping installation or other equipment of a person that, in the aggregate from all sources and by all methods, has the capability of withdrawing at least one hundred thousand (100,000) gallons of water in one (1) day.

As added by P.L.1-1995, SEC.18.

IC 14-25-5-6

Investigations

Sec. 6. Not later than five (5) days after receiving a written complaint from a lake owner that:

(1) the level of a freshwater lake has been lowered:

(A) significantly below the lake's normal level as legally established under IC 14-26-4 or under IC 13-2-13 (before its repeal); or

(B) if the normal level has not been legally established under IC 14-26-4 or under IC 13-2-13 (before its repeal), significantly below the water line or shoreline as determined by existing water level records or by the action of the water that has marked upon the soil of the bed of the lake a character distinct from that of the bank with respect to vegetation and the nature of the soil; and

(2) the lowering of the lake level is believed to be caused by at least one (1) active significant water withdrawal facility operated within one-half (1/2) mile of the freshwater lake;

the director shall give notice to those persons responsible for the operation of the significant water withdrawal facility believed to have caused lowering of the lake level and cause an onsite investigation to be made.

As added by P.L.1-1995, SEC.18.

IC 14-25-5-7

Freshwater lake emergency; based on investigation

Sec. 7. (a) If an onsite investigation under section 6 of this chapter discloses that:

(1) the operation of at least one (1) significant water withdrawal facility has caused the freshwater lake to be lowered significantly below a level described in section 6(1) of this chapter; and

(2) the lowering of the lake level is likely to result in significant environmental harm to the freshwater lake or to adjacent property;

the director shall, by temporary order, declare a freshwater lake emergency.

(b) A temporary order may:

(1) restrict the quantity of water that is extracted by the causative significant water withdrawal facility; and

(2) provide for the restoration of the normal water level of the freshwater lake;

as needed to prevent significant environmental harm to the freshwater lake or adjacent property.

(c) A restoration order under subsection (b)(2) may allow the significant water withdrawal facility to discharge water of an acceptable quality into the affected freshwater lake.

As added by P.L.1-1995, SEC.18.

IC 14-25-5-8

Freshwater lake emergency; effectiveness

Sec. 8. A temporary order under section 7 of this chapter is effective when a copy of the order is served under IC 4-21.5-3-1 upon a person that owns or operates the significant water withdrawal facility.

As added by P.L.1-1995, SEC.18.

IC 14-25-5-9

Temporary orders upon finding of improper management or poor maintenance

Sec. 9. If an onsite investigation under section 6 of this chapter discloses that the complaining lake owner has, through improper management or poor maintenance of the lake, caused or contributed to the lowering of the freshwater lake to a level significantly below a level described in section 6(1) of this chapter, the director may:

(1) not issue a temporary order under section 7 of this chapter; or

(2) issue a temporary order under section 7 of this chapter that requires the significant water withdrawal facility to restrict the facility's extraction of water or restore water only to the extent the director determines the lowering of the freshwater lake level is caused by the significant water withdrawal facility.

As added by P.L.1-1995, SEC.18.

IC 14-25-5-10

Financial responsibility bonds; filing

Sec. 10. (a) Except as provided under subsection (b), the operator of a significant water withdrawal facility may obtain relief from a temporary order issued under section 7 of this chapter or under IC 13-2-2.6-10 (before its repeal) by filing with the director a financial responsibility bond in an amount not:

(1) less than one thousand dollars ($1,000); or

(2) more than ten thousand dollars ($10,000);

for each acre contained in the freshwater lake. The aggregate amount of financial responsibility bond that may be assessed on the operator of a significant water withdrawal facility may not exceed fifty thousand dollars ($50,000).

(b) The director may not allow a significant water withdrawal facility to file a financial responsibility bond under subsection (a) if the department determines that a freshwater lake or an adjacent property contains an extraordinary or a unique natural resource that is likely to be irreparably damaged as a result of the lowering of the freshwater lake. The burden of proof to establish the presence of an extraordinary or a unique natural resource rests with the department.

As added by P.L.1-1995, SEC.18.

IC 14-25-5-11

Financial responsibility bonds; compensation, forfeiture

Sec. 11. (a) After a bond is filed under section 10 of this chapter,

the operator of a significant water withdrawal facility and a complaining lake owner may enter into a written agreement for compensation to the lake owner instead of bond forfeiture.

(b) If:

(1) the operator and lake owner have not entered into an agreement within three (3) years after a temporary order under section 7 of this chapter has been issued; and

(2) the freshwater lake has not returned to normal;

the director shall order the forfeit to the benefit of the lake owner of the part of the bond filed under section 10 of this chapter that is needed to provide compensation under section 10 of this chapter.

(c) If a financial responsibility bond has been filed for the benefit of more than one (1) complaining lake owner, the amount of the bond forfeited under subsection (b) shall be distributed to the affected complaining lake owners on a pro rata basis.

(d) Instead of forfeiting a bond under subsection (b), the operator of a significant water withdrawal facility may pay cash to a lake owner in the amount of the part of the bond forfeited under subsection (b).

As added by P.L.1-1995, SEC.18.

IC 14-25-5-12

Agreements to compensate owners for diminution in value

Sec. 12. A significant water withdrawal facility and a lake owner may enter into an agreement to compensate the lake owner for the diminution in value of the lake owner's property caused by significant lowering of the lake level. If a significant water withdrawal facility and a lake owner enter into an agreement under this section, the owner of the significant water withdrawal facility is not required to file a financial responsibility bond under section 10 of this chapter.

As added by P.L.1-1995, SEC.18.

IC 14-25-5-13

Temporary orders

Sec. 13. (a) A temporary order issued under section 7 of this chapter or under IC 13-2-2.6-10 (before its repeal) must include a notice of hearing to be held under IC 4-21.5-4 as soon as practicable after the declaration of the freshwater lake emergency. Following the hearing, the director may continue, amend, or terminate the freshwater lake emergency order issued under section 7 of this chapter or under IC 13-2-2.6-10 (before its repeal).

(b) If a freshwater lake emergency order issued under section 7 of this chapter or under IC 13-2-2.6-10 (before its repeal) is terminated after a bond under section 10 of this chapter or under IC 13-2-2.6-13 (before its repeal) has been filed, the termination order must provide for the immediate release of the bond.

As added by P.L.1-1995, SEC.18.

IC 14-25-5-14

Permanent orders

Sec. 14. Upon application by the director or a lake owner, the commission may cause a temporary order issued under section 7 of this chapter or under IC 13-2-2.6-10 (before its repeal) to be made a permanent order. A permanent order is subject to IC 4-21.5-3-6.

As added by P.L.1-1995, SEC.18.

IC 14-25-5-15

Violations

Sec. 15. (a) A person who violates an order concerning a freshwater lake emergency declared under section 7 of this chapter commits a Class A infraction.

(b) The commission may, without proof of irreparable injury, maintain an action to enjoin a violation of this chapter.

As added by P.L.1-1995, SEC.18. Amended by P.L.195-2014, SEC.25.

IC 14-25-6

Chapter 6. Water Rights; Potable Water

IC 14-25-6-1

Reduction of flow from wells

Sec. 1. The department may require the owner of a flowing water well to reduce the flow from the well as the department considers advisable to prevent the loss or waste of potable water that is not being put to a beneficial use.

As added by P.L.1-1995, SEC.18.

IC 14-25-6-2

Permit to inject potable water into underground formation containing nonpotable water

Sec. 2. Except as provided in sections 4 and 5 of this chapter, a permit must be obtained from the department to inject, pump, or otherwise introduce potable ground water into an underground formation that contains nonpotable water. An application for a permit must be made on forms prescribed by the department. The permit shall be issued:

(1) upon receipt of the application, unless the department determines from the application that an investigation is necessary; and

(2) free of charge.

As added by P.L.1-1995, SEC.18.

IC 14-25-6-3

Denial of permit

Sec. 3. The department may, after an investigation has been conducted and a hearing has been held, deny permission to an applicant to inject, pump, or otherwise introduce potable ground water into an underground formation that contains nonpotable water if:

(1) the practice would:

(A) constitute a waste of potable ground water; or

(B) threaten to impair or exhaust the supply of the area; and

(2) available nonpotable water could be used instead of potable water.

As added by P.L.1-1995, SEC.18.

IC 14-25-6-4

Injection of potable water from prolific aquifer

Sec. 4. A person may inject, pump, or otherwise introduce potable ground water into an underground formation that contains nonpotable water if:

(1) the potable water is obtained from a prolific aquifer adjacent to a permanent flowing stream that is rapidly recharged; and

(2) the operator:

(A) notifies the department on a form prescribed by the

department of the use of the prolific aquifer; and
(B) includes on the form a fair approximation of the volume of potable water to be used.

As added by P.L.1-1995, SEC.18.

IC 14-25-6-5
Water flood projects

Sec. 5. (a) Subject to subsection (b), a person, firm, or corporation operating a water flood project using potable ground water on March 14, 1957, may do the following:

(1) Continue the flood.
(2) Use the additional potable water that is necessary.

(b) If an emergency arises affecting the water supply for household or farm use, the department may, after notice and hearing, order the person, firm, or corporation to cease the use of the potable ground water.

As added by P.L.1-1995, SEC.18.

IC 14-25-6-6
Violations

Sec. 6. A person who violates section 1 or 2 of this chapter, including the violation of an order issued under section 1 of this chapter, commits a Class C infraction. Each day of violation constitutes a separate infraction.

As added by P.L.1-1995, SEC.18. Amended by P.L.195-2014, SEC.26.

IC 14-25-7

Chapter 7. Water Resource Management

IC 14-25-7-1

"Aquifer" defined

Sec. 1. As used in this chapter, "aquifer" means an underground geologic formation that:

(1) is consolidated or unconsolidated; and

(2) has the ability to receive, store, and transmit water in amounts sufficient for the satisfaction of any beneficial use.

As added by P.L.1-1995, SEC.18.

IC 14-25-7-2

"Beneficial use" defined

Sec. 2. As used in this chapter, "beneficial use" means the use of water for any useful and productive purpose. The term includes the following uses:

(1) Domestic.

(2) Agricultural, including irrigation.

(3) Industrial.

(4) Commercial.

(5) Power generation.

(6) Energy conversion.

(7) Public water supply.

(8) Waste assimilation.

(9) Navigation.

(10) Fish and wildlife.

(11) Recreational.

As added by P.L.1-1995, SEC.18.

IC 14-25-7-3

"Ground water" defined

Sec. 3. As used in this chapter, "ground water" means all water occurring beneath the surface of the ground regardless of location and form.

As added by P.L.1-1995, SEC.18.

IC 14-25-7-4

"Instream use" defined

Sec. 4. As used in this chapter, "instream use" means any use of water that uses surface water in place. The term includes the following uses:

(1) Commercial and recreational navigation.

(2) Hydroelectric power generation.

(3) Waste assimilation.

(4) Fish and wildlife habitat.

(5) General recreation.

(6) The maintenance of environmental and aesthetic values.

As added by P.L.1-1995, SEC.18.

IC 14-25-7-5
"Person" defined

Sec. 5. As used in this chapter, "person" means an individual, an incorporated or unincorporated organization or association, a trustee or legal representative, the state, a political subdivision of the state, the United States of America, an agency of the state, a political subdivision of the state or of the United States of America, or a group of such persons acting in concert.
As added by P.L.1-1995, SEC.18.

IC 14-25-7-6
"Reasonable beneficial use" defined

Sec. 6. For purposes of this chapter, "reasonable beneficial use" means the use of water for a beneficial use in the quantity and manner that is:

(1) necessary for economic and efficient utilization; and
(2) both reasonable and consistent with the public interest.

As added by P.L.1-1995, SEC.18.

IC 14-25-7-7
"Stream" defined

Sec. 7. As used in this chapter, "stream" means a natural or an altered river, creek, slough, watercourse, or artificial channel that has:

(1) definable banks and bed capable of conducting defined runoff;
(2) visible evidence of the flow or occurrence of water; and
(3) a watershed greater than one (1) square mile in area.

As added by P.L.1-1995, SEC.18.

IC 14-25-7-8
"Water resource" defined

Sec. 8. (a) As used in this chapter, "water resource" means all water:

(1) on or beneath the surface of the ground; or
(2) in the atmosphere.

(b) The term includes the following:

(1) Streams.
(2) Impoundments.
(3) Diffused surface water.
(4) Water percolating, standing, or flowing beneath the surface of the ground.
(5) All boundary and coastal water within the jurisdiction of the state.

As added by P.L.1-1995, SEC.18.

IC 14-25-7-9
"Withdrawal use" defined

Sec. 9. As used in this chapter, "withdrawal use" means any use of water that involves the physical removal of the water from a ground or surface source, including water from storage in an impoundment.
As added by P.L.1-1995, SEC.18.

IC 14-25-7-10
Administration of chapter

Sec. 10. (a) The commission shall administer this chapter.

(b) The deputy director for water and resource regulation shall serve as technical secretary to the commission. The deputy director shall perform the duties that are required by this chapter or that the commission directs.

(c) The advisory council established by IC 14-9-6-1 shall serve in an advisory capacity to the commission with respect to the implementation of the commission's powers and duties, including the drafting of rules and development of inventories, assessments, and plans.

(d) For the time that the advisory council is involved in the drafting of rules, the membership of the council shall be augmented as follows:

(1) Two (2) members of the senate, not more than one (1) of whom may be of the same political party, shall be appointed for a term of two (2) years by the president pro tempore of the senate.

(2) Two (2) members of the house of representatives, not more than one (1) of whom may be of the same political party, shall be appointed for a term of two (2) years by the speaker of the house of representatives.

These members are entitled to travel expenses and a per diem allowance as determined by the budget agency for members of boards and commissions generally.

(e) The department shall provide professional, technical, and clerical personnel, equipment, supplies, and support services reasonably required to assist the commission in the exercise of the commission's powers and duties under this chapter. The department shall include money for this purpose in the regular operating budget requests of the department.
As added by P.L.1-1995, SEC.18. Amended by P.L.95-2006, SEC.9.

IC 14-25-7-11
Duties of commission

Sec. 11. The commission shall do the following:

(1) Conduct a continuing assessment of the availability of the water resource.

(2) Take and maintain an inventory of significant uses of water withdrawn from the surface or ground.

(3) Plan for the development, conservation, and use of the water resource for beneficial uses.

As added by P.L.1-1995, SEC.18.

IC 14-25-7-12
Powers of commission

Sec. 12. The commission may do the following:

(1) Collect and disseminate information relating to the water resource.

(2) Consult with and advise all users of the water resource as to availability of the water resource and the most practical method of water withdrawal, development, conservation, and use.

(3) Make the necessary investigations and inspections for proper administration of this chapter.

(4) Enter at reasonable times with proper notice upon any property other than a dwelling place for the purpose of inspecting and investigating significant water withdrawal facilities or enforcing this chapter.

(5) Establish, by rule, the criteria for the determination of minimum stream flows and minimum ground water levels.

(6) When necessary for the proper administration and enforcement of this chapter, require the metering or other reasonable measurement of water withdrawals from significant water withdrawal facilities and the reporting of the metering or measurement to the commission.

(7) Cooperate with other state and local agencies, other states and their state agencies, and agencies of the United States in water resource development, conservation, and use.

(8) Accept and administer money from any source to aid in carrying out this chapter.

(9) Exercise the additional authority necessary to carry out this chapter.

As added by P.L.1-1995, SEC.18.

IC 14-25-7-12.5
Voluntary monitoring program

Sec. 12.5. (a) The department shall cooperate with the United States Geological Survey to establish a program under which volunteers may monitor the water resource and provide monitoring data to the commission, the department, and the United States Geological Survey. Data derived from the voluntary monitoring conducted under the program may be:

(1) collected and disseminated by the commission under section 12(1) of this chapter; and

(2) used by the commission in conducting the continuing assessment of the availability of the water resource under section 11(1) of this chapter.

(b) The department may cooperate with other local, state, and federal governmental agencies in implementing this section.

(c) The commission, under IC 4-22-2 and section 10(a) of this chapter, may adopt rules concerning the administration of this

section. Section 10(c) and 10(d) of this chapter does not apply to the adoption of rules under this subsection.
As added by P.L.189-2015, SEC.2.

IC 14-25-7-13
Inventory of water resources; plans and recommendations

Sec. 13. (a) As used in this section, "surplus water" means that water found to exceed:

(1) existing uses; and
(2) reasonably foreseeable needs;

in the watershed of origin.

(b) The commission shall make and maintain an inventory of the water resource of Indiana. The inventory must include an assessment of the following:

(1) The capabilities of streams to support instream and withdrawal uses and of aquifers to support withdrawal uses.
(2) Low stream flow characteristics.
(3) Existing uses and projections of beneficial use requirements.
(4) The potential in watersheds for managing flood water for beneficial uses.
(5) Potential sources and amounts of surplus water available for transfers.
(6) Other assessment and information considered necessary to properly define water resource availability.

(c) The commission shall maintain, on a continuing basis and with opportunity for participation and consultation with all interested persons, plans and recommendations for the development, conservation, and use of the water resource to best serve the needs of the people of Indiana for beneficial uses.

(d) The commission shall prepare a compilation and mapping of all community public water supplies in Indiana that serve at least five hundred (500) customers. The commission shall update the compilation and mapping at least one (1) time every five (5) years. The commission may use funds from the water resources development fund established by IC 14-25-2-4 to prepare compilations and mappings under this subsection. The compilations and mappings prepared under this subsection must include the following information:

(1) The location of water sources for community public water supplies.
(2) The location of treatment facilities used to treat raw water before the water is distributed to community public water supply customers.
(3) The extent of water mains in territories served by community public water supplies.
(4) The population served by community public water supplies.
(5) The total amount of water produced by community public water supplies for the most recent calendar year.

As added by P.L.1-1995, SEC.18. Amended by P.L.184-1995, SEC.2.

IC 14-25-7-14

Minimum flows of streams; minimum levels of ground water

Sec. 14. (a) Subject to subsection (c), the commission may determine and establish the minimum flows of streams, taking into account the varying low flow characteristics of the streams of Indiana and the importance of instream and withdrawal uses, including established water quality standards and public water supply needs.

(b) The established minimum flows of streams:

(1) are those naturally occurring, as determined by the commission; and

(2) may be calculated to reflect seasonal and regional variations.

(c) For boundary water, the commission may develop mutually agreeable minimum flows of streams in cooperation with the boundary state.

(d) The commission may determine and establish the minimum level of ground water in aquifers below which further withdrawals would be significantly harmful to the water resource of the area.

As added by P.L.1-1995, SEC.18.

IC 14-25-7-15

Significant water withdrawal facilities; registration; report to the commissioner; waiver

Sec. 15. (a) As used in this section, "significant water withdrawal facility" means the water withdrawal facilities of a person that, in the aggregate from all sources and by all methods, has the capability of withdrawing more than one hundred thousand (100,000) gallons of ground water, surface water, or ground and surface water combined in one (1) day. Subject to subsection (b), the term does not include:

(1) water withdrawal facilities that function as part of the operation or construction of a landfill; or

(2) water withdrawal facilities located in or on an off-stream impoundment that is principally supplied by a significant water withdrawal facility.

(b) A water withdrawal facility referred to in subsection (a)(1) or (a)(2) located in the basin (as defined in section 1.2 of IC 14-25-15-1) is subject to the registration requirement of section 4.1.3 of IC 14-25-15-1.

(c) Every person who has a significant water withdrawal facility shall register the facility with the commission on forms provided by the commission that contain the following:

(1) The name and legal address of the registrant.

(2) The source of water supply.

(3) The total capability of the water withdrawal facility.

(4) The total withdrawal capability per day and the amount from each source.

(5) The use to be made of the water, the place of use, and the place of discharge.

(6) The geographic location of the supply source.

(7) The date of registration.

(8) Other information specified by rule.

(d) A significant water withdrawal facility must be registered within three (3) months after the facility is completed.

(e) The owner of a registered significant water withdrawal facility shall, within three (3) months after the end of each year, make a verified report to the commission on forms to be provided by the commission of the amounts of water withdrawn during the year.

(f) Under rules adopted by the commission, the department may waive the requirement of the information set forth in subsections (c) and (e) with respect to a temporary significant water withdrawal facility.

As added by P.L.1-1995, SEC.18. Amended by P.L.123-1996, SEC.17; P.L.4-2008, SEC.4.

IC 14-25-7-16

Duties; interim study committee on agriculture and natural resources

Sec. 16. The interim study committee on agriculture and natural resources established by IC 2-5-1.3-4 shall do the following:

(1) Oversee the water resource management program of this chapter and the needs of the people of Indiana.

(2) Report the findings and recommendations in an electronic format under IC 5-14-6 to the legislative council under IC 2-5-1.2-15.

As added by P.L.1-1995, SEC.18. Amended by P.L.28-2004, SEC.131; P.L.53-2014, SEC.131.

IC 14-25-7-17

Violations

Sec. 17. A person who violates section 15 of this chapter commits a Class B infraction. A separate infraction is committed each day a violation occurs.

As added by P.L.1-1995, SEC.18.

IC 14-25-8
Chapter 8. Water and Geological Resources Research

IC 14-25-8-1
Legislative findings; research powers

Sec. 1. (a) The continuing growth of the population and economy impose ever increasing demands upon the essentially fixed water resources of Indiana. It is necessary that the development, use, and management of these resources be based upon a sound and thorough knowledge and understanding of the location, extent, capabilities, limitations, and characteristics of the basic water resources of Indiana. The need for additional knowledge is urgent in areas such as the following:

(1) Mapping of the location and availability of ground water.

(2) The time of travel of water from point to point on the major streams.

(3) The Indiana climatic factors affecting evaporation losses from impoundments.

(4) The meandering characteristics of alluvial streams.

(5) The drainage areas of streams at selected points.

(b) To accomplish the objectives described in subsection (a), the department of environmental management and the department may conduct applied research in their respective areas of jurisdiction for the purpose of securing the scientific and technical data and information necessary for the solution of problems involving the wise beneficial development, use, and management of the water resources of Indiana. The research shall be accomplished through the use of the money that is made available for these purposes.

(c) The department of environmental management and the department may conduct research under this section:

(1) independently; or

(2) in cooperation with agencies of the state or of the United States.

As added by P.L.1-1995, SEC.18.

IC 14-25-8-2
Duties of department

Sec. 2. (a) The department shall do the following:

(1) Continue the geological, scientific, and topographical survey of Indiana and the work of discovering, developing, and preserving Indiana's natural resources.

(2) Collect and disseminate information concerning the agricultural, mining, and manufacturing advantages of Indiana and give special attention to the following:

(A) The discovery of minerals, stone, clay, or other natural substances useful in agriculture, road making, manufacture, or the mechanical arts.

(B) The prevention of waste of minerals and mineral

products and coal.

(b) The commission:

(1) has charge of; and

(2) shall, as practicable, periodically add specimens to;

the state geological cabinet, museums, apparatus, and library.

As added by P.L.1-1995, SEC.18.

IC 14-25-8-3

Topographical survey map

Sec. 3. (a) The department may contract and cooperate with the United States Geological Survey or any other appropriate federal agency in the preparation and completion of a topographical survey map of Indiana. For the purpose of making the survey provided in this section:

(1) the department may use any means available to complete the work, including base control and aerial photography; and

(2) the persons employed in making the survey may enter upon any property within Indiana if the entry does not unreasonably interfere with private rights.

(b) There is appropriated out of any money in the state general fund not otherwise appropriated fifty thousand dollars ($50,000) annually to be expended in carrying on the work provided for in this section. However, the department may not expend more annually for the work than the United States government expends in carrying on the cooperative project with regard to Indiana. The money appropriated is available to reimburse the United States Geological Survey for Indiana's share of the costs of the topographic mapping, upon the presentation of certified bills for the expenses that are initially incurred by the United States Geological Survey or other cooperative agency.

(c) Money accruing to the use of the department under this section constitutes a revolving fund for the sole use of topographic mapping of Indiana. Money in the fund does not revert to the state general fund at the close of a state fiscal year until:

(1) the topographic mapping of Indiana has been completed; and

(2) obsolete or inadequate maps have been revised or remapped.

At the conclusion of the work the unexpended money in the fund reverts to the state general fund.

As added by P.L.1-1995, SEC.18.

IC 14-25-9
Chapter 9. Water Resources; Investigation and Measurement

IC 14-25-9-1
Powers of department

Sec. 1. The department may conduct the investigation and measurement of water resources of Indiana. The department may enter into a contract and cooperate with the United States Geological Survey or any other appropriate federal agency concerning the details of the investigation and measurement of water resources. For the purpose of making this investigation and measurement, the department may use or authorize by contract any money available for the prosecution of the work.

As added by P.L.1-1995, SEC.18.

IC 14-25-9-2
Duties of department regarding contributions

Sec. 2. The department shall do the following:

(1) Accept money contributed by a municipality, a corporation, or an individual to assist in the prosecution of this program.

(2) Deposit the money in the revolving funds of the divisions of geological survey and engineering.

(3) Designate the money for use for the purposes set forth in this chapter.

As added by P.L.1-1995, SEC.18.

IC 14-25-9-3
Contributions

Sec. 3. An agency of the state or of a subdivision of the state, a corporation, or an individual that desires special investigations or additional measurements not covered in the general program must contribute the cost of the special investigation or survey to the program in the same manner as provided in section 2 of this chapter.

As added by P.L.1-1995, SEC.18.

IC 14-25-9-4
Revolving fund

Sec. 4. (a) Money accruing to the use of the department under this chapter constitutes a revolving fund for the sole use of the water resources program of the state.

(b) Money in the fund at the end of a state fiscal year does not revert to the state general fund. When the water resources program of the state has been completed, the unexpended money reverts to the state general fund.

As added by P.L.1-1995, SEC.18.

IC 14-25-10

Chapter 10. Land and Water Resources Fund

IC 14-25-10-1

"Fund" defined

Sec. 1. As used in this chapter, "fund" refers to the land and water resources fund established by this chapter.

As added by P.L.1-1995, SEC.18.

IC 14-25-10-2

Establishment of fund

Sec. 2. The land and water resources fund is established as a dedicated fund.

As added by P.L.1-1995, SEC.18.

IC 14-25-10-3

Administration of fund

Sec. 3. The department shall administer the fund.

As added by P.L.1-1995, SEC.18.

IC 14-25-10-4

Deposit of fees

Sec. 4. Fees received by the department under the following statutes shall be deposited in the fund:

(1) IC 14-26-2-23.
(2) IC 14-26-5-4.
(3) IC 14-28-1-22.
(4) IC 14-29-3-2.
(5) IC 14-29-4-4.

As added by P.L.1-1995, SEC.18. Amended by P.L.152-2006, SEC.2.

IC 14-25-10-5

Purposes of fund

Sec. 5. The director may expend the money in the fund exclusively to do the following:

(1) Contribute toward the development and expansion of the soil and water conservation programs of local soil and water conservation districts, with emphasis on soil erosion control measures, as provided by IC 14-32-7-9.

(2) Conduct research, studies, and investigations for the purpose of securing the scientific and technical data and information necessary for the solution of problems involving the wise beneficial development, use, and management of the water resources of Indiana, as provided by IC 14-25-8-1(b) and IC 14-25-9-1.

(3) Offset the cost to the division of water of administering the regulatory programs that generate the fees deposited in the fund under section 4 of this chapter.

As added by P.L.1-1995, SEC.18. Amended by P.L.59-1999, SEC.1.

IC 14-25-10-6
Reversion of money

Sec. 6. Money in the fund does not revert to the state general fund at the end of a state fiscal year. However, if the fund is abolished, the money in the fund reverts to the state general fund.
As added by P.L.1-1995, SEC.18.

IC 14-25-11
Repealed
(Repealed by P.L.133-2012, SEC.175.)

IC 14-25-12

Chapter 12. Sand Nourishment Fund

IC 14-25-12-1

"Fund" defined

Sec. 1. As used in this chapter, "fund" refers to the sand nourishment fund established by this chapter.

As added by P.L.1-1995, SEC.18.

IC 14-25-12-2

Establishment of fund

Sec. 2. The sand nourishment fund is established.

As added by P.L.1-1995, SEC.18.

IC 14-25-12-3

Administration of fund

Sec. 3. The department shall administer the fund.

As added by P.L.1-1995, SEC.18.

IC 14-25-12-4

Purposes of fund

Sec. 4. The money in the fund shall be used for the following:

(1) The deposit of sand along the coast of Lake Michigan in Indiana.

(2) The design and establishment of systems that cause sand to be deposited along the coast of Lake Michigan in Indiana.

(3) The prevention or reduction of the degradation of sand along the coast of Lake Michigan in Indiana.

As added by P.L.1-1995, SEC.18.

IC 14-25-12-5

Reversion of money

Sec. 5. Money remaining in the fund at the end of a state fiscal year does not revert to the state general fund. However, if the fund is abolished, the money in the fund reverts to the state general fund.

As added by P.L.1-1995, SEC.18.

IC 14-25-13

Chapter 13. Great Lakes Basin Compact

IC 14-25-13-1

"Basin" defined

Sec. 1. As used in this chapter, "Basin" refers to the Great Lakes Basin.

As added by P.L.1-1995, SEC.18.

IC 14-25-13-2

"Commission" defined

Sec. 2. As used in this chapter, "Commission" refers to the Great Lakes Commission.

As added by P.L.1-1995, SEC.18.

IC 14-25-13-3

"State" defined

Sec. 3. As used in this chapter, "state" includes a province of Canada.

As added by P.L.1-1995, SEC.18.

IC 14-25-13-4

Great Lakes Basin Compact

Sec. 4. The Great Lakes Basin Compact is ratified, enacted into law, and entered into by Indiana as a party thereto with any other state or province which, pursuant to Article 2 of the compact, has legally joined therein in the form substantially as follows:

Article 1.

The purposes of this compact are, through means of joint or cooperative action, the following:

(1) To promote the orderly, integrated, and comprehensive development, use, and conservation of the water resources of the Great Lakes Basin.

(2) To plan for the welfare and development of the water resources of the Basin as a whole as well as for those portions of the Basin which may have problems of special concern.

(3) To make it possible for the states of the Basin and their people to derive the maximum benefit from utilization of public works, in the form of navigational aids or otherwise, which may exist or which may be constructed from time to time.

(4) To advise in securing and maintaining a proper balance among industrial, commercial, agricultural, water supply, residential, recreational, and other legitimate uses of the water resources of the Basin.

(5) To establish and maintain an intergovernmental agency to the end that the purposes of this compact may be accomplished more effectively.

Article 2.

(a) This compact shall enter into force and become effective and binding when the compact has been enacted by the legislatures of any four of the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin and thereafter shall enter into force and become effective and binding as to any other of the states when enacted by the legislature of the other state.

(b) The Province of Ontario and the Province of Quebec, or either of them, may become states party to this compact by taking such action as their laws and the laws of the Government of Canada may prescribe for adherence thereto.

Article 3.

The Great Lakes Commission created by Article 4 of this compact shall exercise the Commission's powers and perform the Commission's functions in respect to the Basin which, for the purposes of this compact, shall consist of so much of the following as may be within the party states:

(1) Lakes Erie, Huron, Michigan, Ontario, St. Clair, Superior, and the St. Lawrence River, together with any and all natural or man-made water interconnections between or among them.

(2) All rivers, ponds, lakes, streams, and other watercourses which, in their natural state or in their prevailing condition, are tributary to Lakes Erie, Huron, Michigan, Ontario, St. Clair, and Superior or any of them or which comprise part of any watershed draining into any of the lakes.

Article 4.

(a) There is created an agency of the party states to be known as The Great Lakes Commission. In that name the Commission may sue and be sued and acquire, hold, and convey real and personal property and any interest therein. The Commission shall have a seal with the words "The Great Lakes Commission" and such other design as the Commission may prescribe engraved thereon by which the Commission shall authenticate the Commission's proceedings. Transactions involving real or personal property shall conform to the laws of the state in which the property is located, and the Commission may by bylaws provide for the execution and acknowledgment of all instruments in the Commission's behalf.

(b) The Commission shall be composed of not less than three (3) commissioners nor more than five (5) commissioners from each party state designated or appointed in accordance with the law of the state which they represent and serving and subject to removal in accordance with such law.

(c) Each state delegation shall be entitled to three (3) votes in the Commission. The presence of commissioners from a majority of the party states shall constitute a quorum for the transaction of business at any meeting of the Commission. Actions of the Commission shall be by a majority of the votes cast, except that any recommendations made pursuant to Article 6 of this compact shall require an affirmative vote of not less than a majority of the votes cast from each of a majority of the states present and voting.

(d) The commissioners of any two (2) or more party states may meet separately to consider problems of particular interest to their states but no action taken at any such meeting shall be deemed an action of the Commission unless and until the Commission shall specifically approve the action.

(e) In the absence of any commissioner, the commissioner's vote may be cast by another representative or commissioner of the commissioner's state provided that the commissioner or other representative casting the vote shall have a written proxy in proper form as may be required by the Commission.

(f) The Commission shall elect annually from among the Commission's members a chairman and vice chairman. The Commission shall appoint an Executive Director who shall also act as secretary-treasurer and who shall be bonded in such amount as the Commission may require. The Executive Director shall serve at the pleasure of the Commission and at such compensation and under such terms and conditions as may be fixed by the Commission. The Executive Director shall be custodian of the records of the Commission with authority to affix the Commission's official seal and to attest to and certify such records or copies of the Commission.

(g) The Executive Director, subject to the approval of the Commission in such cases as the Commission's bylaws may provide, shall appoint and remove or discharge such personnel as may be necessary for the performance of the Commission's functions. Subject to the approval, the Executive Director may fix the compensation, define the duties, and require bonds of such of the personnel as the Commission may designate.

(h) The Executive Director, on behalf of, as trustee for, and with the approval of the Commission, may do the following:

(1) Borrow, accept, or contract for the services of personnel from:

(A) any state or government or any subdivision or agency of a state or government;

(B) any intergovernmental agency; or

(C) any institution, person, firm, limited liability company, or corporation.

(2) Accept, receive, and utilize for any of the Commission's purposes and functions under this compact any and all donations, gifts, and grants of money, equipment, supplies, materials, and services from any state or government or any subdivision or agency of a state or government or intergovernmental agency or from any institution, person, firm, limited liability company, or corporation.

(i) The Commission may establish and maintain one (1) or more offices for the transacting of the Commission's business and for such purposes the Executive Director, on behalf of, as trustee for, and with the approval of the Commission, may acquire, hold, and dispose of real and personal property necessary to the performance of the Commission's functions.

(j) No tax levied or imposed by any party state or any political subdivisions of a party state shall be deemed to apply to property, transactions, or income of the Commission.

(k) The Commission may adopt, amend, and rescind bylaws, rules, and regulations for the conduct of the Commission's business and may adopt an official seal.

(l) The organization meeting of the Commission shall be held within six months from the effective date of this compact.

(m) The Commission and the Executive Director shall make available to the party states any information within the Commission's possession and shall always provide free access to the Commission's records by duly authorized representatives of such party states.

(n) The Commission shall keep a written record of the Commission's meetings and proceedings and shall annually make a report of the meetings and proceedings to be submitted to the duly designated official of each party state.

(o) The Commission shall make and transmit annually to the legislature and Governor of each party state a report covering the activities of the Commission for the preceding year and embodying such recommendations as may have been adopted by the Commission. The Commission may issue such additional reports as the Commission may deem desirable.

Article 5.

(a) The members of the Commission shall serve without compensation, but the expenses of each commissioner shall be met by the state which the Commissioner represents in accordance with the law of that state. All other expenses incurred by the Commission in the course of exercising the powers conferred upon the Commission by this compact, unless met in some other manner specifically provided by this compact, shall be paid by the Commission out of the Commission's own funds.

(b) The Commission shall submit to the executive head or designated officer of each party state a budget of the Commission's estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature of the state.

(c) Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. Detailed Commission budgets shall be recommended by a majority of the votes cast, and the costs shall be allocated equitably among the party states in accordance with the respective interests of the party states.

(d) The Commission shall not pledge the credit of any party state. The Commission may meet any of the Commission's obligations in whole or in part with funds available to the Commission under Article 4(h) of this compact, provided that the Commission takes specific action setting aside such funds prior to the incurring of any obligations to be met in whole or in part in this manner. Except where the Commission makes use of funds available to the Commission under Article 4(h) of this compact, the Commission shall not incur

any obligations prior to the allotment of funds by the party states adequate to meet the same.

(e) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under the bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become a part of the annual report of the Commission.

(f) The accounts of the Commission shall be open at any reasonable time for inspection by such agency, representative, or representatives of the party states as may be duly constituted for that purpose and by others who may be authorized by the Commission.

Article 6.

The Commission shall have power to do the following:

(1) Collect, correlate, interpret, and report on data relating to the water resources and the use of the water resources in the Basin or any portion of the Basin.

(2) Recommend methods for the orderly, efficient, and balanced development, use, and conservation of the water resources of the Basin or any portion of the Basin to the party states and to any other governments or agencies having interests in or jurisdiction over the Basin or any portion of the Basin.

(3) Consider the need for and desirability of public works and improvements relating to the water resources in the Basin or any portion of the Basin.

(4) Consider means of improving navigation and port facilities in the Basin or any portion of the Basin.

(5) Consider means of improving and maintaining the fisheries of the Basin or any portion of the Basin.

(6) Recommend policies relating to water resources, including the institution and alteration of flood plain and other zoning laws, ordinances, and regulations.

(7) Recommend uniform or other laws, ordinances, or regulations relating to the development, use, and conservation of the Basin's water resources to the party states or any of the party states and to other governments, political subdivisions, agencies, or intergovernmental bodies having interests in or jurisdiction sufficient to affect conditions in the Basin or any portion of the Basin.

(8) Consider and recommend amendments or agreements supplementary to this compact to the party states or any of the party states and assist in the formulation and drafting of such amendments or supplementary agreements.

(9) Prepare and publish reports, bulletins, and publications appropriate to this work and fix reasonable sale prices for the reports, bulletins, and publications.

(10) With respect to the water resources of the Basin or any

portion of the Basin, recommend agreements between the governments of the United States and Canada.

(11) Recommend mutual arrangements expressed by concurrent or reciprocal legislation on the part of Congress and the Parliament of Canada, including but not limited to such agreements and mutual arrangements as are provided for by Article 13 of the Treaty of 1909 Relating to Boundary Waters and Questions Arising Between the United States and Canada. (Treaty Series, No. 548).

(12) Cooperate with the governments of the United States, Canada, and the party states and any public or private agencies or bodies having interest in or jurisdiction sufficient to affect the Basin or any portion of the Basin.

(13) At the request of the United States, or in the event that a Province shall be a party state, at the request of the Government of Canada, assist in the negotiation and formulation of any treaty or other mutual arrangement or agreement between the United States and Canada with reference to the Basin or any portion of the Basin.

(14) Make any recommendation and do all things necessary and proper to carry out the powers conferred upon the Commission by this compact, provided that no action of the Commission shall have the force of law in or be binding upon any party state.

Article 7.

Each party state agrees to consider the action the Commission recommends in respect to the following:

(1) Stabilization of lake levels.

(2) Measures for combating pollution, beach erosion, floods, and short inundation.

(3) Uniformity in navigation regulations within the constitutional powers of the states.

(4) Proposed navigation aids and improvements.

(5) Uniformity or effective coordinating action in fishing laws and regulations and cooperative action to eradicate destructive and parasitical forces endangering the fisheries, wildlife, and other water resources.

(6) Suitable hydroelectric power developments.

(7) Cooperative programs for control of soil and bank erosion for the general improvement of the Basin.

(8) Diversion of waters from and into the Basin.

(9) Other measures the Commission may recommend to the state pursuant to Article 6 of this compact.

Article 8.

This compact shall continue in force and remain binding upon each party state until renounced by act of the legislature of such state, in such form and manner as the state may choose and as may be valid and effective to repeal a statute of the state, provided that such renunciation shall not become effective until six (6) months after notice of such action shall have been officially communicated in

writing to the executive head of the other party states.

Article 9.

(a) It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes of this compact. The provisions of this compact shall be severable. If:

(1) any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or in the case of a Province, to the British North American Act of 1867 as amended; or

(2) the applicability of this compact to any state, agency, person, or circumstance is held invalid;

the constitutionality of the remainder of this compact and the applicability of this compact to any state, agency, person, or circumstance shall not be affected.

(b) If this compact shall be held contrary to the constitution of the United States, or in the case of a Province, to the British North American Act of 1867, as amended, or of any party state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

As added by P.L.1-1995, SEC.18.

IC 14-25-13-5

Commissioners

Sec. 5. In pursuance of Article 4 of the compact, there are five (5) commissioners on the Commission from Indiana. Each commissioner has all the powers conferred on a commissioner by the compact or which are necessary or incidental to the performance of the commissioner's functions as such a commissioner. The governor shall appoint the members of the Commission for terms of four (4) years. The governor shall fill by appointment any vacancies occurring in the office of a commissioner for any reason or cause for the unexpired term.

As added by P.L.1-1995, SEC.18.

IC 14-25-13-6

Duties of state officers, bureaus, and departments

Sec. 6. (a) All officers of this state shall do all things falling within the respective jurisdiction of the officers necessary to or incidental to the carrying out of the compact in every particular because it is the policy of Indiana to perform and carry out the compact and to accomplish the purposes of the compact.

(b) All officers, bureaus, departments, and persons of and in the state government or administration of this state shall, at reasonable times and upon request of the Commission, do the following:

(1) Furnish the Commission with information and data possessed by all or any of the officers, bureaus, departments, and persons.

(2) Aid the Commission by loan of personnel or other means lying within the legal powers of the officers, bureaus,

departments, and persons.
As added by P.L.1-1995, SEC.18.

IC 14-25-13-7
Submission of budget

Sec. 7. The budget of the estimated expenditures of the Commission shall be submitted to the budget committee for the period and in the form that is required by the committee.
As added by P.L.1-1995, SEC.18.

IC 14-25-13-8
Governor to transmit copies to parties

Sec. 8. The governor shall transmit an authenticated copy of this chapter and the compact contained in this chapter to each jurisdiction party to the compact.
As added by P.L.1-1995, SEC.18.

IC 14-25-13-9
Administrative duties; rights and obligations not affected

Sec. 9. (a) The department of natural resources shall provide administrative and staff services for the commissioners from Indiana on the Commission as provided by this chapter.

(b) The deputy director for the bureau of water and resource regulation shall, without additional compensation, serve as technical secretary to the Commission in Indiana. The deputy director shall handle the correspondence, make or arrange for the investigations and surveys, and obtain, assemble, or prepare the reports and data that the commissioners direct and authorize.

(c) This section does not do any of the following:

(1) Alter or affect the obligations of all officers of this state under section 6 of this chapter.

(2) Alter the manner in which the commissioners from Indiana on the Commission are appointed.

(3) Alter any of the jurisdiction, authority, rights, powers, property, duties, responsibilities, causes of action, or defense vested on June 30, 1965, in or required of the following:

(A) The Commission.

(B) The commissioners from Indiana on the Commission.
As added by P.L.1-1995, SEC.18. Amended by P.L.1-2006, SEC.217.

IC 14-25-14
Repealed
(Repealed by P.L.133-2012, SEC.176.)

IC 14-25-15

Chapter 15. Great Lakes—St. Lawrence River Basin Water Resources Compact

IC 14-25-15-1

Agreement for the compact

Sec. 1. The following interstate agreement on the use of water resources in the Great Lakes—St. Lawrence River basin is enacted into law and entered into by this state with all other states legally joining the interstate agreement in substantially the following form:

AGREEMENT

Section 1. The states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, and Wisconsin, and the Commonwealth of Pennsylvania hereby solemnly covenant and agree with each other, upon enactment of concurrent legislation by the respective state legislatures and consent by the Congress of the United States as follows:

GREAT LAKES—ST. LAWRENCE RIVER BASIN WATER RESOURCES COMPACT

ARTICLE 1

SHORT TITLE, DEFINITIONS, PURPOSES AND DURATION

Section 1.1. Short title. This act shall be known and may be cited as the "Great Lakes—St. Lawrence River Basin Water Resources Compact".

Section 1.2. Definitions. For the purposes of the compact, and of any supplemental or concurring legislation enacted under the compact, except as may be otherwise required by the context:

"Adaptive management" means a water resources management system that provides a systematic process for evaluation, monitoring, and learning from the outcomes of operational programs and adjustment of policies, plans, and programs based on experience and the evolution of scientific knowledge concerning water resources and water dependent natural resources.

"Agreement" means the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement.

"Applicant" means a person who is required to submit a proposal that is subject to management and regulation under the compact. "Application" has a corresponding meaning.

"Basin" or "Great Lakes—St. Lawrence River basin" means the watershed of the Great Lakes and the St. Lawrence River upstream from Trois-Rivières, Québec, within the jurisdiction of the parties.

"Basin ecosystem" or "Great Lakes—St. Lawrence River basin ecosystem" means the interacting components of air, land, water, and living organisms, including humankind, within the basin.

"Community within a straddling county" means any incorporated city, town, or the equivalent thereof, that is located outside the basin but wholly within a county that lies partly within the basin and that is not a straddling community.

"Compact" means this compact.

"Consumptive use" means that portion of the water withdrawn or withheld from the basin that is lost or otherwise not returned to the basin due to evaporation, incorporation into products, or other processes.

"Council" means the Great Lakes—St. Lawrence River basin water resources council, created by the compact.

"Council review" means the collective review by the council members as described in article 4 of the compact.

"County" means the largest territorial division for local government in a state. The county boundaries shall be defined as those boundaries that exist as of December 13, 2005.

"Cumulative impacts" means the impact on the basin ecosystem that results from incremental effects of all aspects of a withdrawal, diversion, or consumptive use in addition to other past, present, and reasonably foreseeable future withdrawals, diversions, and consumptive uses regardless of who undertakes the other withdrawals, diversions, and consumptive uses. Cumulative impacts can result from individually minor but collectively significant withdrawals, diversions, and consumptive uses taking place over a period of time.

"Decision making standard" means the decision making standard established by section 4.11 for proposals subject to management and regulation in section 4.10.

"Diversion" means a transfer of water from the basin into another watershed, or from the watershed of one (1) of the Great Lakes into that of another by any means of transfer, including but not limited to a pipeline, canal, tunnel, aqueduct, channel, modification of the direction of a water course, a tanker ship, tanker truck, or rail tanker but does not apply to water that is used in the basin or a Great Lake watershed to manufacture or produce a product that is then transferred out of the basin or watershed. "Divert" has a corresponding meaning.

"Environmentally sound and economically feasible water conservation measures" means those measures, methods, technologies, or practices for efficient water use and for reduction of water loss and waste or for reducing a withdrawal, consumptive use, or diversion that:

(i) are environmentally sound;

(ii) reflect best practices applicable to the water use sector;

(iii) are technically feasible and available;

(iv) are economically feasible and cost effective based on an analysis that considers direct and avoided economic and environmental costs; and

(v) consider the particular facilities and processes involved, taking into account the environmental impact, age of equipment and facilities involved, processes employed, energy impacts, and other appropriate factors.

"Exception" means a transfer of water that is excepted under

section 4.9 from the prohibition against diversions in section 4.8.

"Exception standard" means the standard for exceptions established in section 4.9.4.

"Intra-basin transfer" means the transfer of water from the watershed of one (1) of the Great Lakes into the watershed of another Great Lake.

"Measures" means any legislation, law, regulation, directive, requirement, guideline, program, policy, administrative practice, or other procedure.

"New or increased diversion" means a new diversion, an increase in an existing diversion, or the alteration of an existing withdrawal so that it becomes a diversion.

"New or increased withdrawal or consumptive use" means a new withdrawal or consumptive use or an increase in an existing withdrawal or consumptive use.

"Originating party" means the party within whose jurisdiction an application or registration is made or required.

"Party" means a state party to the compact.

"Person" means a human being or a legal person, including a government or a nongovernmental organization, including any scientific, professional, business, nonprofit, or public interest organization or association that is neither affiliated with, nor under the direction of, a government.

"Product" means something produced in the basin by human or mechanical effort or through agricultural processes and used in manufacturing, commercial, or other processes or intended for intermediate or end use consumers.

(i) Water used as part of the packaging of a product shall be considered to be part of the product.

(ii) Other than water used as part of the packaging of a product, water that is used primarily to transport materials in or out of the basin is not a product or part of a product.

(iii) Except as provided in item (i), water that is transferred as part of a public or private supply is not a product or part of a product.

(iv) Water in its natural state such as in lakes, rivers, reservoirs, aquifers, or water basins is not a product.

"Proposal" means a withdrawal, diversion, or consumptive use of water that is subject to the compact.

"Province" means Ontario or Québec.

"Public water supply purposes" means water distributed to the public through a physically connected system of treatment, storage, and distribution facilities serving a group of largely residential customers that may also serve industrial, commercial, and other institutional operators. Water withdrawn directly from the basin and not through such a system shall not be considered to be used for public water supply purposes.

"Regional body" means the members of the council and the premiers of Ontario and Québec or their designee as established by

the agreement.

"Regional review" means the collective review by the regional body as described in article 4 of the compact.

"Source watershed" means the watershed from which a withdrawal originates. If water is withdrawn directly from a Great Lake or from the St. Lawrence River, then the source watershed shall be considered to be the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively. If water is withdrawn from the watershed of a stream that is a direct tributary to a Great Lake or a direct tributary to the St. Lawrence River, then the source watershed shall be considered to be the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively, with a preference to the direct tributary stream watershed from which it was withdrawn.

"Standard of review and decision" means the exception standard, decision making standard, and reviews as outlined in article 4 of the compact.

"State" means one (1) of the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, or Wisconsin, or the Commonwealth of Pennsylvania.

"Straddling community" means any incorporated city, town, or the equivalent thereof, wholly within any county that lies partly or completely within the basin, whose corporate boundary existing as of the effective date of the compact, is partly within the basin or partly within two (2) Great Lakes watersheds.

"Technical review" means a detailed review conducted to determine whether or not a proposal that requires regional review under the compact meets the standard of review and decision following procedures and guidelines as set out in the compact.

"Water" means ground or surface water contained within the basin.

"Water dependent natural resources" means the interacting components of land, water, and living organisms affected by the waters of the basin.

"Waters of the basin" or "basin water" means the Great Lakes and all streams, rivers, lakes, connecting channels, and other bodies of water, including tributary groundwater, within the basin.

"Withdrawal" means the taking of water from surface water or groundwater. "Withdraw" has a corresponding meaning.

Section 1.3. Findings and purposes. The legislative bodies of the respective parties hereby find and declare:

1. Findings:

a. the waters of the basin are precious public natural resources shared and held in trust by the states;

b. the waters of the basin are interconnected and part of a single hydrologic system;

c. the waters of the basin can concurrently serve multiple uses. Such multiple uses include municipal, public, industrial, commercial, agriculture, mining, navigation, energy development and production, recreation, the

subsistence, economic and cultural activities of native peoples, water quality maintenance, and the maintenance of fish and wildlife habitat and a balanced ecosystem; and, other purposes are encouraged, recognizing that such uses are interdependent and must be balanced;

d. future diversions and consumptive uses of basin water resources have the potential to significantly impact the environment, economy, and welfare of the Great Lakes—St. Lawrence River region;

e. continued sustainable, accessible, and adequate water supplies for the people and economy of the basin are of vital importance; and

f. the parties have a shared duty to protect, conserve, restore, improve, and manage the renewable but finite waters of the basin for the use, benefit, and enjoyment of all their citizens, including generations yet to come. The most effective means of protecting, conserving, restoring, improving, and managing the basin waters is through the joint pursuit of unified and cooperative principles, policies, and programs mutually agreed upon, enacted, and adhered to by all parties.

2. Purposes:

a. to act together to protect, conserve, restore, improve, and effectively manage the waters and water dependent natural resources of the basin under appropriate arrangements for intergovernmental cooperation and consultation because current lack of full scientific certainty should not be used as a reason for postponing measures to protect the basin ecosystem;

b. to remove causes of present and future controversies;

c. to provide for cooperative planning and action by the parties with respect to such water resources;

d. to facilitate consistent approaches to water management across the basin while retaining state management authority over water management decisions within the basin;

e. to facilitate the exchange of data, strengthen the scientific information base upon which decisions are made, and engage in consultation on the potential effects of proposed withdrawals and losses on the waters and water dependent natural resources of the basin;

f. to prevent significant adverse impacts of withdrawals and losses on the basin's ecosystems and watersheds;

g. to promote interstate and state-provincial comity; and

h. to promote an adaptive management approach to the conservation and management of basin water resources, which recognizes, considers, and provides adjustments for the uncertainties in, and evolution of, scientific knowledge concerning the basin's waters and water dependent natural resources.

Section 1.4. Science.

1. The parties commit to provide leadership for the development of a collaborative strategy with other regional partners to strengthen the scientific basis for sound water management decision making under the compact.

2. The strategy shall guide the collection and application of scientific information to support:

a. an improved understanding of the individual and cumulative impacts of withdrawals from various locations and water sources on the basin ecosystem and to develop a mechanism by which impacts of withdrawals may be assessed;

b. the periodic assessment of cumulative impacts of withdrawals, diversions, and consumptive uses on the Great Lakes and St. Lawrence River watershed basin;

c. improved scientific understanding of the waters of the basin;

d. improved understanding of the role of groundwater in basin water resources management; and

e. the development, transfer, and application of science and research related to water conservation and water use efficiency.

ARTICLE 2

ORGANIZATION

Section 2.1. Council created. The Great Lakes—St. Lawrence River Basin water resources council is hereby created as a body politic and corporate, with succession for the duration of the compact, as an agency and instrumentality of the governments of the respective parties.

Section 2.2. Council membership. The council shall consist of the governors of the parties, ex officio.

Section 2.3. Alternates. Each member of the council shall appoint at least one (1) alternate who may act in his or her place and stead, with authority to attend all meetings of the council and with power to vote in the absence of the member. Unless otherwise provided by law of the party for which he or she is appointed, each alternate shall serve during the term of the member appointing him or her, subject to removal at the pleasure of the member. In the event of a vacancy in the office of alternate, it shall be filled in the same manner as an original appointment for the unexpired term only.

Section 2.4. Voting.

1. Each member is entitled to one (1) vote on all matters that may come before the council.

2. Unless otherwise stated, the rule of decision shall be by a simple majority.

3. The council shall annually adopt a budget for each fiscal year, and the amount required to balance the budget shall be apportioned equitably among the parties by unanimous vote of the council. The appropriation of such amounts shall be subject to such review and approval as may be required by the

budgetary processes of the respective parties.

4. The participation of council members from a majority of the parties shall constitute a quorum for the transaction of business at any meeting of the council.

Section 2.5. Organization and procedure. The council shall provide for its own organization and procedure, and may adopt rules and regulations governing its meetings and transactions, as well as the procedures and timeline for submission, review, and consideration of proposals that come before the council for its review and action. The council shall organize, annually, by the election of a chair and vice chair from among its members. Each member may appoint an adviser, who may attend all meetings of the council and its committees, but shall not have voting power. The council may employ or appoint professional and administrative personnel, including an executive director, as it may deem advisable, to carry out the purposes of the compact.

Section 2.6. Use of existing offices and agencies. It is the policy of the parties to preserve and utilize the functions, powers, and duties of existing offices and agencies of government to the extent consistent with the compact. Further, the council shall promote and aid the coordination of the activities and programs of the parties concerned with water resources management in the basin. To this end, but without limitation, the council may:

1. advise, consult, contract, assist, or otherwise cooperate with any and all such agencies;

2. employ any other agency or instrumentality of any of the parties for any purpose; and

3. develop and adopt plans consistent with the water resources plans of the parties.

Section 2.7. Jurisdiction. The council shall have, exercise, and discharge its functions, powers, and duties within the limits of the basin. Outside the basin, it may act in its discretion, but only to the extent such action may be necessary or convenient to effectuate or implement its powers or responsibilities within the basin and subject to the consent of the jurisdiction wherein it proposes to act.

Section 2.8. Status, immunities, and privileges. The council, its members, and personnel in their official capacity and when engaged directly in the affairs of the council, its property, and its assets, wherever located and by whomsoever held, shall enjoy the same immunity from suit and every form of judicial process as is enjoyed by the parties, except to the extent that the council may expressly waive its immunity for the purposes of any proceedings or by the terms of any contract.

The property and assets of the council, wherever located and by whomsoever held, shall be considered public property and shall be immune from search, requisition, confiscation, expropriation, or any other form of taking or foreclosure by executive or legislative action.

The council, its property, and its assets, income and the operations it carries out under the compact shall be immune from all taxation by

or under the authority of any of the parties or any political subdivision thereof. However, in lieu of property taxes, the council may make reasonable payments to local taxing districts in annual amounts that shall approximate the taxes lawfully assessed upon similar property.

Section 2.9. Advisory committees. The council may constitute and empower advisory committees, which may be comprised of representatives of the public and of federal, state, tribal, county, and local governments, water resources agencies, water using industries and sectors, water interest groups, and academic experts in related fields.

ARTICLE 3

GENERAL POWERS AND DUTIES

Section 3.1. General. The waters and water dependent natural resources of the basin are subject to the sovereign right and responsibilities of the parties, and it is the purpose of the compact to provide for joint exercise of such powers of sovereignty by the council in the common interests of the people of the region, in the manner and to the extent provided in the compact. The council and the parties shall use the standard of review and decision and procedures contained in or adopted under the compact as the means to exercise their authority under the compact.

The council may revise the standard of review and decision, after consultation with the provinces and upon unanimous vote of all council members, by regulation duly adopted in accordance with section 3.3 of the compact and in accordance with each party's respective statutory authorities and applicable procedures.

The council shall identify priorities and develop plans and policies relating to basin water resources. It shall adopt and promote uniform and coordinated policies for water resources conservation and management in the basin.

Section 3.2. Council powers. The council may:

1. plan;
2. conduct research and collect, compile, analyze, interpret, report, and disseminate data on water resources and uses;
3. forecast water levels;
4. conduct investigations;
5. institute court actions;
6. design, acquire, construct, reconstruct, own, operate, maintain, control, sell, and convey real and personal property and any interest therein as it may deem necessary, useful or convenient to carry out the purposes of the compact;
7. make contracts;
8. receive and accept such payments, appropriations, grants, gifts, loans, advances, and other funds, properties, and services as may be transferred or made available to it by any party or by any other public or private agency, corporation, or individual; and
9. exercise such other and different powers as may be delegated

to it by the compact or otherwise under law, and have and exercise all powers necessary or convenient to carry out its express powers or which may be reasonably implied therefrom.

Section 3.3. Rules and regulations.

1. The council may promulgate and enforce such rules and regulations as may be necessary for the implementation and enforcement of the compact. The council may adopt by regulation, after public notice and public hearing, reasonable application fees with respect to those proposals for exceptions that are subject to council review under section 4.9 of the compact. Any rule or regulation of the council, other than one that deals solely with the internal management of the council or its property, shall be adopted only after public notice and hearing.

2. Each party, in accordance with its respective statutory authorities and applicable procedures, may adopt and enforce rules and regulations to implement and enforce the compact and the programs adopted by such party to carry out the management programs contemplated by the compact.

Section 3.4. Program review and findings.

1. Each party shall submit a report to the council and the regional body detailing its water management and conservation and efficiency programs that implement the compact. The report shall set out the manner in which water withdrawals are managed by sector, water source, quantity, or any other means, and how the provisions of the standard of review and decision and conservation and efficiency programs are implemented. The first report shall be provided by each party one (1) year from the effective date of the compact and thereafter every five (5) years.

2. The council, in cooperation with the provinces, shall review its water management and conservation and efficiency programs and those of the parties that are established in the compact and make findings on whether the water management program provisions in the compact are being met and, if not, recommend options to assist the parties in meeting the provisions of the compact. Such review shall take place:

a. thirty (30) days after the first report is submitted by all parties;

b. every five (5) years after the effective date of the compact; and

c. at any other time at the request of one (1) of the parties.

3. As one of its duties and responsibilities, the council may recommend a range of approaches to the parties with respect to the development, enhancement, and application of water management and conservation and efficiency programs to implement the standard of review and decision reflecting improved scientific understanding of the waters of the basin, including groundwater, and the impacts of withdrawals on the basin ecosystem.

ARTICLE 4
WATER MANAGEMENT AND REGULATION

Section 4.1. Water resources inventory, registration, and reporting.

1. Within five (5) years of the effective date of the compact, each party shall develop and maintain a water resources inventory for the collection, interpretation, storage, retrieval exchange, and dissemination of information concerning the water resources of the party, including, but not limited to, information on the location, type, quantity, and use of those resources and the location, type, and quantity of withdrawals, diversions, and consumptive uses. To the extent feasible, the water resources inventory shall be developed in cooperation with local, state, federal, tribal, and other private agencies and entities, as well as the council. Each party's agencies shall cooperate with that party in the development and maintenance of the inventory.

2. The council shall assist each party to develop a common base of data regarding the management of the water resources of the basin and to establish systematic arrangements for the exchange of those data with other states and provinces.

3. To develop and maintain a compatible base of water use information, within five (5) years of the effective date of the compact any person who withdraws water in an amount of one hundred thousand (100,000) gallons per day or greater average in any thirty (30) day period (including consumptive uses) from all sources, or diverts water of any amount, shall register the withdrawal or diversion by a date set by the council unless the person has previously registered in accordance with an existing state program. The person shall register the withdrawal or diversion with the originating party using a form prescribed by the originating party that shall include, at a minimum and without limitation:

a. the name and address of the registrant and date of registration;

b. the locations and sources of the withdrawal or diversion;

c. the capacity of the withdrawal or diversion per day and the amount withdrawn or diverted from each source;

d. the uses made of the water;

e. places of use and places of discharge; and

f. such other information as the originating party may require.

All registrations shall include an estimate of the volume of the withdrawal or diversion in terms of gallons per day average in any thirty (30) day period.

4. All registrants shall annually report the monthly volumes of the withdrawal, consumptive use, and diversion in gallons to the originating party and any other information requested by the originating party.

5. Each party shall annually report the information gathered

under this section to a Great Lakes—St. Lawrence River water use data base repository, and aggregated information shall be made publicly available, consistent with the confidentiality requirements in section 8.3 of the compact.

6. Information gathered by the parties under this section shall be used to improve the sources and applications of scientific information regarding the waters of the basin and the impacts of the withdrawals and diversions from various locations and water sources on the basin ecosystem, and to better understand the role of groundwater in the basin. The council and the parties shall coordinate the collection and application of scientific information to further develop a mechanism by which individual and cumulative impacts of withdrawals, consumptive uses, and diversions shall be assessed.

Section 4.2. Water conservation and efficiency programs.

1. The council commits to identify, in cooperation with the provinces, basinwide water conservation and efficiency objectives to assist the parties in developing their water conservation and efficiency program. These objectives are based on the goals of:

a. ensuring improvement of the waters and water dependent natural resources;

b. protecting and restoring the hydrologic and ecosystem integrity of the basin;

c. retaining the quantity of surface water and groundwater in the basin;

d. ensuring sustainable use of waters of the basin; and

e. promoting the efficiency of use and reducing losses and waste of water.

2. Within two (2) years of the effective date of the compact, each party shall develop its own water conservation and efficiency goals and objectives consistent with the basinwide goals and objectives, and shall develop and implement a water conservation and efficiency program, either voluntary or mandatory, within its jurisdiction based on the party's goals and objectives. Each party shall annually assess its programs in meeting the party's goals and objectives, report to the council and the regional body and make this annual assessment available to the public.

3. Beginning five (5) years after the effective date of the compact, and every five (5) years thereafter, the council, in cooperation with the provinces, shall review and modify as appropriate the basinwide objectives, and the parties shall have regard for any such modifications in implementing their programs. This assessment will be based on examining new technologies, new patterns of water use, new resource demands and threats, and cumulative impact assessment under section 4.15.

4. Within two (2) years of the effective date of the compact, the

parties commit to promote environmentally sound and economically feasible water conservation measures such as:

a. measures that promote efficient use of water;

b. identification and sharing of best management practices and state of the art conservation and efficiency technologies;

c. application of sound planning principles;

d. demand-side and supply-side measures or incentives; and

e. development, transfer, and application of science and research.

5. Each party shall implement in accordance with paragraph 2 above a voluntary or mandatory water conservation program for all, including existing basin water users. Conservation programs need to adjust to new demands and the potential impacts of cumulative effects and climate.

Section 4.3. Party powers and duties.

1. Each party, within its jurisdiction, shall manage and regulate new or increased withdrawals, consumptive uses, and diversions, including exceptions, in accordance with the compact.

2. Each party shall require an applicant to submit an application in such manner and with such accompanying information as the party shall prescribe.

3. No party may approve a proposal if the party determines that the proposal is inconsistent with the compact or the standard of review and decision or any implementing rules or regulations promulgated thereunder. The party may approve, approve with modifications, or disapprove any proposal depending on the proposal's consistency with the compact and the standard of review and decision.

4. Each party shall monitor the implementation of any approved proposal to ensure consistency with the approval and may take all necessary enforcement actions.

5. No party shall approve a proposal subject to council or regional review, or both, under the compact unless it shall have been first submitted to and reviewed by either the council or regional body, or both, and approved by the council, as applicable. Sufficient opportunity shall be provided for comment on the proposal's consistency with the compact and the standard of review and decision. All such comments shall become part of the party's formal record of decision, and the party shall take into consideration any such comments received.

Section 4.4. Requirement for originating party approval. No proposal subject to management and regulation under the compact shall hereafter be undertaken by any person unless it shall have been approved by the originating party.

Section 4.5. Regional review.

1. General.

a. It is the intention of the parties to participate in regional review of proposals with the provinces, as described in the

compact and the agreement.

b. Unless the applicant or the originating party otherwise requests, it shall be the goal of the regional body to conclude its review no later than ninety (90) days after notice under paragraph 2 of this section of such proposal is received from the originating party.

c. Proposals for exceptions subject to regional review shall be submitted by the originating party to the regional body for regional review and, where applicable, to the council for concurrent review.

d. The parties agree that the protection of the integrity of the Great Lakes—St. Lawrence River basin ecosystem shall be the overarching principle for reviewing proposals subject to regional review, recognizing uncertainties with respect to demands that may be placed on basin water, including groundwater, levels and flows of the Great Lakes and the St. Lawrence River, future changes in environmental conditions, the reliability of existing data, and the extent to which diversions may harm the integrity of the basin ecosystem.

e. The originating party shall have lead responsibility for coordinating information for resolution of issues related to evaluation of a proposal, and shall consult with the applicant throughout the regional review process.

f. A majority of the members of the regional body may request regional review of a regionally significant or potentially precedent setting proposal. Such regional review must be conducted, to the extent possible, within the time frames set forth in this section. Any such regional review shall be undertaken only after consulting the applicant.

2. Notice from originating party to the regional body.

a. The originating party shall determine if a proposal is subject to regional review. If so, the originating party shall provide timely notice to the regional body and the public.

b. Such notice shall not be given unless and until all information, documents, and the originating party's technical review needed to evaluate whether the proposal meets the standard of review and decision have been provided.

c. An originating party may:

i. provide notice to the regional body of an application, even if notification is not required; or

ii. request regional review of an application, even if regional review is not required. Any such regional review shall be undertaken only after consulting the applicant.

d. An originating party may provide preliminary notice of a potential proposal.

3. Public participation.

a. To ensure adequate public participation, the regional body shall adopt procedures for the review of proposals that are subject to regional review in accordance with this article of

the compact.

b. The regional body shall provide notice to the public of a proposal undergoing regional review. Such notice shall indicate that the public has an opportunity to comment in writing to the regional body on whether the proposal meets the standard of review and decision.

c. The regional body shall hold a public meeting in the state or province of the originating party in order to receive public comment on the issue of whether the proposal under consideration meets the standard of review and decision.

d. The regional body shall consider the comments received before issuing a declaration of finding.

e. The regional body shall forward the comments it receives to the originating party.

4. Technical review.

a. The originating party shall provide the regional body with its technical review of the proposal under consideration.

b. The originating party's technical review shall thoroughly analyze the proposal and provide an evaluation of the proposal sufficient for a determination of whether the proposal meets the standard of review and decision.

c. Any member of the regional body may conduct the member's own technical review of any proposal subject to regional review.

d. At the request of the majority of its members, the regional body shall make such arrangements as it considers appropriate for an independent technical review of a proposal.

e. All parties shall exercise their best efforts to ensure that a technical review undertaken under sections 4.5.4.c and 4.5.4.d does not unnecessarily delay the decision by the originating party on the application. Unless the applicant or the originating party otherwise requests, all technical reviews shall be completed no later than sixty (60) days after the date the notice of the proposal was given to the regional body.

5. Declaration of finding.

a. The regional body shall meet to consider a proposal. The applicant shall be provided with an opportunity to present the proposal to the regional body at such time.

b. The regional body, having considered the notice, the originating party's technical review, any other independent technical review that is made, any comments or objections including the analysis of comments made by the public, First Nations and federally recognized tribes, and any other information that is provided under the compact shall issue a declaration of finding that the proposal under consideration:

i. meets the standard of review and decision;

ii. does not meet the standard of review and decision; or

iii. would meet the standard of review and decision if

certain conditions were met.

c. An originating party may decline to participate in a declaration of finding made by the regional body.

d. The parties recognize and affirm that it is preferable for all members of the regional body to agree whether the proposal meets the standard of review and decision.

e. If the members of the regional body who participate in the declaration of finding all agree, they shall issue a written declaration of finding with consensus.

f. In the event that the members cannot agree, the regional body shall make every reasonable effort to achieve consensus within twenty-five (25) days.

g. Should consensus not be achieved, the regional body may issue a declaration of finding that presents different points of view and indicates each party's conclusions.

h. The regional body shall release the declarations of finding to the public.

i. The originating party and the council shall consider the declaration of finding before making a decision on the proposal.

Section 4.6. Proposals subject to prior notice.

1. Beginning no later than five (5) years after the effective date of the compact, the originating party shall provide all parties and the provinces with detailed and timely notice and an opportunity to comment within ninety (90) days on any proposal for a new or increased consumptive use of five million (5,000,000) gallons per day or greater average in any ninety (90) day period. Comments shall address whether or not the proposal is consistent with the standard of review and decision. The originating party shall provide a response to any such comment received from another party.

2. A party may provide notice, an opportunity to comment, and a response to comments even if this is not required under paragraph 1 of this section. Any provision of such notice and opportunity to comment shall be undertaken only after consulting the applicant.

Section 4.7. Council actions.

1. Proposals for exceptions subject to council review shall be submitted by the originating party to the council for council review and, where applicable, to the regional body for concurrent review.

2. The council shall review and take action on proposals in accordance with the compact and the standard of review and decision. The council shall not take action on a proposal subject to regional review under the compact unless the proposal shall have been first submitted to and reviewed by the regional body. The council shall consider any findings resulting from such review.

Section 4.8. Prohibition of new or increased diversions. All new

or increased diversions are prohibited, except as provided for in this article of the compact.

Section 4.9. Exceptions to the prohibition of diversions.

1. Straddling communities. A proposal to transfer water to an area within a straddling community but outside the basin or outside the source Great Lake watershed shall be excepted from the prohibition against diversions and be managed and regulated by the originating party provided that, regardless of the volume of water transferred, all the water so transferred shall be used solely for public water supply purposes within the straddling community, and:

a. all water withdrawn from the basin shall be returned, either naturally or after use, to the source watershed less an allowance for consumptive use. No surface water or groundwater from outside the basin may be used to satisfy any portion of this criterion except if it:

i. is part of a water supply or wastewater treatment system that combines water from inside and outside of the basin;

ii. is treated to meet applicable water quality discharge standards and to prevent the introduction of invasive species into the basin; and

iii. maximizes the portion of water returned to the source watershed as basin water and minimizes the surface water or groundwater from outside the basin;

b. if the proposal results from a new or increased withdrawal of one hundred thousand (100,000) gallons per day or greater average over any ninety (90) day period, the proposal shall also meet the exception standard; and

c. if the proposal results in a new or increased consumptive use of five million (5,000,000) gallons per day or greater average over any ninety (90) day period, the proposal shall also undergo regional review.

2. Intra-basin transfer. A proposal for an intra-basin transfer that would be considered a diversion under the compact, and not already excepted under paragraph 1 of this section, shall be excepted from the prohibition against diversions, provided that:

a. If the proposal results from a new or increased withdrawal less than one hundred thousand (100,000) gallons per day average over any ninety (90) day period, the proposal shall be subject to management and regulation at the discretion of the originating party.

b. If the proposal results from a new or increased withdrawal of one hundred thousand (100,000) gallons per day or greater average over any ninety (90) day period and if the consumptive use resulting from the withdrawal is less than five million (5,000,000) gallons per day average over any ninety (90) day period:

i. the proposal shall meet the exception standard and be subject to management and regulation by the originating

party, except that the water may be returned to another Great Lake watershed rather than the source watershed;

ii. the applicant shall demonstrate that there is no feasible, cost effective, and environmentally sound water supply alternative within the Great Lake watershed to which the water will be transferred, including conservation of existing water supplies; and

iii. the originating party shall provide notice to the other parties prior to making any decision with respect to the proposal.

c. If the proposal results in a new or increased consumptive use of five million (5,000,000) gallons per day or greater average over any ninety (90) day period:

i. the proposal shall be subject to management and regulation by the originating party and shall meet the exception standard, ensuring that water withdrawn shall be returned to the source watershed;

ii. the applicant shall demonstrate that there is no feasible, cost effective, and environmentally sound water supply alternative within the Great Lake watershed to which the water will be transferred, including conservation of existing water supplies;

iii. the proposal undergoes regional review; and

iv. the proposal is approved by the council. Council approval shall be given unless one (1) or more council members vote to disapprove.

3. Straddling counties. A proposal to transfer water to a community within a straddling county that would be considered a diversion under the compact shall be excepted from the prohibition against diversions, provided that it satisfies all of the following conditions:

a. The water shall be used solely for the public water supply purposes of the community within a straddling county that is without adequate supplies of potable water.

b. The proposal meets the exception standard, maximizing the portion of water returned to the source watershed as basin water and minimizing the surface water or groundwater from outside the basin.

c. The proposal shall be subject to management and regulation by the originating party, regardless of its size.

d. There is no reasonable water supply alternative within the basin in which the community is located, including conservation of existing water supplies.

e. Caution shall be used in determining whether or not the proposal meets the conditions for this exception. This exception should not be authorized unless it can be shown that it will not endanger the integrity of the basin ecosystem.

f. The proposal undergoes regional review.

g. The proposal is approved by the council. Council approval

shall be given unless one (1) or more council members vote to disapprove.

A proposal must satisfy all of the conditions listed above. Further, substantive consideration will also be given to whether or not the proposal can provide sufficient scientifically based evidence that the existing water supply is derived from groundwater that is hydrologically interconnected to waters of the basin.

4. Exception standard. Proposals subject to management and regulation in this section shall be declared to meet this exception standard and may be approved as appropriate only when the following criteria are met:

a. The need for all or part of the proposed exception cannot be reasonably avoided through the efficient use and conservation of existing water supplies.

b. The exception will be limited to quantities that are considered reasonable for the purposes for which it is proposed.

c. All water withdrawn shall be returned, either naturally or after use, to the source watershed less an allowance for consumptive use. No surface water or groundwater from outside the basin may be used to satisfy any portion of this criterion except if it:

i. is part of a water supply or wastewater treatment system that combines water from inside and outside the basin; and

ii. is treated to meet applicable water quality discharge standards and to prevent the introduction of invasive species into the basin.

d. The exception will be implemented so as to ensure that it will result in no significant individual or cumulative adverse impacts to the quantity or quality of the waters and water dependent natural resources of the basin with consideration given to the potential cumulative impacts of any precedent setting consequences associated with the proposal.

e. The exception will be implemented so as to incorporate environmentally sound and economically feasible water conservation measures to minimize water withdrawals or consumptive use.

f. The exception will be implemented so as to ensure that it is in compliance with all applicable municipal, state, and federal laws as well as regional interstate and international agreements, including the Boundary Waters Treaty of 1909.

g. All other applicable criteria in this section have also been met.

Section 4.10. Management and regulation of new or increased withdrawals and consumptive uses.

1. Within five (5) years of the effective date of the compact, each party shall create a program for the management and regulation of new or increased withdrawals and consumptive

uses by adopting and implementing measures consistent with the decision making standard. Each party, through a considered process, shall set and may modify threshold levels for the regulation of new or increased withdrawals in order to assure an effective and efficient water management program that will ensure that uses overall are reasonable, that withdrawals overall will not result in significant impacts to the waters and water dependent natural resources of the basin determined on the basis of significant impacts to the physical, chemical, and biological integrity of source watersheds, and that all other objectives of the compact are achieved. Each party may determine the scope and thresholds of its program, including which new or increased withdrawals and consumptive uses will be subject to the program.

2. Any party that fails to set threshold levels that comply with paragraph 1 of this section any time before ten (10) years after the effective date of the compact shall apply a threshold level for management and regulation of all new or increased withdrawals of one hundred thousand (100,000) gallons per day or greater average in any ninety (90) day period.

3. The parties intend programs for new or increased withdrawals and consumptive uses to evolve as may be necessary to protect basin waters. Pursuant to section 3.4, the council, in cooperation with the provinces, shall periodically assess the water management programs of the parties. Such assessments may produce recommendations for the strengthening of the programs, including without limitation, establishing lower thresholds for management and regulation in accordance with the decision making standard.

Section 4.11. Decision making standard. Proposals subject to management and regulation in section 4.10 shall be declared to meet this decision making standard and may be approved as appropriate only when the following criteria are met:

1. All water withdrawn shall be returned, either naturally or after use, to the source watershed less an allowance for consumptive use.

2. The withdrawal or consumptive use will be implemented so as to ensure that the proposal will result in no significant individual or cumulative adverse impacts to the quantity or quality of the waters and water dependent natural resources and the applicable source watershed.

3. The withdrawal or consumptive use will be implemented so as to incorporate environmentally sound and economically feasible water conservation measures.

4. The withdrawal or consumptive use will be implemented so as to ensure that it is in compliance with all applicable municipal, state, and federal laws as well as regional interstate and international agreements, including the Boundary Waters Treaty of 1909.

5. The proposed use is reasonable, based upon a consideration of the following factors:

a. Whether the proposed withdrawal or consumptive use is planned in a fashion that provides for efficient use of the water, and will avoid or minimize the waste of water.

b. If the proposal is for an increased withdrawal or consumptive use, whether efficient use is made of existing water supplies.

c. The balance between economic development, social development, and environmental protection of the proposed withdrawal and use and other existing or planned withdrawals and water uses sharing the water source.

d. The supply potential of the water source, considering quantity, quality, and reliability and safe yield of hydrologically interconnected water sources.

e. The probable degree and duration of any adverse impacts caused or expected to be caused by the proposed withdrawal and use under foreseeable conditions to other lawful consumptive or nonconsumptive uses of water or to the quantity or quality of the waters and water dependent natural resources of the basin, and the proposed plans and arrangements for avoidance or mitigation of such impacts.

f. If a proposal includes restoration of hydrologic conditions and functions of the source watershed, the party may consider that.

Section 4.12. Applicability.

1. Minimum standard. This standard of review and decision shall be used as a minimum standard. Parties may impose a more restrictive decision making standard for withdrawals under their authority. It is also acknowledged that although a proposal meets the standard of review and decision it may not be approved under the laws of the originating party that has implemented more restrictive measures.

2. Baseline.

a. To establish a baseline for determining a new or increased diversion, consumptive use, or withdrawal, each party shall develop either or both of the following lists for their jurisdiction:

i. A list of existing withdrawal approvals as of the effective date of the compact.

ii. A list of the capacity of existing systems as of the effective date of the compact. The capacity of the existing systems should be presented in terms of withdrawal capacity, treatment capacity, distribution capacity, or other capacity limiting factors. The capacity of the existing systems must represent the state of the systems. Existing capacity determinations shall be based upon approval limits or the most restrictive capacity information.

b. For all purposes of the compact, volumes of diversions,

consumptive uses, or withdrawals of water set forth in the list prepared by each party in accordance with this section shall constitute the baseline volume.

c. The list shall be furnished to the regional body and the council within one (1) year of the effective date of the compact.

3. Timing of additional applications. Applications for new or increased withdrawals, consumptive uses, or exceptions shall be considered cumulatively within ten (10) years of any application.

4. Change of ownership. Unless a new owner proposes a project that results in a proposal for a new or increased diversion or consumptive use subject to regional review or council approval, the change of ownership in and of itself shall not require regional review or council approval.

5. Groundwater. The basin surface water divide shall be used for the purpose of managing and regulating new or increased diversions, consumptive uses, or withdrawals of surface water and groundwater.

6. Withdrawal systems. The total volume of surface water and groundwater resources that supply a common distribution system shall determine the volume of a withdrawal, consumptive use, or diversion.

7. Connecting channels. The watershed of each Great Lake shall include its upstream and downstream connecting channels.

8. Transmission in water lines. Transmission of water within a line that extends outside the basin as it conveys water from one point to another within the basin shall not be considered a diversion if none of the water is used outside the basin.

9. Hydrologic units. The Lake Michigan and Lake Huron watersheds shall be considered to be a single hydrologic unit and watershed.

10. Bulk water transfer. A proposal to withdraw water and to remove it from the basin in any container greater than five and seven-tenths (5.7) gallons shall be treated under the compact in the same manner as a proposal for a diversion. Each party shall have the discretion, within its jurisdiction, to determine the treatment of proposals to withdraw water and to remove it from the basin in any container of five and seven-tenths (5.7) gallons or less.

Section 4.13. Exemptions. Withdrawals from the basin for the following purposes are exempt from the requirements of article 4.

1. To supply vehicles, including vessels and aircraft, whether for the needs of the persons or animals being transported or for ballast or other needs related to the operation of the vehicles.

2. To use in a noncommercial project on a short term basis for firefighting, humanitarian, or emergency response purposes.

Section 4.14. United States Supreme Court decree: Wisconsin et al. v. Illinois et al.

1. Notwithstanding any terms of the compact to the contrary, with the exception of paragraph 5 of this section, current, new, or increased withdrawals, consumptive uses, and diversions of basin water by the state of Illinois shall be governed by the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al. and shall not be subject to the terms of the compact nor any rules or regulations promulgated under the compact. This means that, with the exception of paragraph 5 of this section, for purposes of the compact, current, new, or increased withdrawals, consumptive uses, and diversions of basin water within the state of Illinois shall be allowed unless prohibited by the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al.

2. The parties acknowledge that the United States Supreme Court decree in Wisconsin et al. v. Illinois et al. shall continue in full force and effect, that the compact shall not modify any terms thereof, and that the compact shall grant the parties no additional rights, obligations, remedies, or defenses thereto. The parties specifically acknowledge that the compact shall not prohibit or limit the state of Illinois in any manner from seeking additional basin water as allowed under the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al., any other party from objecting to any request by the state of Illinois for additional basin water under the terms of said decree, or any party from seeking any other type of modification to said decree. If an application is made by any party to the Supreme Court of the United States to modify said decree, the parties to the compact who are also parties to the decree shall seek formal input from the Canadian provinces of Ontario and Québec, with respect to the proposed modification, use best efforts to facilitate the appropriate participation of said provinces in the proceedings to modify the decree, and shall not unreasonably impede or restrict such participation.

3. With the exception of paragraph 5 of this section, because current, new, or increased withdrawals, consumptive uses, and diversions of basin water by the state of Illinois are not subject to the terms of the compact, the state of Illinois is prohibited from using any term of the compact, including section 4.9 of the compact, to seek new or increased withdrawals, consumptive uses, or diversions of basin water.

4. With the exception of paragraph 5 of this section, because sections 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12 (paragraphs 1, 2, 3, 4, 6, and 10 only), and 4.13 of the compact all relate to current, new, or increased withdrawals, consumptive uses, and diversions of basin waters, said provisions do not apply to the state of Illinois. All other provisions of the compact not listed in the preceding sentence shall apply to the state of Illinois, including the water conservation programs provision of section 4.2 of the compact.

5. In the event of a proposal for a diversion of basin water for use outside the territorial boundaries of the parties to the compact, decisions by the state of Illinois regarding such a proposal would be subject to all terms of the compact, except paragraphs 1, 3, and 4 of this section.

6. For purposes of the state of Illinois' participation in the compact, the entirety of section 4.14 of the compact is necessary for the continued implementation of the compact, and, if severed, the compact shall no longer be binding on or enforceable by or against the state of Illinois.

Section 4.15. Assessment of cumulative impacts.

1. The parties in cooperation with the provinces shall collectively conduct within the basin, on a lake watershed and St. Lawrence River basin basis, a periodic assessment of the cumulative impacts of withdrawals, diversions, and consumptive uses from the waters of the basin, every five (5) years or each time the incremental basin water losses reach fifty million (50,000,000) gallons per day average in any ninety (90) day period in excess of the quantity at the time of the most recent assessment, whichever comes first, or at the request of one (1) or more of the parties. The assessment shall form the basis for a review of the standard of review and decision, council and party regulations, and their application. This assessment shall:

a. utilize the most current and appropriate guidelines for such a review, which may include but not be limited to Council on Environmental Quality and Environment Canada guidelines;

b. give substantive consideration to climate change or other significant threats to basin waters and take into account the current state of scientific knowledge, or uncertainty, and appropriate measures to exercise caution in cases of uncertainty if serious damage may result;

c. consider adaptive management principles and approaches, recognizing, considering, and providing adjustments for the uncertainties in, and evolution of, science concerning the basin's water resources, watersheds, and ecosystems, including potential changes to basinwide processes, such as lake level cycles and climate.

2. The parties have the responsibility of conducting this cumulative impact assessment. Applicants are not required to participate in this assessment.

3. Unless required by other statutes, applicants are not required to conduct a separate cumulative impact assessment in connection with an application but shall submit information about the potential impacts of a proposal to the quantity or quality of the waters and water dependent natural resources of the applicable source watershed. An applicant may, however, provide an analysis of how the applicant's proposal meets the no significant adverse cumulative impact provision of the standard

of review and decision.

ARTICLE 5

TRIBAL CONSULTATION

Section 5.1. Consultation with tribes.

1. In addition to all other opportunities to comment under section 6.2 of the compact, appropriate consultations shall occur with federally recognized tribes in the originating party for all proposals subject to council or regional review under the compact. Such consultations shall be organized in the manner suitable to the individual proposal and the laws and policies of the originating party.

2. All federally recognized tribes within the basin shall receive reasonable notice indicating that they have an opportunity to comment in writing to the council or the regional body, or both, and other relevant organizations on whether the proposal meets the requirements of the standard of review and decision when a proposal is subject to regional review or council approval. Any notice from the council shall inform the tribes of any meeting or hearing that is to be held under section 6.2 of the compact and invite them to attend. The parties and the council shall consider the comments received under this section before approving, approving with modifications, or disapproving any proposal subject to council or regional review.

3. In addition to the specific consultation mechanisms described above, the council shall seek to establish mutually agreed upon mechanisms or processes to facilitate dialogue with, and input from, federally recognized tribes on matters to be dealt with by the council, and the council shall seek to establish mechanisms and processes with federally recognized tribes designed to facilitate ongoing scientific and technical interaction and data exchange regarding matters falling within the scope of the compact. This may include participation of tribal representatives on advisory committees established under the compact or such other processes that are mutually agreed upon with federally recognized tribes individually or through duly authorized intertribal agencies or bodies.

ARTICLE 6

PUBLIC PARTICIPATION

Section 6.1. Meetings, public hearings, and records.

1. The parties recognize the importance and necessity of public participation in promoting management of the water resources of the basin. Consequently, all meetings of the council shall be open to the public, except with respect to issues of personnel.

2. The minutes of the council shall be a public record open to inspection at its offices during regular business hours.

Section 6.2. Public participation. It is the intent of the council to conduct public participation processes concurrently and jointly with processes undertaken by the parties and through regional review. To ensure adequate public participation, each party or the council shall

ensure procedures for the review of proposals subject to the standard of review and decision consistent with the following requirements:

1. Provide public notification of receipt of all applications and a reasonable opportunity for the public to submit comments before applications are acted upon.

2. Assure public accessibility to all documents relevant to an application, including public comment received.

3. Provide guidance on standards for determining whether to conduct a public meeting or hearing for an application, date, time, and place of such a meeting or hearing, and procedures for conducting of the same.

4. Provide the record of decision for public inspection, including comments, objections, responses and approvals, approvals with conditions, and disapprovals.

ARTICLE 7

DISPUTE RESOLUTION AND ENFORCEMENT

Section 7.1. Good faith implementation. Each of the parties pledges to support implementation of all provisions of the compact, and covenants that its officers and agencies shall not hinder, impair, or prevent any other party carrying out any provision of the compact.

Section 7.2. Alternative dispute resolution.

1. Desiring that the compact be carried out in full, the parties agree that disputes between the parties regarding interpretation, application, and implementation of the compact shall be settled by alternative dispute resolution.

2. The council, in consultation with the provinces, shall provide by rule procedures for the resolution of disputes under this section.

Section 7.3. Enforcement.

1. Any person aggrieved by any action taken by the council under the authorities contained in the compact shall be entitled to a hearing before the council. Any person aggrieved by a party action shall be entitled to a hearing under the relevant party's administrative procedures and laws. After exhaustion of such administrative remedies:

(i) any aggrieved person shall have the right to judicial review of a council action in the United States District Courts for the District of Columbia or the district court in which the council maintains offices, provided such action is commenced within ninety (90) days; and

(ii) any aggrieved person shall have the right to judicial review of a party's action in the relevant party's court of competent jurisdiction, provided that an action or proceeding for such review is commenced within the time frames provided for by the party's law. For purposes of this paragraph, a state or province is deemed to be an aggrieved person with respect to any party action under the compact.

2.a. Any party or the council may initiate actions to compel compliance with the provisions of the compact, and the rules

and regulations promulgated hereunder by the council. Jurisdiction over such actions is granted to the court of the relevant party, as well as the United States District Courts for the District of Columbia and the district court in which the council maintains offices. The remedies available to any such court shall include, but not be limited to, equitable relief and civil penalties.

2.b. Each party may issue orders within its respective jurisdiction and may initiate actions to compel compliance with the provisions of its respective statutes and regulations adopted to implement the authorities contemplated by the compact in accordance with the provisions of the laws adopted in each party's jurisdiction.

3. Any aggrieved person, party, or the council may commence a civil action in the relevant party's courts and administrative systems to compel any person to comply with the compact should any such person, without approval having been given, undertake a new or increased withdrawal, consumptive use, or diversion that is prohibited or subject to approval under the compact.

a. No action under this subsection may be commenced if:

i. the originating party or council approval for the new or increased withdrawal, consumptive use, or diversion has been granted; or

ii. the originating party or council has found that the new or increased withdrawal, consumptive use, or diversion is not subject to approval under the compact.

b. No action under this subsection may be commenced unless:

i. a person commencing such action has first given sixty (60) days prior notice to the originating party, the council, and the person alleged to be in noncompliance; and

ii. neither the originating party nor the council has commenced and is diligently prosecuting appropriate enforcement actions to compel compliance with the compact.

The available remedies shall include equitable relief, and the prevailing or substantially prevailing party may recover the costs of litigation, including reasonable attorney and expert witness fees, whenever the court determines that such an award is appropriate.

4. Each of the parties may adopt provisions providing additional enforcement mechanisms and remedies, including equitable relief and civil penalties applicable within its jurisdiction to assist in the implementation of the compact.

ARTICLE 8

ADDITIONAL PROVISIONS

Section 8.1. Effect on existing rights.

1. Nothing in the compact shall be construed to affect, limit,

diminish, or impair any rights validly established and existing as of the effective date of the compact under state or federal law governing the withdrawal of waters of the basin.

2. Nothing contained in the compact shall be construed as affecting or intending to affect or in any way to interfere with the law of the respective parties relating to common law water rights.

3. Nothing in the compact is intended to abrogate or derogate from treaty rights or rights held by any tribe recognized by the federal government of the United States based upon its status as a tribe recognized by the federal government of the United States.

4. An approval by a party or the council under the compact does not give any property rights, nor any exclusive privileges, nor shall it be construed to grant or confer any right, title, easement, or interest in, to or over any land belonging to or held in trust by a party; neither does it authorize any injury to private property or invasion of private rights, nor infringement of federal, state, or local laws or regulations; nor does it obviate the necessity of obtaining federal assent when necessary.

Section 8.2. Relationship to agreements concluded by the United States of America.

1. Nothing in the compact is intended to provide nor shall be construed to provide, directly or indirectly, to any person any right, claim, or remedy under any treaty or international agreement, nor is it intended to derogate any right, claim, or remedy that already exists under any treaty or international agreement.

2. Nothing in the compact is intended to infringe nor shall be construed to infringe upon the treaty power of the United States of America, nor shall any term hereof be construed to alter or amend any treaty or term thereof that has been or may hereafter be executed by the United States of America.

3. Nothing in the compact is intended to affect nor shall be construed to affect the application of the Boundary Waters Treaty of 1909 whose requirements continue to apply in addition to the requirements of the compact.

Section 8.3. Confidentiality.

1. Nothing in the compact requires a party to breach confidentiality obligations or requirements prohibiting disclosure, or to compromise security of commercially sensitive or proprietary information.

2. A party may take measures, including but not limited to deletion and redaction, deemed necessary to protect any confidential, proprietary, or commercially sensitive information when distributing information to other parties. The party shall summarize or paraphrase any such information in a manner sufficient for the council to exercise its authorities contained in the compact.

Section 8.4. Additional laws. Nothing in the compact shall be construed to repeal, modify, or qualify the authority of any party to enact any legislation or enforce any additional conditions and restrictions regarding the management and regulation of waters within its jurisdiction.

Section 8.5. Amendments and supplements. The provisions of the compact shall remain in full force and effect until amended by action of the governing bodies of the parties and consented to and approved by any other necessary authority in the same manner as the compact is required to be ratified to become effective.

Section 8.6. Severability. Should a court of competent jurisdiction hold any part of the compact to be void or unenforceable, it shall be considered severable from those portions of the compact capable of continued implementation in the absence of the voided provisions. All other provisions capable of continued implementation shall continue in full force and effect.

Section 8.7. Duration of compact and termination. Once effective, the compact shall continue in force and remain binding upon each and every party unless terminated. The compact may be terminated at any time by a majority vote of the parties. In the event of such termination, all rights established under it shall continue unimpaired.

ARTICLE 9

EFFECTUATION

Section 9.1. Repealer. All acts and parts of acts inconsistent with this act are to the extent of such inconsistency hereby repealed.

Section 9.2. Effectuation by chief executive. The governor is authorized to take such action as may be necessary and proper in his or her discretion to effectuate the compact and the initial organization and operation thereunder.

Section 9.3. Entire agreement. The parties consider the compact to be complete and an integral whole. Each provision of the compact is considered material to the entire compact, and failure to implement or adhere to any provision may be considered a material breach. Unless otherwise noted in the compact, any change or amendment made to the compact by any party in its implementing legislation or by the Congress of the United States when giving its consent to the compact is not considered effective unless concurred in by all parties.

Section 9.4. Effective date and execution. The compact shall become binding and effective when ratified through concurring legislation by the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Wisconsin, and the Commonwealth of Pennsylvania and consented to by the Congress of the United States. The compact shall be signed and sealed in nine (9) identical original copies by the respective chief executives of the signatory parties. One (1) such copy shall be filed with the secretary of state of each of the signatory parties or in accordance with the laws of the state in which the filing is made, and one (1) copy shall be filed and retained in the archives of the council upon its organization. The signatures shall be affixed and attested under the following form:

In witness whereof, and in evidence of the adoption and enactment into law of the compact by the legislatures of the signatory parties and consent by the Congress of the United States, the respective governors do hereby, in accordance with the authority conferred by law, sign the compact in nine (9) duplicate original copies, attested by the respective secretaries of state, and have caused the seals of the respective states to be hereunto affixed this____ day of (month), (year).
As added by P.L.4-2008, SEC.5.

IC 14-25-15-2
Governor's responsibilities and powers

Sec. 2. (a) The governor, ex officio, shall:
(1) serve as the Indiana administrator of the compact; and
(2) appoint at least one (1) alternate under section 2.3 of the compact.

(b) The governor shall do the following as administrator:
(1) Receive copies of all agreements that are entered into under the compact by the following:
(A) This state.
(B) Other states.
(C) Political subdivisions of this state.
(2) Consult with, advise, and aid the states and political subdivisions referred to in subdivision (1) in the formulation of those agreements.
(3) Make any recommendations that the governor considers desirable in order to effectuate the purposes of the compact to the following:
(A) The general assembly.
(B) Legislatures of other states.
(C) Governmental agencies of other states.
(D) Political subdivisions of this state.
(4) Consult with and cooperate with the compact administrators of the states other than Indiana.

(c) Pursuant to section 9.2 of the compact, the governor may take actions necessary for the initial organization and operation of the council.
As added by P.L.4-2008, SEC.5.

IC 14-25-15-3
Authority of state agencies to cooperate with the council

Sec. 3. Agencies of this state are authorized to cooperate with the council.
As added by P.L.4-2008, SEC.5.

IC 14-25-15-4
Authorization of general assembly for revision of standard of review and decision

Sec. 4. (a) Before casting a vote under section 3.1 of the compact

with respect to any regulation that amends or revises the standard of review and decision, the governor or the governor's alternate shall obtain authorization from the general assembly for the vote. The governor or the governor's alternate shall exercise the vote consistent with the terms of the general assembly's authorization.

(b) An authorization by the general assembly under subsection (a) must be by adoption of:

(1) an act; or

(2) a concurrent resolution.

As added by P.L.4-2008, SEC.5.

IC 14-25-15-5

Responsibilities and powers of the natural resources commission

Sec. 5. The natural resources commission:

(1) except as provided in subdivision (2), may not:

(A) adopt rules to establish; or

(B) otherwise implement;

any mandatory program governing water conservation and efficiency under section 4.2 of the compact;

(2) may adopt rules to establish a mandatory program governing water conservation and efficiency under section 4.2 of the compact only if the general assembly adopts an act authorizing the adoption of the rules;

(3) shall adopt rules under IC 4-22-2 that implement voluntary water conservation and efficiency programs; and

(4) shall adopt rules under IC 4-22-2, which may provide for general permits, for the implementation, administration, and enforcement of article 4 of the compact.

As added by P.L.4-2008, SEC.5.

IC 14-25-15-6

Management and regulation of proposals for certain water transfers

Sec. 6. A proposal for an exception to the prohibition in section 4.8 of the compact to transfer water to an area outside the basin shall be managed and regulated using the thresholds established in section 4.9 of the compact.

As added by P.L.4-2008, SEC.5.

IC 14-25-15-7

Permits for water withdrawals; salmonid streams; rules

Sec. 7. (a) Except as provided in section 8 of this chapter, a person must, under the rules established under section 5(4) of this chapter, obtain a permit from the department for a daily withdrawal in excess of any of the following, calculated on average over any ninety (90) day period:

(1) Five million (5,000,000) gallons from Lake Michigan surface water.

(2) Subject to subsection (b), one hundred thousand (100,000)

gallons from a salmonid stream.

(3) For any other surface water or groundwater source, one million (1,000,000) gallons.

(b) Notwithstanding 327 IAC 2-1.5-5(a)(3), the salmonid streams subject to subsection (a)(2) are the following:

(1) Trail Creek and its tributaries downstream to Lake Michigan.

(2) Galien River and its tributaries in LaPorte County.

(3) East Branch of the Little Calumet River and its tributaries downstream to Lake Michigan via Burns Ditch.

(4) St. Joseph River and its tributaries in St. Joseph County from the Twin Branch Dam in Mishawaka downstream to the Indiana/Michigan state line.

(5) Subject to subsection (c), any other watercourse determined by rule by the commission.

(c) Before adopting a rule under subsection (b)(5), the commission shall seek input from the U.S. Fish and Wildlife Service.

As added by P.L.4-2008, SEC.5. Amended by P.L.13-2013, SEC.50.

IC 14-25-15-8

Exemption from permit requirement for certain water withdrawals

Sec. 8. Except as provided in this section, a withdrawal that does not exceed the amount of a baseline status determination made under section 12 of this chapter is exempt from section 7(a) of this chapter. The director may limit a withdrawal that would reduce flow in a watercourse below the established minimum stream flow.

As added by P.L.4-2008, SEC.5.

IC 14-25-15-9

Study and findings by the general assembly

Sec. 9. Not later than ten (10) years after the compact takes effect under section 9.4 of the compact, the general assembly shall study and make findings and recommendations concerning the following:

(1) The appropriateness of the permit threshold amounts established in section 7(a) of this chapter considering:

(A) advances made under section 1.4 of the compact; and

(B) other new water management technology and practices that become available.

(2) Any changes in those amounts that the general assembly deems warranted.

As added by P.L.4-2008, SEC.5. Amended by P.L.133-2012, SEC.177.

IC 14-25-15-10

Standard for determination of adverse impacts of water withdrawals

Sec. 10. (a) The criterion of section 4.11.2 of the compact is met only if the withdrawal or consumptive use will be implemented so as to ensure that the proposal will result in no significant individual or

cumulative adverse impacts to the quantity or quality of the waters and water dependent natural resources of either:

(1) The basin considered as a whole; or

(2) The Lake Michigan or Lake Erie watershed considered as a whole.

(b) Impacts of a withdrawal or consumptive use on the quantity or quality of waters and water dependent natural resources of more localized areas that affect less than:

(1) the basin considered as a whole; or

(2) the Lake Michigan or Lake Erie watershed considered as a whole;

are considered a part of the evaluation of reasonable use under section 4.11.5 of the compact.

(c) When determining whether there will be significant individual or cumulative adverse impacts under this section:

(1) consideration shall be given to the impacts incurred in a particular tributary or stream reach where those impacts are important to:

(A) the basin; or

(B) the Lake Michigan or Lake Erie watershed as a whole; and

(2) a judgment shall be made of the nature, degree, scope, and materiality of the impacts and the regional importance of those impacts to:

(A) the basin; and

(B) the Lake Michigan or Lake Erie watershed.

As added by P.L.4-2008, SEC.5.

IC 14-25-15-11

Methods for determining consumptive use amounts

Sec. 11. An applicant may use either of the following methods to provide consumptive use amounts required under article 4 of the compact:

(1) The most current values published for the appropriate sector from:

(A) the United States Geological Survey;

(B) the Great Lakes Commission;

(C) the council; or

(D) other sources approved by the department.

(2) Site specific calculations for the applicant's facility that are based on standard engineering practices.

As added by P.L.4-2008, SEC.5.

IC 14-25-15-12

Baseline determinations; investigation required; notice to facility owner; standing for administrative review

Sec. 12. (a) This section governs any status determination of a baseline under section 4.12.2 of the compact for each of the following from the Indiana portion of the basin:

(1) The total withdrawal capability registered under IC 14-25-7-15(c)(3) is deemed the existing withdrawal approval amount for section 4.12.2.a.i of the compact.

(2) A consumptive use attributable to a facility described in IC 14-25-7-15(a)(1).

(3) A facility that diverts water outside the basin.

(b) The department shall make each determination required under subsection (a) following an investigation. Before completing the investigation, the department shall:

(1) inform the owner of the facility of the amount of any proposed baseline; and

(2) provide the owner with a period of at least thirty (30) days to offer documentation the owner believes would properly modify the proposed baseline amount.

(c) The department shall provide notice under IC 4-21.5-3-5 of a status determination under this section to the owner of the facility for which the determination is made.

(d) The owner of a facility for which a status determination is made under this section is the only person with standing to seek administrative review of the determination.

As added by P.L.4-2008, SEC.5.

IC 14-25-15-13

Effects of incorporation of water into a product

Sec. 13. (a) As used in this section, "product" refers to a product, regardless of whether the product is distributed inside or outside the basin, that:

(1) is produced in the Indiana portion of the basin;

(2) is packaged and intended for intermediate or end-use consumers; and

(3) includes water:

(A) withdrawn from the basin; and

(B) packaged in containers with a capacity of not more than five and seven-tenths (5.7) gallons.

(b) Any incorporation of water into a product:

(1) is a consumptive use; and

(2) does not constitute a diversion for purposes of the compact.

As added by P.L.4-2008, SEC.5. Amended by P.L.1-2010, SEC.64.

IC 14-25-16
Repealed
(Repealed by P.L.133-2012, SEC.178.)

IC 14-25.5

ARTICLE 25.5. ENFORCEMENT ACTIONS BY THE DIVISION OF WATER

IC 14-25.5-1

Chapter 1. Applicability and Definitions

IC 14-25.5-1-1

Applicability

Sec. 1. This article applies to actions to enforce the following articles:

(1) IC 14-26.
(2) IC 14-27.
(3) IC 14-28.
(4) IC 14-29.

As added by P.L.145-2002, SEC.3.

IC 14-25.5-1-2

"Division"

Sec. 2. As used in this article, "division" refers to the division of water of the department.

As added by P.L.145-2002, SEC.3.

IC 14-25.5-1-3

"Fund"

Sec. 3. As used in this article, "fund" means the water environmental fund established by IC 14-25.5-3-1.

As added by P.L.145-2002, SEC.3.

IC 14-25.5-2

Chapter 2. Enforcement

IC 14-25.5-2-1

Inspection to determine violation

Sec. 1. A division inspector or a person authorized by the department may at any reasonable time enter upon public or private property to determine if there is a violation of:

(1) an article listed in IC 14-25.5-1-1; or

(2) a rule adopted under an article listed in IC 14-25.5-1-1.

As added by P.L.145-2002, SEC.3.

IC 14-25.5-2-2

Notice of violation

Sec. 2. The department may issue a written notice of violation if a person violates:

(1) an article listed in IC 14-25.5-1-1; or

(2) a rule adopted under an article listed in IC 14-25.5-1-1.

As added by P.L.145-2002, SEC.3.

IC 14-25.5-2-3

Notice of violation; contents

Sec. 3. A notice of violation issued under this chapter must include the following:

(1) The nature of the violation.

(2) The action that is appropriate to mitigate the violation.

(3) The date by which the violation must be mitigated.

(4) The procedure to obtain administrative review if a person is aggrieved by the issuance of the notice of violation.

As added by P.L.145-2002, SEC.3.

IC 14-25.5-2-4

Applicability of adjudicative proceedings to notice of violation

Sec. 4. A notice of violation issued under this chapter is governed by IC 4-21.5-3-6.

As added by P.L.145-2002, SEC.3.

IC 14-25.5-2-5

Notice of violation effective without proceeding; request for administrative review

Sec. 5. A notice of violation issued under this chapter becomes effective without a proceeding under IC 4-21.5-3 unless a person requests administrative review under IC 4-21.5-3-6 within thirty (30) days after receipt of the notice.

As added by P.L.145-2002, SEC.3.

IC 14-25.5-2-6

Failure to mitigate violation; penalties; permit revocation

Sec. 6. A person who fails to mitigate a violation within the time

set forth in a notice of violation is liable for:

(1) a civil penalty;

(2) permit revocation; or

(3) the sanctions under both subdivisions (1) and (2);

under IC 14-25.5-4.

As added by P.L.145-2002, SEC.3.

IC 14-25.5-3

Chapter 3. Water Environmental Fund

IC 14-25.5-3-1

Fund established; administration by department

Sec. 1. The water environmental fund is established. The department shall administer the fund.

As added by P.L.145-2002, SEC.3.

IC 14-25.5-3-2

Sources of money in fund

Sec. 2. The fund consists of the following:

(1) Accrued interest and other investment earnings of the fund.

(2) Civil penalties collected for the violation of a statute in an article described in IC 14-25.5-1-1.

(3) Gifts, grants, donations, or appropriations from any source.

As added by P.L.145-2002, SEC.3. Amended by P.L.195-2014, SEC.27.

IC 14-25.5-3-3

Limited reversion to the state general fund; investment

Sec. 3. (a) Except as provided in subsection (d), money in the fund does not revert to the state general fund at the end of a fiscal year.

(b) The total amount in the fund may not exceed one million dollars ($1,000,000). Any money in the fund that exceeds one million dollars ($1,000,000) reverts to the land and water resources fund established by IC 14-25-10-2.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) If the fund is abolished, all money in the fund reverts to the state general fund.

As added by P.L.145-2002, SEC.3.

IC 14-25.5-3-4

Appropriations from fund; purposes; expenditures without prior approval

Sec. 4. (a) Money paid into the fund may be appropriated for the following purposes:

(1) To cover the costs of mitigating a violation of an article to which this article applies or rules adopted under an article to which this article applies.

(2) To cover the costs of:

(A) mitigating environmental damage; or

(B) protecting the public from harm;

caused by a violation of an article to which this article applies or a violation of rules adopted under an article to which this article applies.

(b) The division director may make expenditures from the fund for purposes described in subsection (a) without the prior approval of the budget agency or the governor. An expenditure under this subsection may not exceed fifty thousand dollars ($50,000).
As added by P.L.145-2002, SEC.3.

IC 14-25.5-3-5
Expenditure from fund not releasing responsible party

Sec. 5. (a) An expenditure made from the fund under this chapter does not release a responsible person from liability.

(b) The department may seek from a responsible person reimbursement for expenses incurred under this chapter.
As added by P.L.145-2002, SEC.3.

IC 14-25.5-4
Chapter 4. Penalties

IC 14-25.5-4-1
Revocation of permit; causes

Sec. 1. The department may revoke a permit issued under an article to which this article applies if the department finds any of the following:

(1) The permit was issued through fraud or misrepresentation.

(2) The person to whom the permit was issued has violated an article to which this article applies or has violated a rule adopted under an article to which this article applies.

(3) The information or conditions upon which a permit was issued have substantially changed since the permit was issued.

(4) The person to whom the permit was issued has received a notice of violation under this article and has failed to do at least one (1) of the following:

(A) Mitigate the violation within the time limit set forth within the notice.

(B) Secure from the division in writing an extension of time within which to mitigate the violation before the expiration of the time established for mitigation.

(C) Request a proceeding under IC 4-21.5-3-6 within:

(i) thirty (30) days after receipt of the notice; or

(ii) the time provided by the division for mitigation;

whichever is longer.

As added by P.L.145-2002, SEC.3.

IC 14-25.5-4-2
Revoked permit; mitigation of violation

Sec. 2. (a) If a permit is revoked under this chapter, the department may do either or both of the following:

(1) Order the person to mitigate the violation.

(2) Mitigate the violation.

(b) The revocation of a permit under this chapter does not relieve the person to whom the permit relates of the responsibilities imposed by this article.

(c) If the department elects to mitigate under subsection (a)(2), the person to whom the permit relates remains liable for the costs of mitigating the violation.

As added by P.L.145-2002, SEC.3.

IC 14-25.5-4-3
Civil penalties

Sec. 3. (a) If the department has authority to assess a civil penalty for the violation of a statute in an article described in IC 14-25.5-1-1, the department also has authority to assess a civil penalty for the violation of a rule adopted in connection with that statute.

(b) Each day during which a violation continues may be considered a separate violation for purposes of assessing a civil penalty.

(c) The department may bring a civil action under section 5 of this chapter to recover a civil penalty described in this section and to enjoin a person from continuing a violation.

As added by P.L.145-2002, SEC.3. Amended by P.L.195-2014, SEC.28.

IC 14-25.5-4-4

Applicability of adjudicative proceedings to civil penalties

Sec. 4. (a) A civil penalty assessed for a violation described in section 3 of this chapter is subject to IC 4-21.5-3-6 and becomes effective without a proceeding under IC 4-21.5-3 unless a person requests an administrative review within thirty (30) days after receipt of the notice of assessment.

(b) A civil penalty that is assessed for a violation described in section 3 of this chapter shall be deposited in the fund.

As added by P.L.145-2002, SEC.3. Amended by P.L.195-2014, SEC.29.

IC 14-25.5-4-5

Actions by attorney general

Sec. 5. The division director may request the attorney general to institute an action in an appropriate court for the following:

(1) The recovery of civil penalties owed for a violation described in section 3 of this chapter.

(2) To restrain a person from commencing to violate or continuing to violate any of the following:

(A) An article to which this article applies or a rule adopted under an article to which this article applies.

(B) An order of the department.

As added by P.L.145-2002, SEC.3. Amended by P.L.195-2014, SEC.30.

IC 14-25.5-4-6

Repealed

(As added by P.L.145-2002, SEC.3. Amended by P.L.71-2004, SEC.3. Repealed by P.L.195-2014, SEC.31.)

IC 14-26

ARTICLE 26. LAKES AND RESERVOIRS

IC 14-26-1

Chapter 1. Reservoirs; Land Acquisition and Creation

IC 14-26-1-1

Legislative findings regarding need for reservoir sites

Sec. 1. (a) It is recognized that the growth and spread of urban development and highways is encroaching upon and often eliminating many open areas that are suitable for reservoirs needed for water supply storage in the near future. Because of the varied topography and the geological differences that exist in the subsurface, there are a limited number of desirable reservoir sites in Indiana. There is an increasing demand for water supply storage to be used for the following purposes:

(1) Domestic use.
(2) Municipal use.
(3) Commercial use.
(4) Industrial use.
(5) Agricultural use, including irrigation.
(6) Recreational use.
(7) Sewage dilution.
(8) Pollution abatement.
(9) General health purposes.
(10) Power.
(11) Transportation.
(12) Maintenance of desirable levels of stream flow.
(13) Flood prevention and control.

(b) Therefore, it is the duty of the general assembly to provide both for the immediate and future needs of the people of Indiana. The general assembly is providing the means through this chapter by which the state, municipalities, special taxing districts, and public utilities may secure needed reservoir sites to meet both the present and the future needs for storage of water even though there may be no present, immediate need.

As added by P.L.1-1995, SEC.19.

IC 14-26-1-2

Legislative findings regarding regulation of flow of rivers and waters

Sec. 2. (a) The unregulated flow of the rivers and water of Indiana results in periods of destructive floods upsetting the orderly processes of industry, agriculture, commerce, and life in general and causing loss of life and property. The unregulated flow results in periods of inadequate water flow during which municipal, industrial, and agricultural water supplies are made inadequate and the propagation of fish and wildlife is adversely affected.

(b) This unregulated flow is a menace to the general welfare and economy of the people of Indiana. The regulation of the flow of the rivers and water of Indiana is a proper activity of the state, independently or in cooperation with the United States, an agency of the United States, or a political subdivision of the state.

(c) The state should improve or participate in the improvement of the rivers and water of Indiana to regulate the flood and low water flow of the rivers and water and so that the lives and general welfare of the people of Indiana are protected and enhanced.

As added by P.L.1-1995, SEC.19.

IC 14-26-1-3

Public purpose

Sec. 3. Storage reservoirs providing for the regulation of the flow of the rivers and water of Indiana in the interest of:

(1) flood control, water supply for all beneficial purposes, water quality control, navigation, and both general and fish and wildlife recreation; or

(2) any feasible combination of the purposes described in subdivision (1);

are in the public interest and contribute to the general economy, welfare, public health, and safety of the people of Indiana.

As added by P.L.1-1995, SEC.19.

IC 14-26-1-4

Purchase or condemnation of land by commission

Sec. 4. The commission may do the following:

(1) Act on behalf of the state under this chapter.

(2) Purchase or condemn easements or fee simple interests, as provided in this chapter, in land necessary for reservoirs for storage of water to be used for:

(A) any;

(B) a combination of any; or

(C) all;

purposes stated in section 1 of this chapter.

(3) Construct and otherwise develop necessary structures for impoundment of water on sites acquired for reservoirs. If the impoundment inundates or otherwise physically affects properties under the jurisdiction of any other commission or department of the state, the commission shall secure the consent of the other commission or department before proceeding with the impoundment.

As added by P.L.1-1995, SEC.19.

IC 14-26-1-5

Purchase or condemnation of land on behalf of public entity with right or duty to supply or store water

Sec. 5. The commission, on behalf of the state, or a municipality, special taxing district, or public utility that by other law has the right

or duty to supply or store water for any of the purposes stated in section 1 of this chapter may do the following:

(1) Purchase the fee simple interest in land or easements over, upon, and across land for the purpose of flooding, inundation, and storage of water necessary to water supply to be used for any of the purposes stated in section 1 of this chapter.

(2) Condemn and take the fee simple interest or easement if a reservoir for water supply storage is considered to be necessary at any time within twenty (20) years after the date of the taking.

As added by P.L.1-1995, SEC.19.

IC 14-26-1-6

Statement regarding condemnation of property; valuation

Sec. 6. (a) If an agreement cannot be reached by the owner of the land considered needed for the reservoir site and the taker that is authorized to condemn the site by section 5 of this chapter, the taker must set forth the following:

(1) The interest to be taken in the land.

(2) The earliest date on which the taker intends to store water or to start construction to create a reservoir impoundment for the purposes set forth in section 1 of this chapter.

(b) The appraisers appointed by the court in the condemnation proceedings shall value the interest to be taken accordingly, giving due consideration to the fact that the owner of the land has use of the land, subject to the terms of the interest sought to be taken, until the date upon which the land may be inundated according to the terms of the complaint. In arriving at the proper valuation to be paid the owner of the land for the easement or the interest in fee to be taken or purchased, the landowner is considered to own the land for a term of years ending with the date set out in the complaint. The interest taken shall be valued as a remainder interest after that term of years.

As added by P.L.1-1995, SEC.19.

IC 14-26-1-7

Cost of easement or interest in land

Sec. 7. The cost of an easement or interest in the fee, either purchased or condemned, for present or for future needs, is considered to be the cost of used and useful property commencing with the date the payment for the land or an interest in the land is made. The Indiana utility regulatory commission shall take due note of the fact that a fee simple interest or easement, however acquired, is used and useful property in a rate making proceeding in which a utility owning a fee simple interest or easement is involved.

As added by P.L.1-1995, SEC.19.

IC 14-26-1-8

Rights of owners from whom easements or remainder interests taken

Sec. 8. (a) The owner of the land from which:

(1) an easement is taken; or
(2) the remainder interest in fee simple is taken;
may use and enjoy the land in any way consistent with the rights of the holder of the easement or remainder interest in fee simple.

(b) The owner may use the land for agricultural, recreational, or other purposes, but the use is subject to the dominant purpose of storage of water.

(c) If:
(1) any improvements are placed on the land after the land is taken or purchased for a reservoir site, either by the taking or purchase of an easement or a fee after a fixed term of years; and
(2) the improvements interfere with the use of the land for any of the purposes of storage of water;
when the land is used for storage of water, the improvements may be removed without compensation and at the expense of the person who held the land subject to the remainder easement or fee.

As added by P.L.1-1995, SEC.19.

IC 14-26-1-9
Approval of complaint for condemnation

Sec. 9. A complaint for condemnation, other than by the commission, under this chapter may not be filed in a court unless the taker has received approval from both the department and the department of environmental management. These agencies shall give approval only if the agencies find the following:
(1) That based on sound engineering principles, the site is satisfactory for water supply storage.
(2) That there is a probable future need for water supply storage that can be served from the reservoir site.

As added by P.L.1-1995, SEC.19.

IC 14-26-1-10
Source of money for commission

Sec. 10. (a) The commission shall, when acting on behalf of the state under this chapter, derive the needed money for purchase or taking and for construction of necessary structures for impoundment from either or both of the following:
(1) The water resources development fund created by IC 14-25-2-4.
(2) Appropriations that the general assembly makes available to the commission for these purposes.

(b) The income derived to the commission from:
(1) the sale of water from impoundments; or
(2) payments made by persons or corporations, private or public, who have contracted with the commission for the maintenance by the commission of certain minimum quantities of stream flow;
shall be deposited in the water resources development fund.

As added by P.L.1-1995, SEC.19.

IC 14-26-1-11
Cooperation with federal government not authorized

Sec. 11. (a) This section applies to the following multipurpose reservoirs that have been authorized for construction by the United States Congress:

(1) Big Blue.
(2) Big Pine.
(3) Big Walnut.
(4) Clifty Creek.
(5) Lafayette.

(b) Notwithstanding Acts 1967, c.100, s.3, Acts 1969, c.434, s.3, and Acts 1969, c.434, s.4, the department may not:

(1) cooperate with the United States or an agency of the United States in the planning, construction, operation, or maintenance of;
(2) enter into, on behalf of the state, an agreement with the United States or an agency of the United States relating to; or
(3) pay a share of the costs for water supply or recreation of;

a reservoir subject to this section.

As added by P.L.1-1995, SEC.19.

IC 14-26-1-12
Cooperation with federal government authorized

Sec. 12. (a) The department shall cooperate with the United States and the appropriate agencies of the United States in the planning, construction, operation, and maintenance of:

(1) the Downeyville multiple purpose reservoir, which has been authorized for construction by the Congress of the United States; and
(2) the Richland Creek reservoir in Greene County if the construction of the Richland Creek reservoir is authorized by Congress.

(b) The department may, on behalf of the state and subject to the approval of the governor, enter into agreements with the United States or agencies of the United States necessary to do the following:

(1) Fully effectuate the authorized purposes and functions of the reservoirs.
(2) Pay a share of the costs of the reservoirs for the purposes of water supply and recreation.

(c) The state's share of the costs:

(1) must be computed on the basis of the laws of the United States pertaining to multiple purpose reservoir projects; and
(2) must be requested by the department in the regular biennial budget requests.

As added by P.L.1-1995, SEC.19.

IC 14-26-2
Chapter 2. Lake Preservation

IC 14-26-2-1
Applicability of chapter
Sec. 1. This chapter does not apply to the following:
(1) Lake Michigan.
(2) Land under the waters of Lake Michigan.
(3) Any part of the land in Indiana that borders on Lake Michigan.
As added by P.L.1-1995, SEC.19.

IC 14-26-2-1.2
"Acquiescence"
Sec. 1.2. As used in this chapter, "acquiescence" means consent without conditions, tacit or passive compliance, or acceptance.
As added by P.L.6-2008, SEC.3.

IC 14-26-2-1.5
"Lake"
Sec. 1.5. As used in this chapter, "lake" means a reasonably permanent body of water that:
(1) existed on March 12, 1947;
(2) is substantially at rest in a depression in the surface of the earth that is naturally created;
(3) is of natural origin or part of a watercourse, including a watercourse that has been dammed; and
(4) covers an area of at least five (5) acres within the shoreline and water line, including bays and coves.
As added by P.L.6-2008, SEC.4.

IC 14-26-2-2
"Natural resources"
Sec. 2. As used in this chapter, "natural resources" means the water, fish, plant life, and minerals in a public freshwater lake.
As added by P.L.1-1995, SEC.19.

IC 14-26-2-3
"Public freshwater lake"
Sec. 3. (a) As used in this chapter, "public freshwater lake" means a lake that has been used by the public with the acquiescence of a riparian owner.
(b) The term does not include the following:
(1) Lake Michigan.
(2) A lake lying wholly or in part within the corporate boundaries of any of the three (3) cities having the largest population in a county having a population of more than four hundred thousand (400,000) but less than seven hundred

thousand (700,000).
(3) A privately owned body of water:
(A) used for the purpose of; or
(B) created as a result of;
surface coal mining.
As added by P.L.1-1995, SEC.19.

IC 14-26-2-4
"Shoreline or water line"
Sec. 4. As used in this chapter, "shoreline or water line" means:
(1) if the water level has been legally established, the line formed on the bank or shore by the water surface at the legally established average normal level; or
(2) if the water level has not been legally established, the line formed by the water surface at the average level as determined by:
(A) existing water level records; or
(B) if water level records are not available, the action of the water that has marked upon the soil of the bed of the lake a character distinct from that of the bank with respect to vegetation as well as the nature of the soil.
As added by P.L.1-1995, SEC.19.

IC 14-26-2-5
Public rights
Sec. 5. (a) As used in this section, "natural scenic beauty" means the natural condition as left by nature without manmade additions or alterations.
(b) As used in this section, "recreational purpose" means the following:
(1) Fishing.
(2) Boating.
(3) Swimming.
(4) The storage of water to maintain water levels.
(5) Any other purpose for which lakes are ordinarily used and adapted.
(c) The:
(1) natural resources and the natural scenic beauty of Indiana are a public right; and
(2) public of Indiana has a vested right in the following:
(A) The preservation, protection, and enjoyment of all the public freshwater lakes of Indiana in their present state.
(B) The use of the public freshwater lakes for recreational purposes.
(d) The state:
(1) has full power and control of all of the public freshwater lakes in Indiana both meandered and unmeandered; and
(2) holds and controls all public freshwater lakes in trust for the use of all of the citizens of Indiana for recreational purposes.

(e) A person owning land bordering a public freshwater lake does not have the exclusive right to the use of the waters of the lake or any part of the lake.
As added by P.L.1-1995, SEC.19.

IC 14-26-2-6
Repealed
(As added by P.L.1-1995, SEC.19. Repealed by P.L.152-2006, SEC.4.)

IC 14-26-2-7
Construction of ditches or dams so as to lower water level prohibited
Sec. 7. (a) This section applies to a public freshwater lake, regulated or otherwise, that covers an area of at least ten (10) acres.
(b) A person may not order or recommend the:
(1) construction;
(2) reconstruction;
(3) recleaning; or
(4) repair;
of a ditch, dam, or other project that will affect or is likely to affect a lowering of the water level of the public freshwater lake.
As added by P.L.1-1995, SEC.19. Amended by P.L.6-2008, SEC.5.

IC 14-26-2-8
Accretion rights
Sec. 8. Accretion rights in public freshwater lakes are limited to land from which the waters have receded or may recede from natural causes only. Accretion rights do not accrue to a riparian landowner as a consequence of lowering the public freshwater lake level by any of the following:
(1) Drainage.
(2) Extending the shoreline into the water of the public freshwater lake by filling the public freshwater lake with soil or any other substance.
(3) Extending the shoreline away from the public freshwater lake by excavating, dredging, or channeling through the shoreline.
As added by P.L.1-1995, SEC.19. Amended by P.L.6-2008, SEC.6.

IC 14-26-2-9
(As added by P.L.1-1995, SEC.19. Amended by P.L.186-2003, SEC.69. Repealed by P.L.152-2006, SEC.4.)

IC 14-26-2-10
Notice and hearing
Sec. 10. (a) Notwithstanding any other provision of law but subject to section 11 of this chapter, the department may not authorize:

(1) the changing of the level;
(2) the dredging, other than to maintain channels or construct sea walls, beaches, or near-shore access improvements on a lot by lot basis; or
(3) the mining;

of a public freshwater lake without giving notice and the opportunity for a public hearing at the county seat of the county in which the public freshwater lake is located.

(b) The notice must:
(1) generally describe the project for which a permit has been requested to authorize;
(2) state that the public has a right to request that a hearing be held on the proposed project;
(3) state that persons interested in or affected by the proposed project may speak at the hearing; and
(4) be published two (2) times, seven (7) days apart, in two (2) daily newspapers in the county in which the public freshwater lake is located, in the manner prescribed by IC 5-3-1.

(c) If a hearing is requested within ten (10) days after the final publication of the notice, the department shall do the following:
(1) Hold a public hearing in the manner stated in the notice.
(2) Give notice of the date, time, and place of the hearing as prescribed in subsection (b).
(3) Consider the public comments concerning the proposed project before the department makes a decision concerning the proposal.

As added by P.L.1-1995, SEC.19. Amended by P.L.6-2008, SEC.7.

IC 14-26-2-11
Sand mining

Sec. 11. (a) This section applies to a private lake that lies wholly or in part within any of the three (3) cities having the largest population in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) Sand mining may be conducted at the lake only if approved by resolution of the legislative body of the city after a public hearing.

(c) A sand mining operation at the lake:
(1) is subject to and shall be conducted in accordance with the regulations and permit process of the United States Army Corps of Engineers and the United States Environmental Protection Agency; and
(2) is subject to local supervision and monitoring by the city engineer of the city in which the lake lies.

(d) A person performing the sand mining is liable for any damages directly attributable to the sand mining operation to any real property located within a one (1) mile radius of the lake.

(e) After mining operations are completed, the lake may not be used as a sanitary landfill or as a hazardous waste site.

As added by P.L.1-1995, SEC.19.

IC 14-26-2-12
Permit to construct channels

Sec. 12. (a) The department may not issue a permit for the construction of a channel into a public freshwater lake unless:

(1) the channel follows the path of a stream already in existence; or

(2) the applicant proves that fifty-one percent (51%) of the property owners abutting the shoreline of the public freshwater lake approve of the channel construction.

(b) This section does not prevent the department from issuing a permit to construct small private drainage channels.

As added by P.L.1-1995, SEC.19. Amended by P.L.6-2008, SEC.8.

IC 14-26-2-13
Sewage disposal facilities for housing developments

Sec. 13. As a condition precedent to action by the department, written approval by the department of environmental management must be obtained for the construction of sewage disposal facilities for housing developments of at least five (5) lots if the developments are an integral part of a change in shoreline requested under this chapter.

As added by P.L.1-1995, SEC.19.

IC 14-26-2-14
Applicability to private cooling or pollution control ponds

Sec. 14. (a) This section applies to an off-stream, privately owned pond, lake, reservoir, or other body of water designed and constructed primarily for the reduction or control of pollutants or cooling before discharge of the water into the public water of Indiana.

(b) A body of water subject to this section does not become a body of public water for the purpose of permitting the state to regulate the quality of water.

(c) The state and the citizens of Indiana do not acquire a continuing right or interest in a body of water subject to this section if the owner permits entrance to or recreational use of the body of water by the public.

(d) IC 14-22-10-2 applies to a body of water operated under this section.

(e) This section does not affect the duties of the department to enforce Indiana fish and wildlife laws as the laws apply to public entrance or recreational use of the body of water.

As added by P.L.1-1995, SEC.19.

IC 14-26-2-14.5
Determination of public use of a lake

Sec. 14.5. (a) For purposes of determining the acquiescence of a riparian owner to allow the public use of a lake, indicators of acquiescence include the following:

(1) Evidence that the general public has used the lake for recreational purposes.

(2) Evidence that the riparian owner did not object to the operation by another person of a privately owned boat rental business, campground, or commercial enterprise that allowed nonriparian owners to gain access throughout the lake.

(3) A record of regulation of previous construction activities on the lake by the department or the department of conservation (before its repeal).

(b) Acquiescence does not exist if a lake has been adjudicated after March 12, 1947, to be a private lake and the department, or the department of conservation (before its repeal), was a party to the adjudication.

As added by P.L.6-2008, SEC.9.

IC 14-26-2-15

Applicability to Tippecanoe River impoundments

Sec. 15. (a) This section applies to impoundments of the Tippecanoe River that are formed by a dam or control structure owned and operated by a public utility for the generation of hydroelectric power. However, this section does not restrict the department's ability to regulate the safety or maintenance of a dam or other control structure under IC 14-27-7.5.

(b) As used in this section, "alterations to the shoreline" does not include the making of canals or inlets.

(c) As used in this section, "construction" includes the building of a pier.

(d) Notwithstanding any other law, the department may not regulate or interfere with alterations to the shoreline of or construction on the impoundments.

As added by P.L.1-1995, SEC.19. Amended by P.L.186-2003, SEC.70.

IC 14-26-2-16

Applicability to water supply reservoirs

Sec. 16. (a) As used in this section, "water supply reservoir" means a body of water formed by a dam wholly owned and operated by a municipality or a public utility (as defined in IC 8-1-2-1) for the purpose of providing water utility service to the public. The term does not include the following:

(1) Tributary streams that drain into the body of water.

(2) Wetlands associated with those streams.

(b) Notwithstanding any other law, the department may not regulate the following activities conducted within the one hundred (100) year flood level of a water supply reservoir:

(1) Sediment removal, dredging for the purpose of providing water supply storage, seawall construction, or the maintenance of water intake structures.

(2) Restoration or stabilization of the shoreline.

(c) This section does not restrict the department's ability to regulate the safety or maintenance of a dam or other control structure

under IC 14-27-7.5.
As added by P.L.1-1995, SEC.19. Amended by P.L.186-2003, SEC.71.

IC 14-26-2-17
Expiration of permit

Sec. 17. (a) Subject to subsection (b), a permit issued under this chapter expires two (2) years after the permit is issued.

(b) The commission may adopt rules under IC 4-22-2 providing that a type of permit specified in the rules expires more than two (2) years after it is issued.
As added by P.L.1-1995, SEC.19. Amended by P.L.25-2009, SEC.1.

IC 14-26-2-18
Posting and keeping of permit

Sec. 18. The person to whom a permit is issued under this chapter shall do the following:

(1) Post the permit at the site of the activity authorized by the permit.

(2) Keep the permit posted at the site where the activity is authorized until the activity is completed.

As added by P.L.1-1995, SEC.19.

IC 14-26-2-19
Remedies for violations

Sec. 19. The department may seek relief under IC 14-25.5-4 for the violation of this chapter.
As added by P.L.1-1995, SEC.19. Amended by P.L.71-2004, SEC.4.

IC 14-26-2-20
Department may bring action for damages

Sec. 20. The department may bring an action under IC 14-25.5-4 for damages caused by a person who violates this chapter.
As added by P.L.1-1995, SEC.19. Amended by P.L.71-2004, SEC.5.

IC 14-26-2-21
Violations

Sec. 21. A person who violates section 7 or 23 of this chapter commits a Class B infraction.
As added by P.L.1-1995, SEC.19. Amended by P.L.71-2004, SEC.6; P.L.195-2014, SEC.32.

IC 14-26-2-22
Additional civil penalties

Sec. 22. In addition to other penalties prescribed by this chapter or IC 13-2-11.1 (before its repeal), the director may impose a civil penalty of not more than ten thousand dollars ($10,000) under IC 14-25.5-4 for a violation of section 7 or 23 of this chapter.
As added by P.L.1-1995, SEC.19. Amended by P.L.24-2001, SEC.3;

P.L.71-2004, SEC.7; P.L.195-2014, SEC.33.

IC 14-26-2-23
Prohibited activities; permit applications; rules; mediation; civil enforcement

Sec. 23. (a) Unless a person obtains a permit from the department under this section and conducts the activities according to the terms of the permit, a person may not conduct the following activities:

(1) Over, along, or lakeward of the shoreline or water line of a public freshwater lake:

(A) excavate;

(B) place fill; or

(C) place, modify, or repair a temporary or permanent structure.

(2) Construct a wall whose lowest point would be:

(A) below the elevation of the shoreline or water line; and

(B) within ten (10) feet landward of the shoreline or water line, as measured perpendicularly from the shoreline or water line;

of a public freshwater lake.

(3) Change the water level, area, or depth of a public freshwater lake or the location of the shoreline or water line.

(b) An application for a permit for an activity described in subsection (a) must be accompanied by the following:

(1) A nonrefundable fee of one hundred dollars ($100).

(2) A project plan that provides the department with sufficient information concerning the proposed excavation, fill, temporary structure, or permanent structure.

(3) A written acknowledgment from the landowner that any additional water area created under the project plan is part of the public freshwater lake and is dedicated to the general public use with the public rights described in section 5 of this chapter.

(c) The department may issue a permit after investigating the merits of the application. In determining the merits of the application, the department may consider any factor, including cumulative effects of the proposed activity upon the following:

(1) The shoreline, water line, or bed of the public freshwater lake.

(2) The fish, wildlife, or botanical resources.

(3) The public rights described in section 5 of this chapter.

(4) The management of watercraft operations under IC 14-15.

(5) The interests of a landowner having property rights abutting the public freshwater lake or rights to access the public freshwater lake.

(d) A contractor or agent of the landowner who engages in an activity described in subsection (a)(1), (a)(2), or (a)(3) must comply with the terms of a permit issued under this section.

(e) The commission shall adopt rules under IC 4-22-2 to do the following:

(1) Assist in the administration of this chapter.

(2) Provide objective standards for issuing permits under this section, including standards for the configuration of piers, boat stations, platforms, and similar structures. The standards:

(A) may provide for a common use if the standard is needed to accommodate the interests of landowners having property rights abutting the public freshwater lake or rights to access the public freshwater lake; and

(B) shall exempt any class of activities from licensing, including temporary structures, if the commission finds that the class is unlikely to pose more than a minimal potential for harm to the public rights described in section 5 of this chapter.

(3) Establish a process under IC 4-21.5 for the mediation of disputes among persons with competing interests or between a person and the department. A rule adopted under this subsection must provide that:

(A) if good faith mediation under the process fails to achieve a settlement, the department shall make a determination of the dispute; and

(B) a person affected by the determination of the department may seek administrative review by the commission.

(f) After:

(1) a final agency action in a mediation under subsection (e)(3) that makes a determination of a dispute among persons with competing riparian interests; and

(2) the completion of judicial review or the expiration of the opportunity for judicial review;

a party to the dispute may seek enforcement of the determination in a civil proceeding. The remedy provided under this subsection is supplemental to any other legal remedy of the party.

As added by P.L.64-2000, SEC.1. Amended by P.L.152-2006, SEC.3; P.L.6-2008, SEC.10; P.L.25-2009, SEC.2.

IC 14-26-2-24

Public freshwater lake listing

Sec. 24. (a) Relying on recommendations of the department and the advisory council established by IC 14-9-6-1, the commission shall adopt, under IC 4-22-7-7(a)(5)(A), and maintain a nonrule policy statement that lists the public freshwater lakes in Indiana. For each public freshwater lake the statement must include the following information:

(1) The name of the lake.

(2) The county and specific location within the county where the lake is located.

(b) A person may obtain administrative review from the commission for the listing or nonlisting of a lake as a public freshwater lake through a licensure action, status determination, or enforcement action under IC 4-21.5.

As added by P.L.6-2008, SEC.11.

IC 14-26-2-25
Public freshwater lake petition

Sec. 25. (a) The owner or owners of the entire shoreline or water line of:

(1) a lake;
(2) a pond; or
(3) another reasonably permanent body of water that is substantially at rest;

may petition the department to declare the body of water a public freshwater lake.

(b) If the department, in writing, grants the petition under subsection (a), the body of water becomes subject to this chapter.

As added by P.L.6-2008, SEC.12.

IC 14-26-3

Chapter 3. Lakes, Rivers, and Streams Preservation Suits; Parties

IC 14-26-3-1

"Lake" defined

Sec. 1. As used in this chapter, "lake" includes both meandered and unmeandered lakes.

As added by P.L.1-1995, SEC.19.

IC 14-26-3-2

"River" defined

Sec. 2. As used in this chapter, "river" includes both navigable and nonnavigable rivers and streams.

As added by P.L.1-1995, SEC.19.

IC 14-26-3-3

Department becoming party to or prosecuting action to preserve lakes, rivers, or streams

Sec. 3. The department may do the following:

(1) Become a party, either plaintiff or defendant, to any cause or legal action:

(A) that is pending in any court in Indiana; or

(B) that is brought or commenced in any court in Indiana;

affecting the preservation or maintenance of the lakes, rivers, and streams in Indiana.

(2) Commence and prosecute any cause in any court in Indiana for the purpose of preserving and maintaining the waters of the state.

As added by P.L.1-1995, SEC.19.

IC 14-26-3-4

Courts recognizing department's right to become party

Sec. 4. A court acting under Indiana law shall recognize the right of the department to become a party to any action involving the preservation and maintenance of lakes, rivers, and streams for the purposes set out in this chapter.

As added by P.L.1-1995, SEC.19.

IC 14-26-3-5

Department becoming party to drainage proceeding

Sec. 5. For the purposes and in the manner provided in this chapter, the department may become a party to any drainage proceeding in any court acting under Indiana law, to prosecute or defend any cause that in the opinion of the officers of the department will injuriously affect the water levels of a lake, river, or stream in Indiana.

As added by P.L.1-1995, SEC.19.

IC 14-26-3-6

Department as party in interest

Sec. 6. In the interest of public health and convenience, the department is a party in interest in the matters set out in this chapter. Nonbenefit or the nonownership of land affected by a cause may not be pleaded in any court acting under Indiana law as a bar to the right of the department to appear, commence, prosecute, or defend in the cause.

As added by P.L.1-1995, SEC.19.

IC 14-26-4

Chapter 4. Lakes; Average Normal Water Level

IC 14-26-4-1

"Average normal water level" defined

Sec. 1. As used in this chapter, "average normal water level" of a lake means the level between high water that occurs as a result of excessive precipitation and low water that occurs during protracted dry periods that will do the following:

(1) Provide the most benefit to the public.

(2) Best protect the public health, welfare, and safety.

(3) Best preserve the natural resources of Indiana.

As added by P.L.1-1995, SEC.19.

IC 14-26-4-2

Establishment and maintenance of average normal water level

Sec. 2. The department may do the following:

(1) Have established, by appropriate legal action, the average normal water level or area of all natural and artificial lakes of Indiana.

(2) Construct or sponsor and supervise the construction of dams, spillways, and control works necessary to maintain the average normal water level.

As added by P.L.1-1995, SEC.19.

IC 14-26-4-3

Reports; preparation

Sec. 3. A concise report containing a description of the lake and location, together with all data necessary to reveal and fix:

(1) the average normal water level or area of the lake; and

(2) the highest elevation to which the water has risen during the prior ten (10) years;

shall be prepared and signed by an officer of the department.

As added by P.L.1-1995, SEC.19.

IC 14-26-4-4

Method of determination

Sec. 4. The average normal water level shall be determined by means such as the following:

(1) Old surveys.

(2) Testimony of old inhabitants.

(3) The extent to which drainage and other artificial causes have increased or decreased the natural ground water of the area and affected the water levels of the lake.

(4) Water level measurements made by the following:

(A) The United States Geological Survey.

(B) The department.

(C) Other agencies.

(D) Individuals.

(5) Any other pertinent surrounding facts or circumstances.

As added by P.L.1-1995, SEC.19.

IC 14-26-4-5

Reports; filing

Sec. 5. The department shall file the report with the following:

(1) The commission.

(2) The clerk of the circuit court with jurisdiction in the county in which the greatest area of the lake is situated.

As added by P.L.1-1995, SEC.19.

IC 14-26-4-6

Reports; docket; notice

Sec. 6. The clerk of the circuit court shall do the following:

(1) Immediately docket the report as a cause of action pending in the circuit court of the county.

(2) Cause notice to be published for two (2) consecutive weeks in two (2) newspapers of general circulation in each county in which the lake is situated. The notice must briefly describe the nature of the report and fix a day for the hearing of the report.

As added by P.L.1-1995, SEC.19.

IC 14-26-4-7

Court to hear evidence

Sec. 7. The court shall, on the day fixed in the notice or on a later day to be fixed by the court, hear all of the evidence submitted respecting the matter submitted by the following:

(1) The department.

(2) Any other agency of government.

(3) Any affected landowners.

As added by P.L.1-1995, SEC.19.

IC 14-26-4-8

Findings; judgments

Sec. 8. (a) After the hearing, the court shall do the following:

(1) Make findings of fact.

(2) Give an appropriate judgment establishing the level and area of the lake.

(b) If the judgment is favorable to the moving party, a description of:

(1) a monument;

(2) the location of the monument; and

(3) all data furnished by the report;

shall be made a part of the court's findings and judgment by reference.

As added by P.L.1-1995, SEC.19.

IC 14-26-4-9

Lake level record

Sec. 9. (a) If the judgment is favorable to the moving party, the findings and judgment of the court properly certified by the clerk of the court shall be recorded in a lake level record to be kept in the recorder's office of each county having land draining into the lake. Each county in which is situated a lake other than a private lake shall provide record books for this purpose. The county recorders may make the recordings by pasting or otherwise securely attaching the report containing all descriptive material in the record, which shall be properly indexed and paged.

(b) The clerk and the county recorder may not make or enter of record a charge for their services.

(c) Certified copies of the record of the judgment of the court as kept in the office of the clerk of the circuit court and of the records recorded in the office of the county recorder shall be received in evidence in any court in Indiana as conclusive evidence of all matters contained in the records.

(d) The department shall make and keep a similar record as a part of the public records of the state.

As added by P.L.1-1995, SEC.19.

IC 14-26-4-10

Monument

Sec. 10. Within one (1) year after the court has established the average normal water level or area, the department shall construct a suitable permanent monument as prescribed in the findings of the court on the shore of the lake. The monument must contain the following:

(1) The name of the lake.

(2) The average water normal level.

(3) The size if established.

(4) The highest level to which the lake has risen during the ten (10) years preceding the time of the filing of the complaint.

As added by P.L.1-1995, SEC.19.

IC 14-26-4-11

Applicability to dams, spillways, and control works

Sec. 11. The requirements and procedure prescribed by this chapter for reports, notice, court procedure, and record apply to all dams, spillways, and control works provided for in this chapter.

As added by P.L.1-1995, SEC.19.

IC 14-26-4-12

Construction of dams, spillways, or control works

Sec. 12. The department may do the following:

(1) Accept contributions or grants-in-aid from:

(A) an individual;

(B) a group of individuals; or

(C) county, state, or federal agencies;

to finance the construction of dams, spillways, or control works to maintain the average normal water level of a lake.

(2) Sponsor the building of dams, spillways, or control works to maintain the average normal water level of a lake.

(3) Sponsor the building of dams, spillways, or control works by:

(A) an individual;

(B) a group of individuals; or

(C) county, state, or federal agencies.

The department shall supervise the construction.

As added by P.L.1-1995, SEC.19.

IC 14-26-5

Chapter 5. Lowering of Ten Acre Lakes

IC 14-26-5-1

Applicability of chapter

Sec. 1. This chapter applies to freshwater lakes having an area of at least ten (10) acres.

As added by P.L.1-1995, SEC.19.

IC 14-26-5-2

"Normal water level of a lake" defined

Sec. 2. As used in this chapter, "normal water level of a lake" means:

(1) the water level of the lake established by law; or

(2) if the water level has not been established, the level where the presence and action of the water has been so constant as to give to the bed of the lake a character distinct from that of the surrounding land with regard to vegetation and the nature of the soil.

As added by P.L.1-1995, SEC.19.

IC 14-26-5-3

Permit required for certain work on ditches and drains; exception

Sec. 3. (a) This section does not apply to a ditch or drain if:

(1) water from the ditch or drain empties into a lake before activities referred to in subsection (b) begin;

(2) water from the ditch or drain continues to empty into the lake at the same location after the activities are completed; and

(3) the activities are conducted using best management practices for soil and erosion control.

(b) A person may not:

(1) locate, make, dig, dredge, construct, reconstruct, repair, or reclean; or

(2) order or recommend the location, establishment, construction, reconstruction, repair, or recleaning of;

a ditch or drain having a bottom depth lower than the normal water level of a lake within one-half (1/2) mile of the lake without a permit from the department.

As added by P.L.1-1995, SEC.19. Amended by P.L.28-2007, SEC.1.

IC 14-26-5-4

Permits; request

Sec. 4. A request for a permit may be made by any person interested in the proposed work by filing with the department the following:

(1) A brief statement and description of the work.

(2) Plans and specifications for the work.

(3) An investigation fee of twenty-five dollars ($25).

As added by P.L.1-1995, SEC.19.

IC 14-26-5-5
Permits; investigation upon request

Sec. 5. The department shall promptly consider a request by making an investigation of the land, water, lakes, fish, wildlife, and botanical resources that may be affected by the proposed work.
As added by P.L.1-1995, SEC.19.

IC 14-26-5-6
Permits; issuance

Sec. 6. If the department finds that the proposed work will not:
(1) endanger:
(A) the legally established water level of a lake; or
(B) the normal water level of a lake whose water level has not been legally established; or
(2) result in unreasonably detrimental effects upon fish, wildlife, or botanical resources;
the department shall promptly grant the request and issue a permit to the person requesting the permit.
As added by P.L.1-1995, SEC.19.

IC 14-26-5-7
Safeguards

Sec. 7. If the department finds that the proposed work could be done provided certain safeguards are included in the proposed work, the department shall designate the safeguards that will in the department's opinion protect the lake.
As added by P.L.1-1995, SEC.19.

IC 14-26-5-7.4
Time requirements for approval or refusal of permit request

Sec. 7.4. If a request for a permit is submitted under this chapter by or for a county drainage board for a project for the reconstruction or maintenance of a regulated drain under IC 36-9-27, the department shall approve or refuse the request within one hundred fifty (150) calendar days after the request is deemed complete by the department. A request held more than one hundred fifty (150) calendar days by the department without being either approved or refused shall be considered approved.
As added by P.L.180-1995, SEC.2.

IC 14-26-5-7.6
Refusal of permit request; notice and hearing

Sec. 7.6. (a) If the department refuses to issue a permit after an investigation under section 5 of this chapter, the department shall promptly cause a public notice to be given by one (1) publication in a newspaper of general circulation published in the county in which the lake or any part of the lake is located. The notice must state that,

on the date set forth in the notice, which may not be less than ten (10) days after the publication, at a designated place in the county, the department will hold a hearing on the request, and any interested person appearing at the hearing will have the right to be heard. The notice must contain a brief description of the proposed work and a statement of the department's reasons for refusing to issue a permit and of the safeguards, if any, that the department considers necessary to protect the water level of the lake. The hearing shall be held by the director of the department or by the director's designee. A hearing held under this subsection is a nonevidentiary hearing. The rules of evidence and IC 4-21.5 do not apply to the hearing.

(b) If the request of a county drainage board for a permit for a project for the reconstruction and maintenance of a regulated drain under IC 36-9-27 is refused, the department shall publish the public notice required by subsection (a) within sixty (60) days after the permit is refused.

As added by P.L.180-1995, SEC.3.

IC 14-26-5-8

Permits; expiration

Sec. 8. A permit issued under this chapter expires two (2) years after the permit is issued.

As added by P.L.1-1995, SEC.19.

IC 14-26-5-9

Permits, posting, keeping

Sec. 9. The person to whom a permit is issued under this chapter shall do the following:

(1) Post the permit at the site of the activity authorized by the permit.

(2) Keep the permit posted at the site where the activity is authorized until the activity is completed.

As added by P.L.1-1995, SEC.19.

IC 14-26-5-10

Complaints; filing

Sec. 10. (a) Except as provided in subsection (b), a person, firm, limited liability company, or corporation that is adversely affected by a decision of the department may appeal the decision by filing a complaint in the circuit or superior court of the county in which the lake or a part of the lake is situated.

(b) If the proposed work is the work petitioned for in a pending drainage proceeding, the complaint:

(1) must be filed in the court in which the drainage proceeding is pending; and

(2) shall be heard and determined as part of the drainage proceeding.

As added by P.L.1-1995, SEC.19.

IC 14-26-5-11
Complaints; contents

Sec. 11. A complaint must do the following:

(1) State the interest of the person filing the appeal, whether the person is:

(A) proposing to construct, reconstruct, repair, or reclean a ditch or drain on the person's own land; or

(B) a petitioner or other party or public officer in a pending drainage proceeding.

(2) Set forth the plans and specifications of the proposed work.

(3) State the action taken by the department in granting or withholding approval.

(4) State the objections and causes of appeal from the decision of the department.

As added by P.L.1-1995, SEC.19.

IC 14-26-5-12
Complaints; service of summons

Sec. 12. A complaint must be filed in the court within thirty (30) days from the date of the decision of the department by causing summons to be issued and served upon the director as summons are served in other civil cases.

As added by P.L.1-1995, SEC.19.

IC 14-26-5-13
Intervention in proceedings

Sec. 13. Any person, firm, limited liability company, or corporation interested in or affected by the proposed work may intervene in the proceedings before the court.

As added by P.L.1-1995, SEC.19.

IC 14-26-5-14
Court to hear evidence de novo

Sec. 14. The court shall hear de novo all evidence relevant to the issues determined by the department.

As added by P.L.1-1995, SEC.19.

IC 14-26-5-15
Appeals

Sec. 15. An appeal may be had from the finding and judgment of the court as provided by law in other civil cases.

As added by P.L.1-1995, SEC.19.

IC 14-26-5-16
Injunctive relief

Sec. 16. A person, firm, limited liability company, or corporation that violates or threatens to violate this chapter is subject to an injunction upon a complaint filed by any of the following:

(1) Any person whose land or interest in land may be damaged

by the violation.

(2) The department.

As added by P.L.1-1995, SEC.19.

IC 14-26-5-17

Violations

Sec. 17. A person who knowingly violates section 3 of this chapter commits a Class B infraction.

As added by P.L.1-1995, SEC.19. Amended by P.L.71-2004, SEC.8.

IC 14-26-6

Chapter 6. Lowering of Twenty Acre Lakes

IC 14-26-6-1

Applicability of chapter

Sec. 1. This chapter applies to lakes having an area greater than twenty (20) acres.

As added by P.L.1-1995, SEC.19.

IC 14-26-6-2

Exemptions

Sec. 2. This chapter does not apply to any of the following:

(1) An artificial lake that is created or used in or in connection with the following:

(A) Supplying a city or town with water.

(B) The generation of electric energy.

(C) The storage of water for a use described in clause (A) or (B).

(2) The waters of Lake Michigan.

(3) A lake owned or controlled by the department.

(4) The waters of an artificial lake in a town located in a county having a population of more than forty-seven thousand five hundred (47,500) but less than forty-eight thousand (48,000).

As added by P.L.1-1995, SEC.19. Amended by P.L.170-2002, SEC.94; P.L.119-2012, SEC.120.

IC 14-26-6-3

Violations

Sec. 3. A person who knowingly lowers the water level of a lake more than twelve (12) inches below the high water mark established by the dam or other artificial device creating the lake commits a Class B infraction.

As added by P.L.1-1995, SEC.19. Amended by P.L.71-2004, SEC.9.

IC 14-26-7

Chapter 7. Lakes; Restrictions on Ditches and Drains

IC 14-26-7-1

Applicability of chapter

Sec. 1. This chapter applies to the following:

(1) The construction of new ditches and drains.

(2) Alterations, changes, or other improvements to existing ditches and drains.

As added by P.L.1-1995, SEC.19.

IC 14-26-7-2

Ditches or drains through line of freshwater lake; dam required

Sec. 2. A:

(1) person may not locate, make, dig, dredge, or in any manner construct; and

(2) court, county executive, body of viewers, or drainage commissioners may not order or recommend the location, establishment, or construction of;

a ditch or drain cutting into, through, or upon the line of a freshwater lake unless a dam has been provided for and constructed to adequately protect the water level of each lake likely to be affected.

As added by P.L.1-1995, SEC.19.

IC 14-26-7-3

Ditches or drains within one-half mile of freshwater lake; dam required

Sec. 3. A person may not locate, dig, make, dredge, or in any way construct a ditch or drain having a bottom depth lower than the level of a freshwater lake as established by law within one-half (1/2) mile of any point on the line of the lake unless a dam has been provided for and constructed to adequately protect the water level of each lake likely to be affected.

As added by P.L.1-1995, SEC.19.

IC 14-26-7-4

Construction of dams

Sec. 4. A dam required by this chapter shall be constructed:

(1) before any work on the proposed drainage; and

(2) according to plans and specifications furnished or approved by the engineering division.

As added by P.L.1-1995, SEC.19.

IC 14-26-7-5

Interference with dam, bank, or levee prohibited

Sec. 5. A person may not:

(1) cut into or around;

(2) attempt to cut into or around;

(3) interfere with; or

(4) attempt to interfere with, change, or destroy;

a dam, bank, or levee constructed under Indiana law for the purpose of maintaining the water level of a freshwater lake at the established level.

As added by P.L.1-1995, SEC.19.

IC 14-26-7-6

Interference with banks or shores of freshwater lakes prohibited

Sec. 6. A person may not:

(1) cut into or through;

(2) attempt to cut into or through;

(3) interfere with; or

(4) attempt to interfere with;

the banks or shores of a freshwater lake or any part of the lake in such a way as to lower or tend to lower the water of the lake.

As added by P.L.1-1995, SEC.19.

IC 14-26-7-7

Alteration of dam, spillway, or outlet to lake

Sec. 7. Subject to IC 14-26-8 and IC 36-9-27, a person, court, county executive, body of viewers, or drainage board may not do any of the following:

(1) Interfere with, change, alter, or attempt to interfere with, change, or alter a bank, dam, spillway, or outlet of a freshwater lake.

(2) Dig, dredge, or in any way lower or attempt to lower an outlet or part of an outlet to a freshwater lake at any point in the outlet within three-fourths (3/4) mile of the lake.

As added by P.L.1-1995, SEC.19.

IC 14-26-7-8

Violations

Sec. 8. A person who violates this chapter commits a Class A infraction. Notwithstanding IC 34-28-5-4, a judgment for a Class A infraction imposed under this section may not exceed five thousand dollars ($5,000).

As added by P.L.1-1995, SEC.19. Amended by P.L.195-2014, SEC.34.

IC 14-26-8
Chapter 8. Lakes; Changes in Levels

IC 14-26-8-1
Applicability of chapter
Sec. 1. This chapter applies to lakes having an area of at least ten (10) acres.
As added by P.L.1-1995, SEC.19.

IC 14-26-8-2
"Shoreline or water line" defined
Sec. 2. As used in this chapter, "shoreline or water line" means the line that is formed around a lake by the intersection of the water in the lake with the adjoining land when the surface elevation of the lake is:
(1) normal;
(2) at the average level; or
(3) at the average normal level established by law.
As added by P.L.1-1995, SEC.19.

IC 14-26-8-3
Petition for control dam or other structure to maintain lake level
Sec. 3. (a) If:
(1) at least twenty percent (20%) of the owners of land abutting upon or within one-fourth (1/4) mile of the shoreline or water line of a lake;
(2) the department; or
(3) the board of commissioners of a county in which a lake is located;
desire to stabilize, raise, or establish and maintain the level of the lake by means of a control dam or other structure, diverting water into or away from the lake, pumping water into or out of the lake, or other means, the landowners, department, or county commissioners may apply either separately or jointly for the construction, reconstruction, alteration, and rehabilitation of a control dam or other structure, the construction of pumping stations, the construction, reconstruction, repair, or recleaning of outlet or inlet ditches, or other means by filing a petition with the circuit or superior court of the county in which the greater or greatest area of the lake lies.
(b) A petition must be filed in duplicate with the clerk of the court.
(c) If the petition is approved by the court, attorney's fees become a part of the total costs of the project. If the petition is dismissed, the petitioners shall pay the attorney's fees.
As added by P.L.1-1995, SEC.19.

IC 14-26-8-4
Contents of petition
Sec. 4. A petition must do the following:

(1) State the name of the lake.
(2) State the lake's location by section, township, range, and county.
(3) State the lake's approximate surface area in acres.
(4) Describe the nature of the work desired, whether it is:
(A) the construction, reconstruction, alteration, or rehabilitation of a control dam;
(B) the construction of a pumping station or a diversion ditch;
(C) the construction, reconstruction, repair, or recleaning of an outlet ditch;
(D) a combination of any number of purposes permitted by this subdivision; or
(E) another purpose.
(5) Allege that the work is practicable and of public need.
(6) State the level at which it is desired to maintain or stabilize the lake. The level must be stated with reference to at least one (1) of the following:
(A) Sea level datum if ascertainable.
(B) A lawfully established staff gauge installed in the lake from which the desired water level can be readily observed by an interested or affected party.
(7) If the lake lies in more than one (1) county, show the approximate surface area of the lake in acres that lies in each county.
(8) If the lake or any part of the lake lies within a city or town, state the approximate surface area of the lake that lies within the city or town.
As added by P.L.1-1995, SEC.19.

IC 14-26-8-5
Lake lying in two or more counties
Sec. 5. If the lake lies in at least two (2) counties, the surveyor of the county in which the greater or greatest area of the lake lies shall prepare the plans and specifications and the report required by this chapter.
As added by P.L.1-1995, SEC.19.

IC 14-26-8-6
Bond to accompany petition
Sec. 6. If the petition is initiated by the owners of land abutting upon or within four hundred forty (440) yards of the shoreline or water line of the lake, the petition must be accompanied by a bond with good and sufficient freehold sureties to be approved by the clerk of the circuit or superior court. The bond must be:
(1) payable to the state; and
(2) conditioned to pay all costs if the court denies the petition.
As added by P.L.1-1995, SEC.19.

IC 14-26-8-7
Docketing of petition; notice of hearing

Sec. 7. (a) Within ten (10) days after the filing of a petition, the clerk shall docket the petition as a cause of action pending in the circuit or superior court. The clerk shall cause notice to be given at least thirty (30) days before the date set for the hearing as follows:

(1) By publication one (1) time each week for two (2) consecutive weeks in not less than two (2) newspapers of general circulation published in each county in which the lake is located. If there are not two (2) newspapers of general circulation published in a county, notice shall be published in one (1) newspaper of general circulation published in the county.

(2) By posting a written or printed notice at the door of the courthouse in each county in which the lake lies.

(3) By sending written notice to the following:

(A) The county surveyor and county commissioners of each county affected.

(B) The department.

(b) The notice must do the following:

(1) Briefly describe the location and nature of the proposed work contained in the petition.

(2) Fix a day for the hearing on the petition.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-8
Viewers; determination

Sec. 8. Before the date set for the hearing, the names of the viewers of the proposed work described in the petition shall be determined as follows:

(1) The president of the board of commissioners of each county affected shall submit in writing to the clerk of the court in which the petition is filed the name of a member of the board of commissioners of the county who will be a viewer.

(2) The director shall submit to the clerk the name of a representative of the department who will serve as a viewer.

(3) The surveyor of each county affected shall serve as a viewer.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-9
Viewers; appointment and qualifications

Sec. 9. On the day set for the hearing on the form of a petition, the court shall appoint two (2) viewers who shall, with the viewers designated under section 8 of this chapter, pass upon the project as set out. The two (2) viewers appointed by the court:

(1) must be reputable freeholders;

(2) may not be qualified to sign the petitions;

(3) may not be related to an affected landowner; and

(4) must be residents of a county in which the lake lies.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-10
Restrictions on county commissioners as viewers

Sec. 10. If a petition is filed alone by owners of land abutting or within four hundred forty (440) yards of the shoreline or water line of the lake, a member of the board of county commissioners may not serve as a viewer.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-11
Remonstrance or objection; time requirements

Sec. 11. The following have ten (10) days, exclusive of Sundays, from the date of the hearing on the form of a petition to file with the court a remonstrance or an objection to the merits of the petition, notice, or eligibility of any of the viewers:

(1) A person named in the petition.

(2) A person who owns land abutting or within one-fourth (1/4) mile of the shoreline or water line of the lake.

(3) The department.

(4) The board of commissioners of a county in which the lake lies.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-12
Remonstrance or objection; dismissal of defective petition

Sec. 12. After the ten (10) days prescribed by section 11 of this chapter have elapsed, the court shall consider each remonstrance or objection, if any. If the court finds the petition defective, the court shall dismiss the petition unless the petition is amended within a time fixed by the court.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-13
Replacement of disqualified viewers

Sec. 13. If at least one (1) of the viewers is disqualified, the court shall, within ten (10) days of the date of disqualification, appoint an individual having the qualifications required by this chapter to replace the disqualified viewer as follows:

(1) If the surveyor is disqualified, the court may appoint a qualified registered engineer to replace the disqualified surveyor.

(2) If a county commissioner is disqualified, the court shall appoint another county commissioner from the same county to replace the disqualified commissioner.

(3) If the representative of the department is disqualified, the court shall appoint a new representative from the department selected from a list of two (2) representatives recommended by the director.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-14
Objections to viewers; time requirements

Sec. 14. The following have ten (10) days, exclusive of Sundays, to file a written objection to the new viewers:

(1) A person named in the petition.

(2) A person who owns land abutting or within one-fourth (1/4) mile of the shoreline or water line of the lake.

(3) The department.

(4) The county in which the lake lies if a joint petition is filed.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-15
Objections to viewers; disqualification

Sec. 15. After the ten (10) days prescribed by section 14 of this chapter have elapsed, the court shall consider each objection to the viewers. If the court disqualifies a viewer who was appointed to replace a previously disqualified viewer, the court shall make another appointment and continue under the same procedure until there is no further disqualification of viewers.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-16
Dismissal of petition

Sec. 16. If within ten (10) days, exclusive of Sundays, following the date of the hearing of the petition, at least fifty-one percent (51%) of the landowners abutting or within four hundred forty (440) yards of the shoreline or water line of the lake remonstrate in writing against the proposed project described in the petition, the petition shall be dismissed at the cost of the petitioners whose land abuts or lies within four hundred forty (440) yards of the shoreline or water line of the lake.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-17
Referral of petition to viewers

Sec. 17. (a) If:

(1) a remonstrance has not been filed within ten (10) days of the date of the hearing; and

(2) the court considers the petition sufficient;

the court shall make an order referring the petition to the viewers.

(b) An objection to the petition or the acting of the viewers not made within the ten (10) days is considered waived.

(c) In the order referring the matter to the viewers, the court shall fix a time when the viewers shall meet and make a report. The clerk shall deliver to the viewers a duplicate copy of the petition and the order.

(d) A viewer who cannot meet on the date specified by the court

may notify the court in writing, and the court shall set another date for the viewers to meet. If it is not possible for all of the viewers to meet on the new day specified by the court, a majority of the viewers may meet and view the proposed project.
As added by P.L.1-1995, SEC.19.

IC 14-26-8-18
Inspection and report by viewers
Sec. 18. The viewers shall do the following:
(1) Make a personal inspection of the proposed project described in the petition.
(2) Consider whether the project is practicable and is of public need.
(3) File a report within ten (10) days from the time of the inspection. The opinion of the majority prevails.
As added by P.L.1-1995, SEC.19.

IC 14-26-8-19
Viewers' findings; dismissal of petition
Sec. 19. If the viewers find that the proposed work is not practicable and of public need:
(1) the viewers shall make a written report of the findings to the court; and
(2) the court shall dismiss the petition at the cost of the petitioners who own land abutting or within one-fourth (1/4) mile of the water or shoreline of the lake.
As added by P.L.1-1995, SEC.19.

IC 14-26-8-20
Viewers' findings; referral to county surveyor
Sec. 20. If the viewers find that the proposed work is practicable and of public need:
(1) the viewers shall make a written report of the finding to the court; and
(2) the court shall do the following:
(A) Direct the surveyor of the county in which the greatest area of the lake lies to prepare plans and specifications for the proposed project.
(B) Set a date for the surveyor to file the surveyor's preliminary report with the court.
As added by P.L.1-1995, SEC.19.

IC 14-26-8-21
Surveyor; preliminary report; plans; specifications
Sec. 21. (a) The surveyor's preliminary report must include the following:
(1) Plans and specifications.
(2) Cost estimates.
(3) Damages.

(4) Assessments.

(5) Other information that is considered necessary and proper.

(b) The department may on request of the surveyor prepare the plans and specifications.

(c) The surveyor in preparing plans and specifications may, upon the recommendation of the department, vary from the general plan described in the petition if necessary to carry out the purpose of the petition, subject to final approval by the court.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-22

County surveyor

Sec. 22. (a) The county surveyor shall estimate the cost of the project and assess the benefits or damages to all affected landowners, each county in which the lake lies, and the department if:

(1) the petition is a joint petition between the owners of land abutting or within one-fourth (1/4) mile of the shoreline or water line of the lake and the county or the department; or

(2) the petition has been filed separately or jointly by the department or the county.

(b) If the petition was filed only by the landowners abutting or within one-fourth (1/4) mile of the shoreline or water line of the lake, the county and the department may not be assessed.

As added by P.L.1-1995, SEC.19. Amended by P.L.57-2013, SEC.12.

IC 14-26-8-23

Requirements of assessments of benefits or damages

Sec. 23. The assessing of benefits or damages is to be made:

(1) on each separate tract of land to be affected;

(2) to easements held by railways or other corporations; and

(3) to cities, towns, and other public or private corporations;

including any land or water right or easement injuriously or beneficially affected.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-24

Apportionment of costs of improvements

Sec. 24. (a) The cost of the improvement asked for in the petition shall be paid as follows:

(1) If the petition is filed separately by the owners of land abutting upon or within one-fourth (1/4) mile of the shoreline or water line of the lake, proportionately to the benefits received by the owners.

(2) If the petition is filed jointly by the owners of land abutting upon the lake and the department or the commissioners of each county in which the lake lies or separately by the department or the commissioners of each county in which the lake lies, as follows:

(A) Twenty-five percent (25%) of the cost of the

improvement shall be paid by the property owners abutting or within one-fourth (1/4) mile of the shoreline or water line of the lake.

(B) Twenty-five percent (25%) of the cost shall be paid by the county.

(C) Fifty percent (50%) of the cost shall be paid by the department.

(b) The county surveyor shall apportion the cost of the project accordingly in the surveyor's report and notices of assessments and damages shall be sent to all affected parties as prescribed in section 25 of this chapter.

(c) If the lake lies in at least two (2) counties, the cost to be paid by each county must be proportionate to the area of the lake that lies in each county. For the purpose of determining the area of the lake that lies in each county, the professional surveyor may use aerial photographs made by the United States Department of Agriculture.

As added by P.L.1-1995, SEC.19. Amended by P.L.57-2013, SEC.13.

IC 14-26-8-25

Surveyor; notice of hearing

Sec. 25. (a) The court shall set a date:

(1) not less than thirty (30); or

(2) more than forty (40);

days after the surveyor's preliminary report has been filed for the surveyor's hearing on the report.

(b) The surveyor shall, within five (5) days after the date for the hearing is set, notify by registered mail, return receipt requested, all owners of land abutting upon or within four hundred forty (440) yards of the shoreline or water line of the lake. The return receipts are prima facie evidence of notice. The notice must give a brief description of the following:

(1) The project.

(2) The project's location.

(3) A description of the owners' land that is assessed or damaged, if any.

(4) The amount of assessment or damages, if any.

(5) The date and place of the hearing.

(c) If the residence of a landowner cannot be ascertained or if a mailed notice is returned undelivered, the surveyor shall publish notice to all persons in this category by one (1) publication:

(1) in a newspaper of general circulation published and printed in the county in which the lake lies; or

(2) if a paper is not published in the county, in a newspaper in an adjoining county;

at least ten (10) days before the date fixed for the hearing.

(d) The mailed and published notices must notify the owners that all remonstrances and claims for compensation or damages must be filed in writing with the clerk on or before the day of the surveyor's hearing.

(e) The clerk shall notify the surveyor of the receipt of remonstrances or claims on or before the day of the surveyor's hearing.

(f) The surveyor shall file the following:

(1) Proof of publication of the published notice in the form of a publisher's affidavit.

(2) Proof of the mailed notice by return receipts.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-26

Surveyor; hearing; final report

Sec. 26. (a) On the day fixed by the court for the hearing on the report the surveyor shall do the following:

(1) Be present at the place designated in the notice.

(2) Hear all objections made to damages and assessments.

(b) The surveyor may adjourn the hearing as necessary or to any other suitable or available room in the courthouse of the county that is considered necessary until all objections are heard. All persons interested shall take notice of an adjournment without further notice.

(c) All objections to the damages and assessments must be verified and in writing.

(d) After hearing all objections that are offered to the damages and assessments, the surveyor shall confirm or change the damages and assessments as justice requires. If the damages and assessments are changed, the surveyor shall show the changed amount assessed and the date the change was made.

(e) Upon concluding the hearing the surveyor shall make a final report to the court.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-27

Remonstrance against surveyor's final report; time requirements; contents

Sec. 27. (a) The following entities have ten (10) days from the date the surveyor's final report is filed with the court to remonstrate against the final report:

(1) An owner of land affected by the work as proposed in the petition or in the surveyor's final report.

(2) The commissioners of a county in which the lake lies.

(3) The department.

(b) A remonstrance must be in writing, must be filed with the court, and may be for any of the following causes:

(1) That the report of the surveyor is not according to law.

(2) That the proposed work as reported by the surveyor will not be sufficient to accomplish the purpose set out in the petition.

(3) That the amount of the assessment is exorbitant.

(4) That the amount of the assessment is too much as compared with other land assessed, specifying the other land.

(5) That the amount of the assessment of others is too low,

specifying the others.

(6) That the amount of the damages is inadequate.

(7) That the owner's land will be damaged and the owner has not been given damages.

(8) That the owner's land has been assessed for benefits and the owner's land will not be benefited or will be damaged if the proposed work is accomplished.

(9) That the assessment against a county or the department is greater than the public benefit to be received.

(10) That the proposed project is not practicable and of public need or utility.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-28

Remonstrance against surveyor's final report; order to amend or file new report

Sec. 28. If after a hearing the court decides that any of the causes of remonstrance described in section 27 of this chapter is true, the court may do either of the following:

(1) Direct the surveyor to amend and perfect the report.

(2) Set aside the report and refer the matter back to the surveyor for a new report.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-29

Remonstrance against surveyor's final report; new report

Sec. 29. (a) In making an order for a new report, the court shall fix the time when the surveyor shall report.

(b) When a new report is made and filed, a person whose land is reported as affected in the report may remonstrate within the same time and for the same causes that are allowed to remonstrate against the first report. However, a second remonstrance may only concern new matters contained in the second or amended report.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-30

Remonstrance against surveyor's final report; trial of facts

Sec. 30. The court shall try all questions of facts arising on a petition, report, or remonstrance without a jury.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-31

Remonstrance against surveyor's final report; modification of assessments

Sec. 31. (a) If a remonstrance is sustained by the court, the court may modify and equalize the assessments, as justice requires, by doing the following:

(1) Diminishing the assessments on some tracts and increasing the assessments on other tracts.

(2) Giving or withholding damages.

(b) For purposes of this section each person whose land is:

(1) reported as affected; or

(2) stated in the petition as affected;

is considered to be in court by virtue of the notices originally given to the parties on the pendency of the petition.

(c) If:

(1) the land described in the petition as affected by the proposed work; and

(2) the surveyor has reported the land as neither benefited nor damaged;

the court may, if the facts and justice warrant, make assessments against the land.

(d) The assessments as changed, modified, equalized, or made are valid.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-32

Remonstrance against surveyor's final report; confirmation of assessments

Sec. 32. If the finding and judgment of the court is against each remonstrance:

(1) the assessments made by the surveyor shall be confirmed; and

(2) the order confirming is final and conclusive.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-33

Remonstrance against surveyor's final report; dismissal of proceedings

Sec. 33. If the finding and judgment of the court is in support of a remonstrance, the proceedings shall be dismissed at the cost of the petitioners whose land abuts or lies within four hundred forty (440) yards of the shoreline or water line of the lake.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-34

Approval of assessments where no remonstrance filed

Sec. 34. If after the ten (10) days allowed for remonstrances there is no appeal or remonstrance, the court shall do the following:

(1) Make an order declaring the proposed work established and approving assessments as made by the surveyor or as equalized and modified as provided in section 31 of this chapter.

(2) Assign the duty of carrying out the order to the county surveyor.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-35

Appeal from approval and confirmation of assessments

Sec. 35. The order of the court approving and confirming the assessments and declaring the proposed work established is final and conclusive, unless an appeal is taken. An appeal may be taken from the final judgment of the circuit or superior court to the supreme court or court of appeals as in other civil cases.
As added by P.L.1-1995, SEC.19.

IC 14-26-8-36
Contracts for construction of improvements; notice; bidding

Sec. 36. (a) The county surveyor shall proceed to have the improvement constructed as provided by section 32 or 34 of this chapter. The county surveyor shall keep in the surveyor's office copies of the plans and specifications, which shall be open for the inspection of any landowner interested or any contractor who may be a prospective bidder on the work.

(b) The county surveyor shall give notice in a newspaper of general circulation printed and published in the following:

(1) Each county in which the lake lies.

(2) Each county where land assessed as benefited is situated.

(c) The notice must state that on a certain day and date, which may not be less than fifteen (15) days from the date of the publication, the surveyor will do the following:

(1) Receive sealed bids for the furnishing of all material and labor necessary for the construction of the work.

(2) Let the contract to the lowest and best bidder or reject all bids and re-advertise for new bids.

(d) The surveyor may:

(1) let the work as a whole; or

(2) subdivide the work into at least two (2) sections and let the work in separate contracts that will, in the surveyor's best judgment, most speedily and economically accomplish the completion of the work.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-37
Contractor's bond; requirement

Sec. 37. A person who has successfully bid for the whole or a part of the work shall, when the work is awarded to the person, do the following:

(1) Enter into a contract with the surveyor to perform the work.

(2) Give bond that:

(A) must be approved by the court;

(B) is payable to the state; and

(C) is in a proper penalty for the performance of the contract;

that the person will pay all damages occasioned by nonfulfillment of the contract. The damages may be recovered in a court with jurisdiction.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-38
Contractor's bond; default

Sec. 38. If a person who is assessed is damaged by reason of the default and failure of the contractor to complete the work within the limit, the contractor in default is liable on the bond to the person damaged to the full extent of the damages. The damages may be recovered in a court with jurisdiction in a suit or an action on the bond by the state on the relation of the person damaged for the use of the person or party injured.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-39
Contractor's bond; action on bond

Sec. 39. The surveyor may bring suit on the bond in a court with jurisdiction to recover any increased cost, expense, or damage of or to the work because of the failure of the contractor.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-40
Contractor's bond; aggregate liability of surety

Sec. 40. The aggregate liability of the surety on a bond for all liabilities may not exceed the penalty of the bond.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-41
Contracts for construction of improvements; court approval

Sec. 41. A contract may not be let until the court approves the contract.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-42
Contractor's final report

Sec. 42. When the contractor has finished the contractor's work, the surveyor shall make a final report to the court showing that the work has been completed and accepted.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-43
New assessments where no contract let

Sec. 43. (a) If the surveyor is unable to let a contract and construct the proposed improvement for the estimated cost of construction, the surveyor shall report the fact to the court.

(b) The court shall immediately order a new assessment of benefits and damages if requested in writing by at least two-thirds (2/3) of the original petitioners.

(c) If the order for a new assessment is made:

(1) the procedure provided for following the making of the original assessment shall be followed with respect to the new assessment and subsequent actions; and

(2) the landowners have the same right to remonstrate and appeal as is provided for original assessments.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-44

Payment of costs of improvements

Sec. 44. The costs and expenses of an improvement petitioned for under this chapter shall be out of the county general fund or the general lake improvement fund as described in this chapter, except the part of the cost to be paid by the department. The costs and expenses include the following:

(1) The contract price for the work.

(2) The traveling expenses of the surveyor.

(3) The expenses of the viewers.

(4) Court costs.

(5) Notices.

(6) Advertising.

(7) Attorney's fees.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-45

Surveyor; traveling expenses; compensation; bond

Sec. 45. (a) If the surveyor or the surveyor's deputy uses a car owned by the surveyor or the deputy or a hired conveyance in carrying out the improvement petitioned for under this chapter, the surveyor or deputy may include traveling expenses incident to the work at an amount for mileage at a rate determined by the county fiscal body.

(b) The surveyor and the surveyor's deputy:

(1) are not entitled to receive compensation for services in addition to the statutory salary except for expenses as provided in section 44 of this chapter; and

(2) are not required to give any additional bond other than the official bond.

As added by P.L.1-1995, SEC.19. Amended by P.L.10-1997, SEC.19.

IC 14-26-8-46

Viewers; expenses

Sec. 46. The viewers, other than the surveyors, the county commissioners, and the representative of the department, are entitled to the following:

(1) Six dollars ($6) a day for expenses incurred in viewing the proposed improvement.

(2) An amount for mileage at a rate determined by the county fiscal body.

As added by P.L.1-1995, SEC.19. Amended by P.L.10-1997, SEC.20.

IC 14-26-8-47

Attorney's fees

Sec. 47. (a) Except as provided in subsections (b) and (c), the attorney's fees paid may not exceed four percent (4%) of the estimated cost of construction.

(b) If an appeal is taken or other extra proceedings are conducted, the court may allow a reasonable additional amount for the extra legal services actually provided.

(c) If:

(1) the aggregate cost is less than one thousand five hundred dollars ($1,500); and

(2) the petition is filed separately by the owners of land abutting or within one-fourth (1/4) mile of the shoreline or water line of the lake;

the court shall fix a reasonable amount instead of the four percent (4%) for the petitioners' attorney's fees.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-48

Verified bill; partial payment; full payment

Sec. 48. (a) A payment may not be made for work done under this chapter until a verified bill has been:

(1) presented to the surveyor;

(2) approved by the surveyor;

(3) filed with the auditor; and

(4) allowed by the commissioners.

(b) A partial payment may not be made to a contractor that exceeds seventy-five percent (75%) of the cost of the improvement.

(c) Full payment may not be made until:

(1) sixty-one (61) days after the completion and acceptance of the work; and

(2) after the contractor has filed with the surveyor an affidavit that all bills for labor, other service, or materials that have been used in the construction of or incorporated in the work have been paid in full.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-49

General lake improvement funds

Sec. 49. (a) The board of county commissioners of each county may establish a general lake improvement fund. The fund shall be used to pay for the construction of dams and other works to raise, stabilize, or maintain lake levels under this chapter. The fund includes the following:

(1) Taxes levied or collected for lake improvement purposes.

(2) The proceeds of bonds issued and sold for lake improvement purposes.

(3) Assessments for benefits to property under this chapter.

(4) Other money that is provided by law to be paid into the fund.

(b) If the board of county commissioners considers it inadvisable

to establish a general lake improvement fund, payments for projects under this chapter shall be paid into and shall be paid from the county general fund.
As added by P.L.1-1995, SEC.19.

IC 14-26-8-50
Levy of real property tax

Sec. 50. The fiscal body of a county concerned in work authorized in this chapter may, upon request of the board of county commissioners, approve the levy and collection of a tax upon all real property in the county to raise money to carry out this chapter.
As added by P.L.1-1995, SEC.19.

IC 14-26-8-51
County surveyor

Sec. 51. (a) The county surveyor in charge of a project established under this chapter shall, within ten (10) days after letting the contract for construction, carefully compute the entire cost of the improvement, including the following:

(1) Incidental costs, expenses, and damages.
(2) Attorney's fees as allowed by the court.

(b) The county surveyor shall apportion the costs and expenses to the tracts of land assessed in proportion to the total assessment against the respective parcels of land benefited by the construction of the work. The apportionment to the respective tracts or parcels of land may not exceed the benefits assessed against the tracts or parcels, respectively.

(c) The county surveyor shall certify the assessments, apportionments, and time to make payments to the county auditor. If the improvement affects the landowners in more than one (1) county, the county surveyor shall certify the assessments, apportionments, and time to make payments to the auditor of each other county affected.
As added by P.L.1-1995, SEC.19. Amended by P.L.57-2013, SEC.14.

IC 14-26-8-52
Auditor; notice of assessments

Sec. 52. The auditor of each county affected shall give notice by publication in a newspaper published in the county, not less than thirty (30) days before the day for payment of assessments, of the following:

(1) That the assessment sheet has been prepared and placed in the hands of the county treasurer for collection.
(2) The time and manner in which the assessments are required to be paid.
(3) That a person affected who desires to pay the assessment to discharge the person's land from all liability to the assessment on or before the day named in the order may do so.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-53
Auditor; extension of assessments upon duplicate

Sec. 53. (a) The auditor shall then extend the assessments upon a special duplicate:

(1) to be provided for the auditor at the expense of the county;
(2) to be known as the lake duplicate; and
(3) for recording all assessments under this chapter in the county.

(b) Except as provided in subsection (c), in extending the assessments upon the duplicates, the auditor shall, in the first instance, extend the assessments for the full period of payment of all assessments, as fixed by the surveyor.

(c) Assessments of less than twenty-five dollars ($25) shall be paid within one (1) year.

(d) The auditor shall calculate and add to each successive installment interest at the rate of six percent (6%) per year until the date fixed for payment.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-54
Assessments less than $25

Sec. 54. (a) The provisions of this chapter permitting the payment of assessments in installments do not apply to assessments of less than twenty-five dollars ($25).

(b) If:

(1) one (1) landowner owns more than one (1) tract of land; and
(2) an assessment of less than twenty-five dollars ($25) is made against at least one (1) of the tracts of land;

all assessments less than twenty-five dollars ($25) shall be paid within one (1) year.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-55
Assessments as liens; collection of assessments

Sec. 55. An assessment constitutes a lien upon the tracts or parcels of land and shall be collected at the same time and in the same manner as taxes are collected. After collection the assessments shall be deposited in the lake improvement fund or the county general fund.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-56
Nonpayment of assessments; sale of land

Sec. 56. (a) If an assessment, an installment, or a part of an assessment or installment is not paid when due, the failure to pay results in the same penalties as for the nonpayment of taxes. The land shall be placed upon the list of land to be sold at tax sale, and the land shall be sold at tax sale at the same time and in the same manner as provided under IC 6-1.1-24. The same penalties apply and the same

rights are acquired upon purchase at these sales as in other tax sales, including the execution and delivery of tax deeds and the rights and remedies provided in cases of property sold at tax sale.

(b) Personal property or real property other than that assessed may not be sold for the failure to pay an assessment or installment.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-57

Nonpayment of assessments; public land

Sec. 57. (a) If:

(1) a municipal corporation or other public corporation fails to pay an assessment for benefits or for property the municipal or other public corporation owns; and

(2) there is not a provision for selling the property at tax sale;

the municipal or other public corporation is considered to have elected to pay in installments at the same time and in the same manner as provided in other cases. The assessments shall be included in the respective lists, and the municipal or other public corporation shall pay the installments to the county treasurer in the same manner as provided in other cases.

(b) A municipal or other public corporation that fails to pay an installment is liable for the nonpayment. The auditor shall enforce collection by bringing an action in the name of the state of Indiana, on the relation of the county treasurer in behalf of the county for the installment that is due and unpaid, together with penalties. The recovery is without relief from valuation and appraisement laws and includes reasonable attorney's fees for collecting the installment.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-58

Assessments as liens; priority; payment; cancellation

Sec. 58. (a) The amount of an assessment as made or approved and confirmed by the court is a lien upon the land assessed from the time the assessment is approved and confirmed. The lien follows all other improvement liens upon the affected real property in order of priority as to date of attachment.

(b) The county surveyor charged with the construction of the work shall keep in the county surveyor's office a complete copy of the assessments that may, upon demand, be examined by any interested person.

(c) An owner of land assessed for benefits who desires to transfer the property free and clear of the lien for the assessment may deposit with the county treasurer the full amount of the benefits assessed against the tract or parcel of land. When the professional surveyor has made the final computation to the county auditor, the treasurer shall pay to the person paying the assessment the surplus, if any, over the actual assessment. Whenever the owner of a tract or parcel of land has paid to the treasurer and the treasurer's books show the payment, the lien for the assessment on the tract or parcel of land is

automatically canceled.
As added by P.L.1-1995, SEC.19. Amended by P.L.57-2013, SEC.15.

IC 14-26-8-59
Lien for labor and materials

Sec. 59. (a) Each subcontractor, laborer, and other person who performs labor or another service or furnishes material that is used in the construction of or incorporated in work under this chapter, including board for laborers and all fuel, oil, and grease used in the operation of machinery used in the construction work, has a lien upon the fund raised for the payment of the work. The lien attaches if written notice is filed with the surveyor:

(1) within sixty (60) days of furnishing the labor or material; and

(2) that states the amount due and describes the article furnished.

(b) After the receipt of notice under subsection (a), the surveyor shall withhold payment to the contractor for the work in an amount sufficient to satisfy the lien until the amount is adjusted and paid.

(c) If a contractor and a person claiming a lien disagree on the amount or validity of the lien, the court ordering the construction of the work shall, upon motion of the surveyor, contractor, or person claiming the lien, determine the amount to be paid. The surveyor may pay the amount determined, and on payment the surveyor is released from all liability concerning the payment.

(d) If the surveyor fails to comply with this section, the surveyor is liable on the surveyor's bond for the amount improperly paid over to the contractor.
As added by P.L.1-1995, SEC.19.

IC 14-26-8-60
Liability of surveyor on bond

Sec. 60. (a) If a surveyor fails to perform any work required of the surveyor by this chapter, after ten (10) days written notice to the surveyor by any interested person the surveyor is liable with the surveyor's sureties on the surveyor's official bond:

(1) for all damages caused by the failure to perform the duty, including reasonable attorney's fees; and

(2) to the person damaged.

(b) An action on the bond of the surveyor for failure to perform a duty must be brought in the name of the state on the relation of:

(1) the county auditor; or

(2) the person injured.
As added by P.L.1-1995, SEC.19.

IC 14-26-8-61
Petitions filed under IC 36-9-27; duties of viewers and county surveyors

Sec. 61. (a) If a petition is filed under IC 36-9-27 for the

construction, reconstruction, alteration, repair, or recleaning of a drainage ditch that extends into or within one hundred sixty (160) rods of a freshwater lake and has a bottom depth lower than the average normal water level of the lake, the petition may ask that:

(1) the owners of land abutting or within four hundred forty (440) yards of the shoreline or water line of each lake likely to be affected;

(2) each county in which the lake lies; and

(3) the department;

participate in the cost of constructing a dam or structure, diversion ditches, pumping stations, or other appurtenances necessary to protect and preserve the water level of the lake.

(b) If a request is made in a petition under subsection (a), the court having jurisdiction of the drainage proceedings shall appoint additional viewers as prescribed in this chapter to represent the county and the department. The viewers shall file a separate report on whether a dam, other structure, diversion ditch, pumping station, or other appurtenance is practicable and of public need.

(c) If the report of the viewers is in the affirmative, the county surveyor for the drainage project shall include in the report plans and specifications for the improvement and apportion assessments and damages in the same manner as prescribed in this chapter governing raising or maintaining lake levels.

As added by P.L.1-1995, SEC.19. Amended by P.L.57-2013, SEC.16.

IC 14-26-8-62

Petition filed under IC 36-9-27; court proceedings

Sec. 62. (a) If a petition is filed under section 61 of this chapter for the construction, reconstruction, alteration, repair, or recleaning of a drainage ditch that extends to or within one hundred sixty (160) rods of a freshwater lake and has a bottom depth lower than the average normal water level of the lake and the petition does not request the construction of a dam, other structure, diversion ditch, pumping station, or other appurtenance to protect and preserve the water level of each lake likely to be affected:

(1) twenty percent (20%) of the owners of land abutting or within four hundred forty (440) yards of the shoreline or water line of the lake;

(2) a county in which the lake lies; or

(3) the department;

may file a petition addressed to the court having jurisdiction any time before the court order granting the petition for the drainage project to include a dam, other structure, diversion ditch, pumping station, or other appurtenance necessary to protect and preserve the water level of the lake.

(b) Upon receipt of a petition filed under subsection (a), the court shall set a date for a hearing. On that date the court shall hear all evidence submitted regarding the practicability and public need of a dam, other structure, diversion ditch, pumping station, or other

appurtenance to protect and preserve the water level of each lake likely to be affected.

(c) If the court rules that the additional construction is necessary, the same procedure shall be followed for inclusion as if the additional construction were included in the petition for the drainage work.

(d) If the court rules adversely on the practicability or public need of a dam, other structure, diversion ditch, pumping station, or other appurtenance, an appeal may be taken from the final judgment of the circuit or superior court to the supreme court or the court of appeals within thirty (30) days.

As added by P.L.1-1995, SEC.19.

IC 14-26-8-63

Petition filed under section 62 of this chapter; additional assessments

Sec. 63. If:

(1) the construction of a dam, other structure, diversion ditch, pumping station, or other appurtenance in connection with the preservation or stabilization of a lake is petitioned for under section 62 of this chapter in connection with a drainage proceeding; and

(2) in the county surveyor's opinion, the improvement to the lake will:

(A) be beneficial to any person affected by the drainage project; or

(B) in any way provide better drainage than if the water level of the lake is left uncontrolled or undisturbed;

the county surveyor for the drainage project may assess a part of the cost of the improvement that would normally be paid by those persons who own land abutting or within four hundred forty (440) yards of the shoreline or water line of the lake to any person affected by the drainage project.

As added by P.L.1-1995, SEC.19. Amended by P.L.57-2013, SEC.17.

IC 14-26-8-64

Elevation of lake levels

Sec. 64. (a) The county surveyor shall do the following:

(1) Certify the elevation of a lake level established under this chapter, including the bench mark used for the point of beginning.

(2) Record the elevation of the lake level and the bench mark in the office of the county recorder in each county in which the lake lies.

(b) The elevation of a lake level established under this chapter must refer to at least one (1) of the following:

(1) The United States Coast and Geodetic Survey, first, second, and third order levels.

(2) The United States Geological Survey, third order levels.

As added by P.L.1-1995, SEC.19.

IC 14-27

ARTICLE 27. LEVEES, DAMS, AND DRAINAGE

IC 14-27-1

Chapter 1. Duties of Department

IC 14-27-1-1

General duties of department

Sec. 1. The department shall do the following:

(1) Investigate, compile, and disseminate information and make recommendations relative to the drainage and reclamation of land.

(2) Make surveys and reconnaissance and prepare the maps, charts, statistical tables, and other documents and appurtenances that are considered necessary to enable landowners, public officials, or other persons interested in or charged by law with the duty of promoting and securing the drainage and reclamation of land to proceed more intelligently with their work.

(3) Recommend and secure the enforcement of laws for the drainage and reclamation of the swamp, overflowed, and nonarable land of Indiana.

(4) Ascertain, determine, designate, and define natural drainage and reclamation areas. When requested, place at the disposal of the public officials charged by law with the establishment and execution of the work the information that will enable the public officials, when providing for the drainage or reclamation of a component part of the natural drainage or reclamation areas, to proceed with the work so that the component systems, when established and completed, form a scientifically integrated system whereby the entire natural drainage or reclamation area is most economically and scientifically drained or reclaimed.

(5) Prepare computations of the probable maximum quantity of water likely to be collected from a drainage or reclamation area or district and discharged by a ditch or system of ditches or drains, together with the probable maximum capacity of the outlet by which the water is to make its escape.

(6) Prepare computations of the probable maximum quantity of water likely to be restrained or impounded by a levee or dike or a system of levees or dikes, together with the location and the probable maximum height and strength of the proposed dikes or levees by which the water is to be restrained and impounded.

(7) Make the computations prepared under subdivisions (5) and (6) available, on request, to and placed at the disposal of a public official or other person authorized by law to locate, establish, or construct ditches, drains, levees, or dikes for the purpose of enabling the person to locate, establish, and construct the ditches, drains, levees, or dikes so that land other than land

assessed for benefits and wherever located is not subjected to inundation, overflow, or unnecessary or unnatural hazard or inconvenience.

As added by P.L.1-1995, SEC.20.

IC 14-27-1-2

Notices required to be made to department

Sec. 2. Within five (5) days after:

(1) an order has been made by a circuit or superior court, board of commissioners, or county auditor referring a petition for drainage or for the establishment and construction of a levee or dike to the:

(A) drainage or levee commissioners;

(B) county surveyor; or

(C) joint board of drainage commissioners for interstate drains; and

(2) the election and organization of the board of directors of an incorporated levee or dike association under Indiana law for the location, establishment, or construction of ditches, drains, levees, or dikes;

the clerk of the circuit court, the county auditor, or the clerk of the board of directors of the incorporated levee or dike association shall notify the department by registered letter of the making of the order or the election and organization of the board of directors.

As added by P.L.1-1995, SEC.20.

IC 14-27-1-3

Contents of notices

Sec. 3. The letter required by section 2 of this chapter must state the following:

(1) The names and addresses of the drainage or levee commissioners or the members of the board of directors.

(2) The date and place of meeting of the commissioners or board of directors to make personal inspection of the land described in the petition or likely to be affected by the proposed work of drainage or levee or dike construction.

(3) The date fixed by the court or board of county commissioners or otherwise upon which the preliminary or final report of the drainage or levee commissioners or board of directors is to be submitted.

As added by P.L.1-1995, SEC.20.

IC 14-27-1-4

Collection of data, statistics, or information

Sec. 4. Upon the receipt of notice under section 2 of this chapter or at any time thereafter, the department may obtain, collate, and interpret the data, statistics, or other information relative to the proposed ditch, drain, levee, or dike that in the discretion of the department is considered necessary to enable the department to fully

and satisfactorily perform the duties required by this chapter. The data, statistics, or other information may be obtained by the department or an agent of the department either in person or by a suitable questionnaire prepared by the department and submitted to:

(1) the clerk of the circuit court or the auditor of the county having jurisdiction of the case; or

(2) the drainage or levee commissioners or board of directors or superintendent of construction.

As added by P.L.1-1995, SEC.20.

IC 14-27-1-5

Designation of technical advisor

Sec. 5. The department may, upon the receipt of a request in writing from:

(1) the circuit or superior court or the board of county commissioners having jurisdiction of the case;

(2) the drainage or levee commissioners;

(3) the board of directors of an incorporated levee or dike association;

(4) the superintendent of construction; or

(5) a petitioner or a landowner who may be affected by an assessment or damages incident to the establishment and construction of the proposed work;

direct the state engineer or an authorized agent or person connected with the division of engineering to act as a technical advisor.

As added by P.L.1-1995, SEC.20.

IC 14-27-1-6

Duties of technical advisor

Sec. 6. The department may direct the technical advisor designated under section 5 of this chapter to do any of the following:

(1) Accompany the drainage or levee commissioners, the joint board of drainage commissioners, or the board of directors of an incorporated levee or dike association and assist and advise them while making personal inspection of the land likely to be affected by the proposed work to determine the best and cheapest method of drainage or of constructing the proposed levee or dike, including the termini, route, location, character, and dimensions of the main drain or levee, as well as any arms, branches, or laterals, considering future contingencies as well as present needs, and cooperate with them in the determination of all other matters that the commissioners or board of directors are lawfully required to perform and on which they may request the person's assistance or advice.

(2) Sit in an advisory capacity during the hearing of the preliminary or final report of the drainage or levee commissioners or board of directors by the court or county executive until the proceedings have been dismissed or an order has been issued declaring the proposed work established.

(3) Cooperate with the superintendent of construction, commissioner, or other person charged with the execution of the work in the determination of all matters on which the person's advice or assistance is requested.

As added by P.L.1-1995, SEC.20.

IC 14-27-2
Chapter 2. Levees; Miscellaneous Provisions

IC 14-27-2-1
Acquisition of property by purchase or eminent domain

Sec. 1. A person, an officer, a corporation, a limited liability company, or an association authorized by law to maintain, protect, or repair a levee constructed under Indiana law may purchase for the use of the levee the real property that is necessary, in the opinion of the person, officer, corporation, limited liability company, or association, to protect, maintain, or repair the levee. If the person, officer, corporation, limited liability company, or association is unable to agree with the owner of the real property, the person, officer, corporation, limited liability company, or association may proceed to acquire the real property by condemnation in the same manner and with the same effect as provided by law for the condemnation of real property for railroad purposes.

As added by P.L.1-1995, SEC.20.

IC 14-27-2-2
Riding or driving on levee prohibited

Sec. 2. A person who knowingly rides or drives upon or over a levee constructed under law, except for the purpose of:

(1) passing over the levee:
  (A) at a public or private crossing; or
  (B) upon a part of a public highway; or
(2) inspection or repair;

commits a Class B infraction.

As added by P.L.1-1995, SEC.20. Amended by P.L.71-2004, SEC.10.

IC 14-27-3

Chapter 3. Control of Levees

IC 14-27-3-1

Duties of superintendent of construction

Sec. 1. (a) The superintendent of construction of the work shall do the following:

(1) Keep an account of all money collected and paid out by the superintendent in relation to the work.

(2) Take vouchers for all money paid out.

(3) Keep an account of time spent on the superintendent's duties. If the superintendent is engaged in at least two (2) works on the same day, the superintendent shall divide the day among the works in proportion to the time devoted to each.

(4) At least one (1) time every six (6) months, make under oath to the court a full report of all matters relating to the work. The court shall allow the superintendent an amount not exceeding four dollars ($4) per day for the time actually and necessarily spent by the superintendent on the work.

(b) The superintendent is under the direction of the court. If the superintendent fails to obey the orders of the court, the superintendent:

(1) forfeits all compensation due the superintendent;

(2) shall be treated summarily as for contempt; and

(3) may be removed by the court.

(c) An action may also be brought upon the superintendent's bond, in the name of the state of Indiana, for a failure of duty, and the amount recovered shall be applied to payment of the expenses of the construction.

(d) The court may at any time discharge the superintendent and appoint another superintendent.

As added by P.L.1-1995, SEC.20.

IC 14-27-3-2

Laborer's and materialman's liens

Sec. 2. (a) All laborers and other persons who perform a service or furnish materials in the construction of the work under this chapter have a lien upon the fund raised for the construction of the work. Upon notice in writing filed with the county treasurer of the amount due and what the amount is for, the treasurer shall withhold payment to the contractor on any warrant drawn in the contractor's favor in an amount sufficient to satisfy the lien, until the amount is adjusted.

(b) If the contractor and the person claiming the lien disagree on the amount or validity of the lien, the court shall, on motion of the superintendent, contractor, or person claiming the lien, determine the matter.

(c) On failure to comply with this section, the superintendent is liable on the superintendent's bond for any amount improperly paid

over to the contractor.
As added by P.L.1-1995, SEC.20.

IC 14-27-3-3
Pro rata distribution of excess money

Sec. 3. If money remains after the payment of the cost of the construction of the work and expenses connected with the work, the money shall be distributed, pro rata, according to the amount paid by the owners of the land and the corporations assessed for the work.
As added by P.L.1-1995, SEC.20.

IC 14-27-3-4
Assessments; defect in proceedings not defeating collection

Sec. 4. The collection of assessments is not defeated by reason of a defect in the proceeding occurring before the judgment of the court approving and confirming the assessment of benefits and damages and ordering the work established if the court had jurisdiction. The judgment is conclusive that all prior proceedings were regular and according to law. A person may not, at any stage of the proceedings, take advantage of an error, a defect, or an informality that does not directly affect the person. If the court releases a person of liability or modifies the person's assessment, the act of the court does not affect the rights or liabilities of any other person.
As added by P.L.1-1995, SEC.20.

IC 14-27-3-5
Assessments; petition for additional assessments

Sec. 5. (a) If it appears that the assessment of benefits is insufficient to complete the work and pay expenses in connection with the work, the superintendent of construction may file a petition asking the court for an additional assessment. Five (5) days notice of the filing of the petition shall be given to each person assessed for the work or to the attorney of record of the person. The notice shall be given and served in the same manner as the notice of filing of the original petition.

(b) On or before the expiration of the five (5) days notice, an interested person may file an answer or objection to the petition.

(c) The court may:

(1) after:

(A) the expiration of the time; or

(B) hearing the answer or objection if an answer or objection is filed; and

(2) if satisfied of the necessity;

make an additional assessment on all land originally assessed as benefited and in proportion to the original assessment. The additional assessments, or as much of the additional assessments that are necessary, are first liens upon the land against which the additional assessments are assessed and shall be collected as provided for the original assessments.

As added by P.L.1-1995, SEC.20.

IC 14-27-3-6
Assessments; supplemental petitions

Sec. 6. (a) The superintendent of construction or a person interested in the work may also file with the court a supplemental petition showing that land not assessed for benefits or damages is affected by the work whether or not the land is described in the petition or in either report of the commissioners. Notice of the supplemental petition shall be given as provided for filing the original petition.

(b) The court shall refer the supplemental petition to the commissioners to report on the supplemental petition. All proceedings may be had and orders and decrees made, including the construction of additional arms or branches, as if the supplemental petition were an original petition. However, the proceedings on the supplemental petition do not affect the original petition unless the court, for good cause, orders the petitions consolidated. An order to consolidate the petitions, however, may not delay the original work.
As added by P.L.1-1995, SEC.20.

IC 14-27-3-7
Levee repair and maintenance; records; warrants

Sec. 7. (a) The committee placed in charge of the levee may perform maintenance and make all necessary repairs to the levee that are necessary to keep the levee in original condition. However, the committee shall perform the maintenance of and repairs to the levee that are necessary to maintain federal certification of the levee. The committee shall notify the county executive not later than ten (10) days after a change in the status of a levee that no longer meets the requirements necessary to maintain federal certification. If it becomes necessary for the safety of the levee to change the line and location of the levee at any point in making the repairs, the committee may make the change. However, the committee may not change or relocate the general line or location of the levee.

(b) The committee shall do the following:

(1) Keep a record of the committee's proceedings.

(2) Note in the record all expenses incurred in making the repairs.

(3) File with the county auditor a statement showing the cost and expenses of making the repairs, specifying the amounts due each person.

(c) The auditor shall draw a warrant on the county treasurer in favor of each person for the amount due the person. The amounts shall be paid out of the county revenue but reimbursed to the county.

(d) Notwithstanding any other law, the cost and expenses of performing maintenance on a levee under subsection (a) shall be apportioned and assessed in the same manner as repair costs and expenses to a levee.

As added by P.L.1-1995, SEC.20. Amended by P.L.108-2013, SEC.1.

IC 14-27-3-8
Apportionment and assessment of costs of repairs

Sec. 8. (a) To raise the necessary money to reimburse the county, the committee in charge of a levee shall apportion and assess the costs upon the land and corporations to be benefited by the repairs in proportion to the benefits not more than ninety (90) days after filing the statement of costs and expenses for repairs under section 7(b)(3) of this chapter. The costs may not exceed the benefits. However, if the repairs have been made necessary by the act or negligence of:

(1) the owner or occupant of land; or

(2) an employee or agent of the owner or occupant;

the cost of the repairs shall be assessed against that land alone.

(b) If a committee in charge of a levee:

(1) before July 1, 2013, has filed the statement of costs and expenses for repairs under section 7(b)(3) of this chapter; and

(2) has not:

(A) reimbursed the county for the costs and expenses for repairs to the levee; or

(B) apportioned and assessed the costs upon the land and corporations benefited by the repairs as required in subsection (a);

the committee in charge of a levee shall, before September 29, 2013, apportion and assess the costs upon the land and corporations benefited by the repairs as required by subsection (a).

As added by P.L.1-1995, SEC.20. Amended by P.L.108-2013, SEC.2.

IC 14-27-3-8.5
Appointed levee committee members

Sec. 8.5. (a) The county council and county executive shall each appoint an individual to serve as a voting member of the committee in charge of a levee.

(b) A member of a committee in charge of a levee appointed under this section serves at the pleasure of the appointing authority.

As added by P.L.108-2013, SEC.3.

IC 14-27-3-9
Notice of assessments

Sec. 9. (a) The committee shall, within five (5) days after making an assessment, post written notices as follows:

(1) In three (3) public places in the township where the land assessed is situated, near to the work done.

(2) One (1) at the door of the courthouse of each county in which the land is situated.

(b) The committee shall note in the record in the committee's office the time and place of posting of each notice.

As added by P.L.1-1995, SEC.20.

IC 14-27-3-10
Appeal of assessment; bond; summons; pleadings

Sec. 10. (a) A person assessed may appeal the assessment to the circuit or superior court of the county in which the proceedings for the construction of the work were held by filing with the clerk of the court, within ten (10) days after the date of posting the notices, an appeal bond:

(1) payable to the committee in the amount of two (2) times the assessment;
(2) with surety to the approval of the clerk; and
(3) conditioned that the person will prosecute the appeal and pay all costs that are adjudged against the person.

(b) The clerk shall issue a summons for the committee served by the sheriff.

(c) The committee shall file with the clerk the following:

(1) A copy of the record of the assessment for the repairs.
(2) The notice of the assessment.
(3) A statement showing when and where the notices were posted.

(d) Other pleadings are not necessary.

As added by P.L.1-1995, SEC.20.

IC 14-27-3-11
Appeal of assessment; proceedings

Sec. 11. (a) The appeal shall be tried by the court without a jury. A change of venue from the judge but not from the county is allowed. The only questions tried are the following:

(1) Whether the repairs are necessary.
(2) What is the cost of the repairs.
(3) Whether the appellant's land is benefited by the repairs.
(4) If the appellant's land is benefited, what part of the costs should be assessed against the land of the appellant.

(b) The decision of the court may not be appealed.

As added by P.L.1-1995, SEC.20.

IC 14-27-3-12
Appeal of assessment; costs

Sec. 12. (a) If the court reduces the assessment against the land of the appellant at least twenty percent (20%), all the costs of the appeal shall be added to the assessment and shall be assessed upon the tracts of land in the same proportion as the original assessment.

(b) If the court does not reduce the assessment of the appellant at least twenty percent (20%), the appellant must pay all costs of the appeal.

(c) If more than one (1) person appeals, the cases shall be consolidated and tried together and the costs apportioned as justice requires.

As added by P.L.1-1995, SEC.20.

IC 14-27-3-13
Assessments; certified copy; placement on tax duplicate; applicability of statutes

Sec. 13. (a) The:

(1) clerk of the court, when an appeal is disposed of; or

(2) committee, if an appeal is not taken;

shall make a certified copy of the assessment as confirmed by the court in an appeal or as made originally if an appeal is not taken. The clerk or committee shall file the certified copy with the auditor of the county in which the proceedings are held.

(b) The auditor shall place the assessments against each tract of land upon the next succeeding tax duplicate. The assessment is a lien from the time of posting the original notices of the assessments and shall be collected as other state and county taxes are collected.

(c) All statutes regulating:

(1) the payment and collection of state and county taxes;

(2) the assessment of penalties and interest; and

(3) the sale of property for delinquent taxes;

apply to the payment and collection of assessments that are placed upon the tax duplicates under this section.

As added by P.L.1-1995, SEC.20.

IC 14-27-3-14
Preservation and protection of levee

Sec. 14. (a) The committee in charge of a levee may preserve and protect the levee, including a strip of land ten (10) feet in width on the inside of the levee.

(b) If the committee determines that the preservation of the levee or a part of the levee requires that the levee should be fenced, the committee may have suitable fences erected along the levee.

(c) The committee may also do the following:

(1) Adopt the means necessary to keep the levee free from sprouts, grass, weeds, briers, and other growth.

(2) Sow grass seed on the levee.

(3) Use the means necessary to protect the levee from varmints or burrowing animals.

As added by P.L.1-1995, SEC.20.

IC 14-27-3-15
Additions to or protection of levee upon petition of landowners

Sec. 15. If requested by a petition signed by a majority of the owners of land protected by the levee, the committee in charge of a levee may do the following:

(1) Make additions to the levee by increasing the height or width of the levee.

(2) Protect against the encroachment of a stream and take all necessary steps to protect and prevent the washing and cutting away of the banks of the stream by the construction of a suitable work that will prevent the washing or cutting of the banks.

As added by P.L.1-1995, SEC.20.

IC 14-27-3-16
Pumping or removal of water upon petition of landowners

Sec. 16. If requested in writing by a majority of interested landowners, the committee in charge of a levee may pump out or remove from land protected by the levee water that collects and remains standing on the land and that does not have a means of outlet. For this purpose the committee may purchase pumps or adopt other suitable means for the removal of the water.
As added by P.L.1-1995, SEC.20.

IC 14-27-3-17
Applicability of statutes regarding assessments

Sec. 17. All of the provisions of sections 7 through 13 of this chapter concerning:

(1) the payment of the cost of repairs of levees;
(2) the making of assessments for the cost;
(3) the right of appeal from the assessments; and
(4) the manner of collecting the assessments;

apply to work done under sections 14, 15, and 16 of this chapter.
As added by P.L.1-1995, SEC.20.

IC 14-27-3-18
Minimum annual assessment

Sec. 18. Notwithstanding the percent of benefit assessment determined by a levee committee under Acts 1907, c.223, s.8 1/2, as added by Acts 1941, c.159, s.1, as amended, and as preserved from repeal under certain circumstances by section 19 of this chapter, the minimum annual amount to be imposed for levee purposes upon a tract of land benefited by the levee may not be less than five dollars ($5).
As added by P.L.1-1995, SEC.20.

IC 14-27-3-19
Effect of recodification

Sec. 19. A levee district or association that was created under a statute that was repealed by IC 19-3-2-106 (recodified as IC 13-2-19.5-9 before its repeal, and later recodified as this section):

(1) is not affected by the repeal;
(2) except as provided in subdivision (3), may continue to exist as if the statute had not been repealed; and
(3) is subject to the requirements under this chapter.

As added by P.L.1-1995, SEC.20. Amended by P.L.118-2014, SEC.1.

IC 14-27-4
Chapter 4. Levee Associations; Merged

IC 14-27-4-1
Applicability of chapter

Sec. 1. This chapter applies to a levee association or corporation that meets the following conditions:

(1) The levee association or corporation was a levee association originally organized under Acts 1913, c.165, that:

(A) accepted the provisions of:

(i) IC 23-7-1 (before its repeal on September 2, 1971);

(ii) IC 23-7-1.1 (before its repeal on August 1, 1991); or

(iii) IC 23-17; and

(B) merged with a levee association originally organized under IC 23-7-1.

(2) The surviving corporation or association of the merger has in the articles of merger restated the provisions of the corporation's or association's articles to do the following:

(A) Include among the corporation's or association's purposes the construction, extension, changing, improvement, maintenance, or repair of a levee, dike, breakwater, dam, sewer, ditch, drain, diversion channel, creek, water course, pumping station, syphon, flood gate, waste gate, or a combination of more than one (1) of these objects or in any work determined to be necessary for or to be an aid to the protection, drainage, reclamation, or improvement of wet or overflowed land subject to overflow.

(B) Use all statutes relating to levees, ditches, and drains.

(3) At least one (1) of the following has occurred:

(A) The levee association has entered into a commitment with a state or federal authority or agency for the construction of a levee or for the planning of a levee.

(B) Federal or state money has been appropriated or expended in feasibility studies or for preconstruction planning before March 10, 1967, as a consequence of the commitment.

As added by P.L.1-1995, SEC.20.

IC 14-27-4-2
Effect of repeal on surviving corporation

Sec. 2. A surviving corporation:

(1) may continue and possesses all the rights, powers, duties, and privileges of any law repealed by IC 19-3-2-106 (repealed April 1, 1980); and

(2) is not affected by the repeal.

As added by P.L.1-1995, SEC.20.

IC 14-27-4-3

Effect on rights and obligations of surviving corporation

Sec. 3. A surviving corporation has all the specific rights, powers, privileges, and obligations conferred on levee associations organized under Acts 1913, c.165, as amended.

As added by P.L.1-1995, SEC.20.

IC 14-27-5

Chapter 5. Levee Associations; Federal Loans

IC 14-27-5-1

Applicability of chapter

Sec. 1. This chapter applies to the following:

(1) A levee association incorporated before March 10, 1967, under Acts 1913, c.165, or a successor of the association.

(2) An association existing before March 10, 1967, under IC 23-7-1 (repealed September 2, 1971) for the purpose of using a statute:

(A) concerning levees, ditches, and improvements relating to levees or ditches; and

(B) repealed by IC 19-3-2-106 (repealed April 1, 1980).

(3) A levee association complying with IC 14-27-4.

As added by P.L.1-1995, SEC.20.

IC 14-27-5-2

Application for loan

Sec. 2. The board of directors of an association described in section 1 of this chapter may apply to the federal Farmers Home Administration, the United States Department of Housing and Urban Development, or any other agency of the federal government authorized by federal law to make loans for works of improvement for a long term or short term loan to cover the association's expenses in connection with the construction of a levee or ditch and any other required or related improvements, including the following expenses:

(1) General, legal, and administrative expenses.

(2) The acquisition of land rights.

(3) Costs of engineering.

(4) Other costs of necessary construction and maintaining and operating the works of improvement authorized by applicable governmental authority.

As added by P.L.1-1995, SEC.20.

IC 14-27-5-3

Evidence and security of loan

Sec. 3. A loan may be:

(1) evidenced by one (1) installment note or by a series of notes; and

(2) secured by the collection of a special assessment levied as provided in section 11 of this chapter.

As added by P.L.1-1995, SEC.20.

IC 14-27-5-4

Terms of loan subject to agreement and federal law

Sec. 4. The following are subject to the agreement of the board of directors and the federal agency and applicable federal law:

(1) The time repayment of a loan must begin.
(2) The term within which the loan is repaid.
(3) The amount of interest.
(4) The time of making payments of interest.
(5) The interval at which interest shall be paid.

As added by P.L.1-1995, SEC.20.

IC 14-27-5-5
Petition for approval of loan

Sec. 5. Before making financial commitments described in this chapter with a federal agency, the board of directors must file a petition for approval of the proposed action in the circuit court of the county in which the most land affected by the construction or improvements lies. The petition must state the following for the proposed loan:

(1) The purpose.
(2) The amount.
(3) The terms.

As added by P.L.1-1995, SEC.20.

IC 14-27-5-6
Hearing on petition for approval of loan

Sec. 6. The court shall do the following:

(1) Set a date for a hearing.
(2) Allow at least twenty-one (21) days for an interested person to file objections.
(3) Order notice for the hearing that the court considers necessary. However, publication must at least be made in each of the counties containing land within the affected area in accordance with IC 5-3-1. The notice must set forth in summary form the contents of the petition.

As added by P.L.1-1995, SEC.20.

IC 14-27-5-7
Court approval of loan

Sec. 7. If at the hearing the court finds that:

(1) the loan as proposed in the petition is necessary for the accomplishment of the purposes set forth in this chapter; and
(2) the terms and conditions are reasonable and probably are as beneficial to accomplish the purposes as would be obtainable in private competitive financial markets;

the court shall approve the petition and authorize the board of directors to enter into the loan agreement.

As added by P.L.1-1995, SEC.20.

IC 14-27-5-8
Levy of special assessment upon court approval

Sec. 8. Upon approval by the court, the board of directors may levy the special assessments necessary for the repayment of the loan.

As added by P.L.1-1995, SEC.20.

IC 14-27-5-9
Purposes of loan

Sec. 9. The board of directors may secure part or all of the money necessary for the project under this chapter. The board of directors may make the loan for any of the board's needs to cover the expenses for which the loan is sought and maintaining and operating the works of improvement that have been authorized by applicable governmental authority. The loan may also be used to refinance a prior loan whose proceeds have been used for any of the purposes described in section 2 of this chapter.
As added by P.L.1-1995, SEC.20.

IC 14-27-5-10
Offer of bond issue for sale to federal agency

Sec. 10. If the board of directors:

(1) decides not to enter into a loan agreement with a federal agency by installment note or series of notes; and
(2) instead prepares a bond issue, in whole or in part;

the board of directors may offer the bond issue for sale to a federal agency without a public offering or the securing of competitive bids on the bond offering.
As added by P.L.1-1995, SEC.20.

IC 14-27-5-11
Repayment of loan by levy of special assessment

Sec. 11. A loan made under this chapter or under IC 13-2-29-1 (before its repeal) shall be repaid by levy of the special assessment authorized on the real property within the proposed project. The assessment against the landowners must be in the proportion that the benefits assessed against each tract of real property bear to the total benefits assessed as shown by the report of the appraisers appointed by the board of commissioners of the county under Acts 1913, c. 165, s. 16. Statutes regulating:

(1) the payment and collection of state and county taxes;
(2) the placing of assessments on the tax rolls and the recording of the assessments;
(3) the validity of the assessments;
(4) the assessment of penalties and interest; and
(5) the sale of property for delinquent taxes;

apply to the assessments.
As added by P.L.1-1995, SEC.20.

IC 14-27-6

Chapter 6. Levee Authority in Vanderburgh County

IC 14-27-6-1

Applicability of chapter

Sec. 1. This chapter applies to the following:

(1) A city having a population of more than one hundred ten thousand (110,000) but less than one hundred fifty thousand (150,000).

(2) The county in which a city described in subdivision (1) exists.

As added by P.L.1-1995, SEC.20. Amended by P.L.119-2012, SEC.121.

IC 14-27-6-2

"Board" defined

Sec. 2. As used in this chapter, "board" refers to the board of the levee authority.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-3

"Gate" defined

Sec. 3. As used in this chapter, "gate" means any opening in a levee that can be closed mechanically to prevent the flow of water through the levee.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-4

"Levee" defined

Sec. 4. As used in this chapter, "levee" means any wall built along a stream to keep the stream from overflowing the banks.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-5

"Pumping station" defined

Sec. 5. As used in this chapter, "pumping station" means any place equipped with pumps for the purpose of lifting water over a levee wall and into the stream.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-6

Ordinance establishing levee authority

Sec. 6. The:

(1) city fiscal body; or

(2) city fiscal body and the county fiscal body;

may adopt an ordinance to establish a levee authority for the purpose of acquiring land, rights-of-way, and easements on which the board or the United States Army Corps of Engineers can construct,

improve, equip, maintain, control, lease, and regulate levees to hold back flood waters either within or without the district. The authority has jurisdiction over a district coterminous with the jurisdictional boundaries of the fiscal body adopting the ordinance.
As added by P.L.1-1995, SEC.20.

IC 14-27-6-7
Board; executive and legislative powers
Sec. 7. The board shall exercise the executive and legislative powers of the authority as provided by this chapter.
As added by P.L.1-1995, SEC.20.

IC 14-27-6-8
Board; members
Sec. 8. (a) The board consists of three (3) members as follows:
(1) Two (2) members shall be appointed by the city executive.
(2) One (1) member shall be appointed by the board of commissioners of the county if the fiscal body of the county adopted an ordinance under section 6 of this chapter or under IC 13-2-31-2 (before its repeal).
(b) Not more than two (2) members of the board may be members of the same political party.
As added by P.L.1-1995, SEC.20.

IC 14-27-6-9
Board; eligibility of members
Sec. 9. To be eligible to be appointed as a member of the board, an individual must meet the following conditions:
(1) Be at least eighteen (18) years of age.
(2) Be a resident householder of the city if appointed by the city executive.
(3) Be a resident of the county.
As added by P.L.1-1995, SEC.20.

IC 14-27-6-10
Board; appointment of members; first meeting
Sec. 10. As soon as possible after the adoption of an ordinance for the creation of a levee authority, the members of the board shall be appointed as provided in section 8 of this chapter. The members shall meet on the day of the first meeting of the board and organize as the board.
As added by P.L.1-1995, SEC.20.

IC 14-27-6-11
Board; terms of first members
Sec. 11. (a) Except as provided in subsection (b), the first members of the board shall be appointed as follows:
(1) One (1) member for the term of one (1) year.
(2) One (1) member for the term of two (2) years.

(3) One (1) member for the term of three (3) years.

(b) If the board consists of members appointed from both the city and the county:

(1) the city executive shall appoint members for original terms of one (1) and two (2) years; and

(2) the board of commissioners of the county shall appoint a member for a term of three (3) years.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-12

Board; filling of vacancy upon expiration of term

Sec. 12. Upon the expiration of a term, the city executive or board of commissioners of the county shall appoint a member to fill the vacancy.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-13

Board; filling of vacancy upon resignation

Sec. 13. If a vacancy occurs on the board by resignation or otherwise, except for the expiration of a term, the city executive or board of commissioners of the county shall appoint a member for the remainder of the term.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-14

Board; terms of members

Sec. 14. (a) Except as otherwise provided in this chapter, a member of the board serves for a term of three (3) years:

(1) beginning at noon on the day of the first meeting of the board; and

(2) continuing until a successor has qualified for the office.

(b) A member of the board is eligible for reappointment to successive terms.

(c) A member of the board may be impeached under the procedure provided for the impeachment of county officers.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-15

Board; restrictions on members

Sec. 15. (a) A member of the board is ineligible to hold an appointive office or employment for the authority.

(b) A member of the board may not be or become personally interested in a contract with or claim against the authority.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-16

Board; compensation of members

Sec. 16. The members of the board are entitled to a minimum compensation of six hundred dollars ($600) each year.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-17
Board; officers

Sec. 17. The board shall, at the board's first regular meeting to be conducted on the first July 1 or January 1 following appointment of the members and annually thereafter, elect the following officers:

(1) One (1) of the members as president.

(2) Another of the members as vice president, who shall perform the duties of the president during the absence or disability of the president.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-18
Board; office and records

Sec. 18. The board shall have a suitable office where the board's maps, plans, documents, records, and accounts shall be kept, subject to public inspection at all reasonable times.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-19
Board; meetings

Sec. 19. (a) The board shall by rule provide for regular meetings to be held not less than at semimonthly intervals throughout the year. The board shall keep meetings open to the public.

(b) The board shall convene a special meeting when a special meeting is called. The chairman or a majority of the members of the board may call a special meeting. The board shall do the following:

(1) Establish by rule a procedure for calling special meetings.

(2) Give notice of a special meeting that is open to the public by publication one (1) time, not less than twenty-four (24) hours before the time of the meeting, in each of two (2) daily newspapers of general circulation in the district.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-20
Board; quorum

Sec. 20. A majority of the members of the board constitutes a quorum for a meeting. The board may act officially by an affirmative vote of a majority of the members present at the meeting at which the action is taken.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-21
Board; record of proceedings

Sec. 21. The board shall have a written record of the board's proceedings kept. The record must be available for public inspection in the office of the board. The board shall record in the record the affirmative and negative vote on the passage of each item of business.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-22
Board; rules of procedure

Sec. 22. The board shall adopt a system of rules of procedure under which the board's meetings are to be held. The board may suspend the rules of procedure by unanimous vote of the members of the board who are present at the meeting. The board may not suspend the rules of procedure beyond the duration of the meeting at which the suspension of rules occurs.
As added by P.L.1-1995, SEC.20.

IC 14-27-6-23
Board; supervision of internal affairs

Sec. 23. The board may supervise the board's internal affairs in the same manner as other municipal legislative and administrative bodies.
As added by P.L.1-1995, SEC.20.

IC 14-27-6-24
Proposed drafts of ordinances

Sec. 24. (a) A member of the board may introduce a proposed draft of an ordinance at a meeting of the board. A person who introduces a proposed draft of an ordinance shall provide at the time of introduction a written copy of the proposed draft.

(b) The board shall assign to each proposed draft of an ordinance a distinguishing number and the date when introduced.
As added by P.L.1-1995, SEC.20.

IC 14-27-6-25
Notice of pending action on proposed drafts

Sec. 25. (a) Not:

(1) more than seven (7) days after the introduction of a proposed draft of an ordinance; and

(2) less than seven (7) days before the final passage of a proposed draft of an ordinance;

the board shall publish a notice that the proposed ordinance is pending final action by the board. The notice shall be published one (1) time in each of two (2) daily newspapers that have a general circulation in the district. Notice of an ordinance establishing a budget must be in accordance with the general law relating to budgets of cities.

(b) The board shall do the following:

(1) Include in the notice the following:

(A) Reference to the subject matter of the proposed ordinance.

(B) The time and place a hearing will be held on the proposed ordinance.

(C) A statement that the proposed draft of an ordinance is

available for public inspection at the office of the board.

(2) Not later than the date of notice of the introduction of a proposed ordinance, place five (5) copies of the proposed draft on file in the office of the board for public inspection.

(c) The board may include in one (1) notice a reference to the subject matter of each draft of an ordinance that is pending and for which notice has not already been given.

(d) An ordinance is not invalid because the reference to the subject matter of the draft of an ordinance was inadequate if the reference was sufficient to advise the public of the general subject matter of the proposed ordinance.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-26

Meetings to take action on proposed drafts

Sec. 26. At a meeting for which notice has been given as required by section 25 of this chapter, the board may:

(1) take final action on the proposed ordinance; or

(2) postpone final consideration to a designated meeting in the future without giving additional notice.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-27

Public meeting required

Sec. 27. The board may adopt a draft of an ordinance only at a meeting that is open to the public. Before adopting an ordinance, the board shall give opportunity to a person present at the meeting to give testimony, evidence, or argument for or against the proposed ordinance in person or by counsel under rules that the board adopts concerning the number of persons who may be heard and time limits.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-28

Effective dates of ordinances

Sec. 28. Whenever the board adopts an ordinance, the board shall at the same meeting designate the effective date of the ordinance. If the board fails to designate the effective date of the ordinance in the record of the proceedings of the board, the ordinance takes effect fourteen (14) days after passage.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-29

Copies of ordinances

Sec. 29. (a) The board shall have copies of each ordinance made available to the public.

(b) The board may provide for the printing of any of the ordinances of the authority in pamphlet form or in bound volumes. The board may:

(1) distribute the pamphlets or volumes without charge; or

(2) charge the cost of printing and distribution.
As added by P.L.1-1995, SEC.20.

IC 14-27-6-30
General powers of board

Sec. 30. The board may perform all acts necessary or reasonably incident to carrying out the purposes of this chapter, including the following powers:

(1) To sue and be sued collectively by the board's name "_____ Levee Authority", with service of process being had on the president of the board. However, costs may not be taxed against the board or any of the board's members in an action.

(2) To have exclusive jurisdiction within the district.

(3) To adopt ordinances to protect all property owned or managed by the board.

(4) To adopt an annual budget and levy taxes not to exceed two and sixty-seven hundredths cents ($0.0267) on each one hundred dollars ($100) of assessed property in accordance with this chapter.

(5) To incur indebtedness in the name of the authority in accordance with this chapter.

(6) To:

(A) acquire real, personal, or mixed property by deed, purchase, lease, condemnation, or otherwise; and

(B) dispose of the property;

for flood control purposes.

(7) To do the following:

(A) Receive gifts, donations, bequests, and public trusts.

(B) Agree to accompanying conditions and terms and bind the authority to carry out the terms and conditions.

(8) To determine matters of policy regarding internal organization and operating procedures not specifically provided for otherwise.

(9) In addition to all other powers conferred by this chapter and IC 14-27-3, to do the following:

(A) Cooperate with an officer or agency of the federal government in the performance of any of the work authorized by this chapter.

(B) Accept labor, material, or financial assistance.

(C) Do all things not inconsistent with this chapter necessary to satisfy the requirements of the federal authorities for the purpose of obtaining aid from the federal government.

(10) To purchase supplies, materials, and equipment to carry out the duties and functions of the board in accordance with procedures adopted by the board and in accordance with general law.

(11) To employ personnel as necessary to carry out the duties, functions, and powers of the board.

(12) To sell surplus or unneeded property in accordance with procedures prescribed by the board.
(13) To adopt administrative rules to do the following:
(A) Carry out the board's powers and duties.
(B) Govern the duties of the board's officers, employees, and personnel.
(C) Govern the internal management of the affairs of the board.
The board shall publish all rules adopted by the board for at least ten (10) days in a newspaper of general circulation printed in the district.
(14) To fix the salaries or compensation of the officers and employees of the authority, except as otherwise provided by this chapter.
(15) To carry out the purposes and objects of the authority.
(16) To adopt and use a seal.
(17) To:
(A) acquire land, easements, and rights-of-way; and
(B) establish, construct, improve, equip, maintain, control, lease, and regulate levees and the land owned adjacent to the levees, either within or outside the district;
for flood prevention purposes. However, if at the time of the creation of the levee authority a political subdivision owns or controls a levee, upon the qualification of the members of the board the exclusive control, management, and authority over each levee owned or controlled by a political subdivision shall be transferred to the board without the passage of an ordinance. The board of public works of the political subdivision or other persons having possession or control of a levee shall immediately deliver to the board all personal property and records, books, maps, and other papers and documents relating to the levee.
(18) To:
(A) elect a secretary from the board's membership; or
(B) employ a secretary;
and fix the compensation of the secretary.
(19) To do the following:
(A) Employ superintendents, managers, engineers, surveyors, attorneys, clerks, guards, mechanics, laborers, and all other employees the board considers expedient. All employees shall be selected and appointed irrespective of political affiliations.
(B) Prescribe and assign the duties and authority of the employees.
(C) Fix the compensation to be paid to the persons employed by the board in accordance with appropriations made by the city fiscal body.
(D) Require a bond on any officer or employee of the authority in the amount, upon the terms and conditions, and

with surety to the approval of the board.

(20) To adopt rules not in conflict with:

(A) Indiana law;

(B) the ordinances of the city; or

(C) the laws or regulations of the United States and the United States Corps of Army Engineers;

regulating the construction, maintenance, and control of the board's levees and other property under the board's control.

(21) To establish the board's own detail or department of police or to hire guards to execute the orders and enforce the rules of the board.

(22) To permit the federal government to do the following:

(A) Construct or repair, on land or rights-of-way owned by the authority, levees, dikes, breakwaters, pumping stations, syphons, and flood gates.

(B) Construct or repair sewers, ditches, drains, diversion channels, and watercourses if necessary in the actual construction, repair, and maintenance of a levee and along land or rights-of-way owned by the authority.

(23) To do the following:

(A) Construct, maintain, and repair levees, dikes, breakwaters, pumping stations, and flood gates.

(B) Construct or repair sewers, ditches, drains, diversion channels, and watercourses if necessary in the actual construction, repair, and maintenance of a levee.

(24) To sell machinery, equipment, or material under the control of the board that the board determines is not required for levee purposes. The proceeds derived from the sale shall be deposited with the treasurer of the authority.

(25) To negotiate and execute:

(A) contracts of sale or purchase;

(B) leases;

(C) contracts for personal services, materials, supplies, or equipment; or

(D) any other transaction, business or otherwise;

relating to a levee under the board's control and operation. However, if the board determines to sell part or all of levee land, buildings, or improvements owned by the authority, the sale must be in accordance with statute. If personal property under the control of the board valued in excess of five hundred dollars ($500) is to be sold, the board shall sell to the highest and best bidder after due publication of notice of the sale.

(26) To contract with other political subdivisions and state agencies under IC 36-1-7 for:

(A) the provision of services;

(B) the rental or use of equipment or facilities; or

(C) the joint purchase and use of equipment or facilities;

considered proper by the contracting parties for use in the operation, maintenance, or construction of a levee operated

under this chapter.
As added by P.L.1-1995, SEC.20. Amended by P.L.6-1997, SEC.158.

IC 14-27-6-31
Letting of contracts; bidding

Sec. 31. (a) Except as provided in subsection (b), in the letting of a contract for the repair or equipment of a levee under the control of the board, the board shall, when:

(1) adopting plans;
(2) giving notice; and
(3) receiving bids;

comply with statutes.

(b) If:

(1) an emergency arises involving the safety of human life due to accident or act of God; and
(2) the board declares the emergency;

the board may purchase necessary equipment and appliances without advertising for bids.
As added by P.L.1-1995, SEC.20.

IC 14-27-6-32
Recovery of damages or possession of property

Sec. 32. The board may take action the board considers proper to do the following:

(1) Recover damages for the following:
(A) The breach of an agreement, express or implied, relating to or growing out of the operation, control, leasing, management, or improvement of the property under the board's control.
(B) The penalties for the violation of an ordinance or a rule of the board.
(C) Injury to the personal or real property under the board's control.
(2) Recover possession of property under the board's control.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-33
Eminent domain powers; generally

Sec. 33. (a) The board may do the following:

(1) Exercise the power of eminent domain for the purpose of carrying out this chapter.
(2) Award damages to landowners for real property and property rights appropriated and taken.

(b) If the board cannot agree with the owner, lessee, or occupant of real property selected by the board for the purpose set forth in this chapter, the board may proceed to procure the condemnation of the property as provided in this chapter.

(c) If not in conflict or inconsistent with this chapter, the board may also proceed under IC 32-24. IC 32-24 applies to levees under

this chapter as far as IC 32-24 is not in conflict or inconsistent with this chapter.
As added by P.L.1-1995, SEC.20. Amended by P.L.2-2002, SEC.60.

IC 14-27-6-34
Eminent domain powers; land already in public use

Sec. 34. (a) This section applies to land or the surface of the ground on, over, and across which it is necessary or advisable to construct a levee as provided in this chapter that:

(1) is already in use for any other public purpose; or
(2) has been condemned or appropriated for a use authorized by statute and is being used for that purpose by the corporation appropriating the land or surface of the ground.

(b) The public use or prior condemnation does not bar the right of the board to condemn the use of the ground for levee purposes.

(c) The use by the board does not permanently prevent the use of the land or the surface of the ground:

(1) for the prior public use; or
(2) by the corporation previously condemning or appropriating the land or surface of the ground.

(d) In a proceeding prosecuted by the board to condemn the use of land or the surface of ground for purposes permitted by this chapter, the board must show that the board's use will not permanently or seriously interfere with:

(1) the continued public use of the land or surface of ground; or
(2) the corporation previously condemning the land or surface or the corporation's successors.

However, in a proceeding the board may require and enforce the removal or the burying beneath the surface of the ground of wires, cables, power lines, or other structures within a restricted zone established as provided in this chapter.
As added by P.L.1-1995, SEC.20.

IC 14-27-6-35
Eminent domain powers; rights of board and landowners

Sec. 35. (a) In a proceeding prosecuted by the board to condemn or appropriate:

(1) land;
(2) the use of land; or
(3) a right in land;

for purposes permitted by this chapter, the board and all owners and holders of property or rights in property sought to be taken are governed by and have the same rights concerning procedure, notices, hearings, assessments of benefits and awards, and payments of benefits and awards that are prescribed by law for the appropriation and condemnation of real property.

(b) The property owners have the same powers and rights to:

(1) remonstrate; and
(2) appeal;

to the circuit or superior courts with jurisdiction in the county in which the district is located that are provided by law for the appropriation and condemnation of real property.

(c) An appeal:

(1) only affects the amount of the assessment of awards of the person appealing; and

(2) shall be taken in conformity with the laws relating to appeals. However, the payment of all damages awarded for land, property, or interests or rights in property appropriated under this chapter shall be paid entirely out of money under the control of the board.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-36

Eminent domain powers; taking possession; abandonment; acquisition of other land

Sec. 36. (a) Notwithstanding this or any other statute, the city or district may take possession of property to be acquired at any time after the filing of the petition describing the property in condemnation proceedings.

(b) The city or district may abandon the condemnation of property if possession of the property has not been taken.

(c) The board may acquire and use land reasonably necessary for the purposes of this chapter. However:

(1) the board may not acquire or use land that is still being used and is absolutely necessary for the purposes for which the land was previously condemned; and

(2) this chapter does not permit the acquisition or use by the board of land previously acquired by condemnation that is being used for the purpose for which the land was acquired if the use by the board would impair or interfere with the necessary use of the land by the owner of the land.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-37

Eminent domain powers; description of land; statement of purpose

Sec. 37. Within sixty (60) days after land or interests in land is acquired or taken under this chapter, the board shall file and cause to be recorded in the recorder's office of the county in which the land is situated the following, which a majority of the board shall sign:

(1) A description of the land or interest in land sufficiently accurate for identification.

(2) A statement of the purpose for which the land or interest in land is required or taken.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-38

General obligation bonds; issuance

Sec. 38. (a) The board may issue general obligation bonds of the

authority for the purpose of procuring money to pay the cost of:

(1) acquiring real property or rights-of-way; or

(2) constructing, enlarging, improving, remodeling, repairing, or equipping levees, gates, and pumping stations and sewers, ditches, and drains in connection with that construction or maintenance or other facilities;

for use as or in connection with or for administrative purposes of the levee.

(b) The board must authorize the issuance of bonds by ordinance providing for the following:

(1) The amount, terms, and tenor of the bonds.

(2) The time and character of notice.

(3) The mode of selling the bonds.

(c) The bonds:

(1) may bear interest at any rate;

(2) are payable in not more than twenty-five (25) years after the date of issuance; and

(3) shall be:

(A) executed in the name of the authority by the president of the board; and

(B) attested by the secretary and treasurer who shall affix to each of the bonds the official seal of the authority.

(d) The interest coupons attached to the bonds may be executed by placing on the coupons the facsimile signature of the president of the board.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-39

General obligation bonds; sale

Sec. 39. (a) The levee superintendent shall manage and supervise the preparation, advertisement, and sale of the bonds, subject to the authorizing ordinance. Before the sale of the bonds, the superintendent shall have notice of the sale published one (1) time each week for two (2) consecutive weeks in two (2) newspapers of general circulation published in the district. The notice must state the following:

(1) The time and place where bids will be received.

(2) The amount and maturity dates of the issue.

(3) The maximum interest rate.

(4) The terms and conditions of sale and delivery of the bonds.

(b) The bonds shall be sold to the highest and best bidder. After the bonds have been properly sold and executed, the superintendent shall do the following:

(1) Deliver the bonds to the treasurer of the authority and take a receipt for the bonds.

(2) Certify to the treasurer the amount that the purchaser is to pay for the bonds, together with the name and address of the purchaser.

(c) On payment of the purchase price the treasurer shall deliver the

bonds to the purchaser, and the treasurer and superintendent shall report their actions to the board.
As added by P.L.1-1995, SEC.20.

IC 14-27-6-40
General obligation bonds; applicability of IC 5-1 and IC 6-1.1-20

Sec. 40. The provisions of IC 5-1 and IC 6-1.1-20 relating to the following apply to proceedings under this chapter:

(1) The filing of a petition requesting the issuance of bonds and giving notice of the petition.
(2) The giving of notice of determination to issue bonds.
(3) The giving of notice of hearing on the appropriation of the proceeds of bonds and the right of taxpayers to appeal and be heard on the proposed appropriation.
(4) The approval of the appropriation by the department of local government finance.
(5) The right of:
(A) taxpayers and voters to remonstrate against the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or
(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a).
(6) The sale of bonds at public sale for not less than the par value.

As added by P.L.1-1995, SEC.20. Amended by P.L.90-2002, SEC.371; P.L.219-2007, SEC.98; P.L.146-2008, SEC.425.

IC 14-27-6-41
General obligation bonds; payment; tax exemption

Sec. 41. (a) All bonds issued under this chapter or under IC 13-2-31 (before its repeal) are the direct general obligations of the authority issuing the bonds and are payable out of unlimited ad valorem taxes that shall be levied and collected on all the taxable property within the district. All officials and bodies involved with the levying of taxes for the district shall ensure that sufficient levies are made to meet the principal and interest on the bonds at the time fixed for payment without regard to any other statute.

(b) The bonds issued under this chapter or under IC 13-2-31 (before its repeal) are exempt from taxation for all purposes.
As added by P.L.1-1995, SEC.20. Amended by P.L.192-2002(ss), SEC.157.

IC 14-27-6-42
Tax anticipation loans

Sec. 42. (a) The board may authorize and make temporary loans in anticipation of the collection of taxes in the district actually levied and in course of collection for the fiscal year in which the loans are made.

(b) The board must authorize the loans by ordinance and shall

evidence the loans by warrants in the form provided by the authorizing ordinance. The warrants must state the following:

(1) The total amount of the issue.

(2) The denomination of the warrant.

(3) The time and place payable.

(4) The rate of interest.

(5) The revenues in anticipation of which the warrants are issued and out of which the warrants are payable.

(6) A reference to the ordinance authorizing the warrants and the date of passage of the ordinance.

(c) The ordinance authorizing the temporary loans must appropriate and pledge sufficient of the current revenues in anticipation of which the warrants are issued and out of which the warrants are payable to the payment of the warrants. The warrants evidencing the temporary loans shall be executed, sold, and delivered in the same manner as are bonds of the authority.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-43

Treasurer; appointment, powers, and duties

Sec. 43. (a) The board shall appoint a person to act as treasurer of the authority. The treasurer shall give bond in the amount and with the condition that the board prescribes and with surety to the approval of the board. The treasurer shall be appointed to serve for a term of one (1) year unless removed for cause.

(b) All money payable to the authority shall be paid to the treasurer, and the treasurer shall deposit the money in accordance with the statutes relating to the deposit of public money by municipal corporations. The treasurer shall keep an accurate account of the following:

(1) All appropriations made and all taxes levied by the authority.

(2) All money owing or due to the authority.

(3) All money received and disbursed.

(c) The treasurer shall preserve all vouchers for payments and disbursements made.

(d) The treasurer shall issue all warrants for the payment of money from the money of the district, but a warrant may not be issued for the payment of a claim until the claim has been allowed in accordance with the procedure prescribed by the board. The president shall countersign all warrants. Whenever the treasurer is called upon to issue a warrant, the treasurer may do the following:

(1) Require evidence that the amount claimed is justly due and in conformity with law.

(2) For that purpose:

(A) summon before the treasurer an officer, agent, or employee of the authority or other person; and

(B) examine the individual concerning the warrant on oath or affirmation that the treasurer may administer.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-44
Treasurer; report of accounts

Sec. 44. The treasurer shall submit to the board annually, and more often if required by the board, a report of the accounts exhibiting the following:

(1) The revenues, receipts, and disbursements.

(2) The sources from which the revenues and money are derived.

(3) The manner in which the money has been disbursed.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-45
Audits

Sec. 45. The treasurer shall submit annually, and more often if required by the board, the records of accounts to a certified public accountant or firm of certified public accountants designated or selected by the board for audit. The accountant or firm shall prepare and submit a certified report of the records of accounts to the board exhibiting the following:

(1) The revenues, receipts, and disbursements.

(2) The sources from which the revenues and money are derived.

(3) The manner in which the money has been disbursed.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-46
Budgets; tax levies

Sec. 46. (a) The board shall do the following:

(1) Annually prepare a budget for the operation and capital expenditures of the authority.

(2) Calculate the tax levy necessary to provide money for the operating expenditures necessary to carry out the powers, duties, and functions of the authority together with any capital expenditures that are included in the annual budget.

(b) The budget shall be prepared and submitted at the same time and in the same manner as provided by the statutes relating to the preparation of budgets by cities. The budget is subject to the same review by the county tax adjustment board and the department of local government finance as under the statutes relating to budgets of cities.

(c) The budgets and the tax levies are subject to review and modification by the fiscal body of a city and county within the district in the same manner as the budgets and tax levies of the executive departments of the city.

As added by P.L.1-1995, SEC.20. Amended by P.L.90-2002, SEC.372.

IC 14-27-6-47
Assessment and collection of tax levies

Sec. 47. The county treasurer shall assess and collect the tax levy as finally approved by the department of local government finance as other taxes are levied and collected. The county treasurer shall remit all taxes so collected to the treasurer of the authority.

As added by P.L.1-1995, SEC.20. Amended by P.L.90-2002, SEC.373.

IC 14-27-6-48
Cumulative building fund

Sec. 48. (a) The board may provide a cumulative building fund in compliance with IC 6-1.1-41 to provide for the erection of:

(1) levees, gates, and pumping stations; or

(2) other facilities or the addition to or improvement of the facilities on the levees;

needed to carry out this chapter.

(b) In compliance with IC 6-1.1-41, the board may levy a property tax not to exceed sixty-seven hundredths of one cent ($0.0067) on each one hundred dollars ($100) of taxable property within the district. As the tax is collected, the tax may be invested in negotiable United States bonds or other securities that the federal government has the direct obligation to pay.

(c) Any money of the cumulative building fund not invested in government obligations shall be withdrawn from the cumulative building fund in the same manner as money is regularly withdrawn from a general fund but without further or additional appropriation.

As added by P.L.1-1995, SEC.20. Amended by P.L.17-1995, SEC.13; P.L.6-1997, SEC.159.

IC 14-27-6-49
Board of finance

Sec. 49. The board shall act as a board of finance under the statutes relating to the deposit of public money by municipal corporations.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-50
Public purpose

Sec. 50. The acquiring, establishment, construction, improvement, equipment, maintenance, control, and operation of levees under this chapter are declared to be:

(1) a governmental function of general public necessity and benefit; and

(2) for the use and general welfare of all the people of Indiana as well as of the people residing in the district.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-51

Expenses

Sec. 51. All expenses incurred by the board necessary to be paid before the collection of taxes levied under this chapter shall be met and paid in the following manner:

(1) The board shall periodically certify items of expense to the controller of the city directing the controller to pay the amounts. The controller shall draw a warrant that shall be paid out of the general money of the city not appropriated without special appropriation being made by the city fiscal body or approval of any other body.

(2) If there is not unappropriated general money of the city, the controller shall recommend to the city fiscal body the temporary transfer from other money of the city of a sufficient amount to meet the items of expense or the making of a temporary loan for this purpose. The city fiscal body shall immediately make the transfer or authorize the temporary loan in the same manner that other transfers and temporary loans are made by the city. The amount advanced by the city may not exceed fifty thousand dollars ($50,000), and the fund of the city from which the advancement is made shall be fully reimbursed and repaid by the authority out of the first proceeds of the taxes levied under this chapter. Money advanced by the city may not be used in the acquisition of real property.

As added by P.L.1-1995, SEC.20.

IC 14-27-6-52
Repealed

(As added by P.L.1-1995, SEC.20. Repealed by P.L.195-2014, SEC.35.)

IC 14-27-7

Chapter 7. Dams, Dikes, and Levees; Regulation

IC 14-27-7-1

"Owner" defined

Sec. 1. As used in this chapter, "owner" means an individual, a firm, a partnership, a copartnership, a lessee, an association, a corporation, an executor, an administrator, a trustee, the state, an agency of the state, a municipal corporation, a political subdivision of the state, a legal entity, a drainage district, a levee district, a conservancy district, any other district established by law, or any other person who has a right, a title, or an interest in or to the property upon which the levee, dike, or floodwall and appurtenant works is located.

As added by P.L.1-1995, SEC.20. Amended by P.L.148-2002, SEC.6.

IC 14-27-7-2

Maintenance and repair

Sec. 2. The owner of a levee, dike, or floodwall and appurtenant works shall maintain and keep the structures and appurtenant works in the state of repair and operating condition required by the following:

(1) The exercise of prudence.

(2) Due regard for life or property.

(3) The application of sound and accepted engineering principles.

As added by P.L.1-1995, SEC.20. Amended by P.L.148-2002, SEC.7.

IC 14-27-7-3

Powers and duties of department

Sec. 3. The department:

(1) has, on behalf of the state, jurisdiction and supervision over the maintenance and repair of levees, dikes, floodwalls, and appurtenant works in, on, or along the rivers and streams of Indiana;

(2) shall exercise care to see that the dikes, floodwalls, levees, and appurtenances are maintained in a good and sufficient state of repair and operating condition to fully perform the intended purpose;

(3) may adopt rules under IC 4-22-2 for maintenance and operation that are necessary for the purposes of this chapter; and

(4) may vary the standards for maintenance and operation, giving due consideration to the following:

(A) The type and location of the dike, floodwall, levee, or appurtenance.

(B) The hazards to which the dike, floodwall, levee, or appurtenance is or may be exposed.

(C) The peril to life or property if the dike, floodwall, levee,

or appurtenance fails to perform the structure's function.
As added by P.L.1-1995, SEC.20. Amended by P.L.148-2002, SEC.8.

IC 14-27-7-4
Engineering inspections

Sec. 4. (a) The department shall make an engineering inspection of all levees, dikes, and floodwalls and appurtenant works:

(1) at least one (1) time every three (3) years or at more frequent intervals if the exigencies of the case require; or

(2) upon the written request of an affected person or agency.

(b) The department shall place in the files of the department a report of each inspection conducted under subsection (a).

(c) This chapter does not apply to the following:

(1) A levee, dike, or floodwall that meets both of the following conditions:

(A) Is under a single private ownership.

(B) Provides protection only to land or other property under the single private ownership.

(2) A dike, floodwall, or levee that is regulated under the federal Mine Safety and Health Act of 1977, unless the dike, floodwall, or levee is proposed to be retained as a permanent structure after bond release.

As added by P.L.1-1995, SEC.20. Amended by P.L.75-1998, SEC.4; P.L.148-2002, SEC.9.

IC 14-27-7-5
Notice of violation

Sec. 5. If the department finds that a dike, floodwall, levee, or appurtenance is:

(1) not sufficiently strong;

(2) not maintained in a good and sufficient state of repair or operating condition; or

(3) unsafe and dangerous to life or property;

the department shall issue a notice of violation to the owner of the dike, floodwall, levee, or appurtenance under IC 14-25.5-2.
As added by P.L.1-1995, SEC.20. Amended by P.L.148-2002, SEC.10; P.L.71-2004, SEC.11.

IC 14-27-7-6
Emergency measures to protect life and property

Sec. 6. (a) If at any time the condition of a levee, a dike, a floodwall, or an appurtenance becomes so dangerous to the safety of life and property that, in the opinion of the department there is not sufficient time for the issuance and enforcement of a notice of violation for the maintenance, alteration, repair, reconstruction, change in construction or location, or removal of the dike, floodwall, levee, or appurtenance in the manner provided in this chapter, the department may immediately take the measures that are essential to provide emergency protection to life and property.

(b) The department may recover the cost of the emergency measures from the owner by appropriate legal action.
As added by P.L.1-1995, SEC.20. Amended by P.L.148-2002, SEC.11.

IC 14-27-7-7
Violations

Sec. 7. An owner who knowingly fails to effect the maintenance, alteration, repair, reconstruction, change in construction or location, or removal within the time limit set forth in the notice of violation of the department under:

(1) section 5 of this chapter; or
(2) IC 13-2-20-4 (before its repeal);

commits a Class B infraction. Every day of failure constitutes a separate infraction.
As added by P.L.1-1995, SEC.20. Amended by P.L.148-2002, SEC.12; P.L.71-2004, SEC.12.

IC 14-27-7-8
Right of entry upon premises

Sec. 8. The department and the department's agents, engineers, and other employees may, for the purposes of determining the department's jurisdiction and performing the engineering inspections provided in section 4 of this chapter, enter upon any land or water in Indiana without liability for trespass. The owner of a levee, dike, or floodwall and appurtenant works shall do the following:

(1) Cooperate with the department and the department's agents, engineers, and other employees in the conduct of the inspections.
(2) Facilitate access to the dike, floodwall, levee, or appurtenance.
(3) Furnish upon request the plans, specifications, operating and maintenance data, or other information that is pertinent to the dike, floodwall, levee, or appurtenance.

As added by P.L.1-1995, SEC.20. Amended by P.L.148-2002, SEC.13.

IC 14-27-7-9
Exemption of department from liability

Sec. 9. This chapter does not create a liability for damages against the department or the department's officers, agents, and employees caused by or arising out of any of the following:

(1) The construction, maintenance, operation, or failure of a levee, dike, or floodwall and appurtenant works.
(2) The issuance and enforcement of a notice of violation or a rule issued by the department to carry out the department's duties.

As added by P.L.1-1995, SEC.20. Amended by P.L.148-2002, SEC.14.

IC 14-27-7.5

Chapter 7.5. Regulation of Dams

IC 14-27-7.5-1

Applicability

Sec. 1. This chapter does not apply to the following:

(1) A structure that meets the following conditions:

(A) Is built for the sole purpose of erosion control, watering livestock, recreation, or providing a haven or refuge for fish or wildlife.

(B) Has a drainage area above the dam of not more than one (1) square mile.

(C) Does not exceed twenty (20) feet in height.

(D) Does not impound a volume of more than one hundred (100) acre-feet of water.

(2) A structure that is regulated under the federal Mine Safety and Health Act of 1977, unless the structure is proposed to be retained as a permanent structure after bond release.

As added by P.L.148-2002, SEC.15.

IC 14-27-7.5-2

"Hazard classification"

Sec. 2. As used in this chapter, "hazard classification" means a rating assigned to a structure by the department based on the potential consequences resulting from the uncontrolled release of its contents due to a failure or misoperation of the structure.

As added by P.L.148-2002, SEC.15.

IC 14-27-7.5-3

"Height"

Sec. 3. As used in this chapter, "height" means the vertical dimension of a structure as measured from the lowest point in the natural streambed or watercourse under the centerline of the structure to the top of the structure.

As added by P.L.148-2002, SEC.15.

IC 14-27-7.5-4

"Owner"

Sec. 4. As used in this chapter, "owner" means an individual, a firm, a partnership, a copartnership, a lessee, an association, a corporation, an executor, an administrator, a trustee, the state, an agency of the state, a municipal corporation, a political subdivision of the state, a legal entity, a drainage district, a levee district, a conservancy district, any other district established by law, or any other person who has a right, a title, or an interest in or to the property upon which the structure is located.

As added by P.L.148-2002, SEC.15.

IC 14-27-7.5-5
"Structure"

Sec. 5. As used in this chapter, "structure" means a dam and its appurtenant works.

As added by P.L.148-2002, SEC.15.

IC 14-27-7.5-6
"Volume"

Sec. 6. As used in this chapter, "volume" means the amount of water that is impounded by a structure:

(1) at or below the elevation of the top of the structure; or

(2) at or below the maximum design flood pool elevation;

whichever is lower.

As added by P.L.148-2002, SEC.15.

IC 14-27-7.5-7
Maintenance, repair, and sale; duties of owner

Sec. 7. (a) The owner of a structure shall maintain and keep the structure in the state of repair and operating condition required by the following:

(1) The exercise of prudence.

(2) Due regard for life and property.

(3) The application of sound and accepted technical principles.

(b) The owner of a structure shall notify the department in writing of the sale or other transfer of ownership of the structure. The notice must include the name and address of the new owner of the structure.

As added by P.L.148-2002, SEC.15. Amended by P.L.71-2004, SEC.13.

IC 14-27-7.5-8
Powers and duties of department; hazard classifications

Sec. 8. (a) The department:

(1) has, on behalf of the state, jurisdiction and supervision over the maintenance and repair of structures in, on, or along the rivers, streams, and lakes of Indiana;

(2) shall exercise care to see that the structures are maintained in a good and sufficient state of repair and operating condition to fully perform the intended purpose;

(3) shall grant permits for the construction and operation of structures in, on, or along the rivers, streams, and lakes of Indiana;

(4) may adopt rules under IC 4-22-2 for permitting, maintenance, and operation that are necessary for the purposes of this chapter; and

(5) may vary the standards for permits, maintenance, and operation, giving due consideration to the following:

(A) The type and location of the structure.

(B) The hazards to which the structure is or may be exposed.

(C) The peril to life or property if the structure fails to

perform the structure's function.

(b) The department shall establish by rule the criteria for assigning a hazard classification to a structure that is based on the potential consequences resulting from the uncontrolled release of the structure's contents due to a failure of the structure. The hazard classification system must include the following classes of structures:

(1) High hazard: A structure the failure of which may cause the loss of life and serious damage to homes, industrial and commercial buildings, public utilities, major highways, or railroads.

(2) Significant hazard: A structure the failure of which may damage isolated homes and highways, or cause the temporary interruption of public utility services.

(3) Low hazard: A structure the failure of which may damage farm buildings, agricultural land, or local roads.

As added by P.L.148-2002, SEC.15.

IC 14-27-7.5-9

High hazard structures; inspections; report; duty to make repairs or alterations; notice of violation

Sec. 9. (a) The owner of a high hazard structure shall:

(1) have a professional engineer licensed under IC 25-31 make an engineering inspection of the high hazard structure at least one (1) time every two (2) years;

(2) submit a report of the inspection in a form approved by the department to the department. The report must include at least the following information:

(A) An evaluation of the structure's condition, spillway capacity, operational adequacy, and structural integrity.

(B) A determination of whether deficiencies exist that could lead to the failure of the structure, and recommendations for maintenance, repairs, and alterations to the structure to eliminate deficiencies, including a recommended schedule for necessary upgrades to the structure.

(b) If after an inspection under subsection (a) the licensed professional engineer who conducted the inspection determines that maintenance, repairs, or alterations to a high hazard structure are necessary to remedy deficiencies in the structure, the owner shall perform the recommended maintenance, repairs, or alterations.

(c) The department shall issue a notice of violation under section 11 of this chapter to the owner of a high hazard structure who fails to:

(1) have the structure inspected under subsection (a);

(2) perform recommended maintenance, repairs, or alterations to the structure under subsection (b); or

(3) biennially submit the inspection report prepared under subsection (a).

(d) The department may make an engineering inspection of a high hazard structure to ensure compliance with this chapter.

As added by P.L.148-2002, SEC.15. Amended by P.L.1-2003,

SEC.60; P.L.186-2003, SEC.72.

IC 14-27-7.5-10
Significant and low hazard structures; inspections; reports; fees

Sec. 10. (a) The department shall make an engineering inspection of:

(1) a significant hazard structure at least one (1) time every three (3) years; and

(2) a low hazard structure at least one (1) time every five (5) years;

or at more frequent intervals if the exigencies of the case require.

(b) The department shall place in the files of the department a report of each inspection conducted under subsection (a).

(c) The department shall charge the following for engineering inspections:

(1) For a significant hazard structure under subsection (a)(1), a fee of two hundred dollars ($200).

(2) For a low hazard structure under subsection (a)(2), a fee of one hundred dollars ($100).

As added by P.L.148-2002, SEC.15. Amended by P.L.186-2003, SEC.73.

IC 14-27-7.5-11
Notice of violation

Sec. 11. If the department finds that a structure is:

(1) not sufficiently strong;

(2) not maintained in a good and sufficient state of repair or operating condition;

(3) not designed to remain safe during infrequent loading events; or

(4) unsafe and dangerous to life and property;

the department may issue a notice of violation under IC 14-25.5-2.

As added by P.L.148-2002, SEC.15. Amended by P.L.71-2004, SEC.14.

IC 14-27-7.5-12
Emergency measures to protect life and property

Sec. 12. (a) If at any time the condition of a structure becomes so dangerous to the safety of life and property that, in the opinion of the department, there is not sufficient time for the issuance and enforcement of an order for the maintenance, alteration, repair, reconstruction, change in construction or location, or removal of the structure in the manner provided in this chapter, the department may immediately take the measures that are essential to provide emergency protection to life and property, including the lowering of the water level by releasing water or by a controlled breach of the structure.

(b) The department may recover the cost of the emergency measures from the owner by appropriate legal action.

As added by P.L.148-2002, SEC.15.

IC 14-27-7.5-13
Violations

Sec. 13. An owner who knowingly fails to effect the maintenance, alteration, repair, reconstruction, change in construction or location, or removal within the time limit set forth in the notice of violation of the department under:

(1) section 11 of this chapter; or
(2) IC 13-2-20-4 (before its repeal);

commits a Class B infraction. Every day of failure constitutes a separate infraction.

As added by P.L.148-2002, SEC.15. Amended by P.L.71-2004, SEC.15.

IC 14-27-7.5-14
Right of entry upon premises

Sec. 14. The department and the department's agents, engineers, geologists, and other employees may, for purposes of determining the department's jurisdiction and performing the engineering inspections provided in sections 9 and 10 of this chapter, enter upon any land or water in Indiana without liability for trespass. The owner of a structure shall do the following:

(1) Cooperate with the department and the department's agents, engineers, geologists, and other employees in the conduct of the inspections.
(2) Facilitate access to the structure.
(3) Furnish upon request the plans, specifications, operating and maintenance data, or other information that is pertinent to the structure.

As added by P.L.148-2002, SEC.15. Amended by P.L.186-2003, SEC.74.

IC 14-27-7.5-15
Exemption of department from liability

Sec. 15. This chapter does not create a liability for damages against the department or the department's officers, agents, and employees caused by or arising out of any of the following:

(1) The construction, maintenance, operation, or failure of a structure.
(2) The issuance and enforcement of a notice of violation or a rule issued by the department to carry out the department's duties.

As added by P.L.148-2002, SEC.15.

IC 14-27-7.5-16
Request to have structure declared high hazard; notice

Sec. 16. (a) A property owner, the owner's representative, or an individual who resides downstream from a structure:

(1) over which the department does not have jurisdiction under this chapter; and

(2) that the property owner, the owner's representative, or the individual believes would cause a loss of life or damage to the person's home, industrial or commercial building, public utility, major highway, or railroad if the structure fails;

may request in writing that the department declare the structure a high hazard structure.

(b) If the department receives a request under subsection (a), the department shall:

(1) investigate the structure and the area downstream from the structure;

(2) notify the owner of the structure that the structure is being investigated;

(3) review written statements and technical documentation from any interested party; and

(4) after considering the available information, determine whether or not the structure is a high hazard structure.

(c) The department shall issue a written notice of the department's determination under subsection (b) to:

(1) the individual who requested the determination; and

(2) the owner of the structure that is the subject of the request.

(d) Either:

(1) the individual who requested a determination; or

(2) the owner of the structure that is the subject of the request;

may request an administrative review under IC 4-21.5-3-6 within thirty (30) days after receipt of the written determination.

(e) If the department determines that a structure is a high hazard structure under subsection (b), the provisions of this chapter concerning high hazard structures apply to the structure.

As added by P.L.71-2004, SEC.16.

IC 14-27-7.7

Chapter 7.7. Lease of Williams Dam

IC 14-27-7.7-1

Long term lease for Williams Dam

Sec. 1. The director may enter into a long term lease of the Williams Dam on the East Fork of the White River in Lawrence County.

As added by P.L.16-2009, SEC.23.

IC 14-27-7.7-2

Lease requirements

Sec. 2. A lease executed under this chapter must meet the following requirements:

(1) It must be for the development of hydroelectric power at the Williams Dam Fishing Area.

(2) It must enhance the recreation and fishing potential of the Williams Dam Fishing Area.

(3) The initial term of the lease may not exceed forty (40) years.

As added by P.L.16-2009, SEC.23.

IC 14-27-7.7-3

Lease renewal

Sec. 3. A lease executed under this chapter may provide for renewal at the option of the director, with the approval of the governor.

As added by P.L.16-2009, SEC.23.

IC 14-27-7.7-4

Lease limitations and restrictions

Sec. 4. A lease executed under this chapter may include any other limitations or restrictions determined necessary by the director.

As added by P.L.16-2009, SEC.23.

IC 14-27-7.7-5

Disposition of lease revenues

Sec. 5. Revenue from a lease under this chapter shall be used solely for the division of fish and wildlife.

As added by P.L.16-2009, SEC.23.

IC 14-27-8

Chapter 8. Drainage Districts

IC 14-27-8-1

Applicability of chapter

Sec. 1. This chapter applies if a public ditch or drain is established and constructed under the order of any of the following:

(1) A circuit or superior court.

(2) A county executive.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-2

"District" defined

Sec. 2. As used in this chapter, "district" refers to a drainage maintenance and repair district.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-3

"Ditch" or "drain" defined

Sec. 3. As used in this chapter, "ditch" or "drain" includes the following:

(1) A main dredge ditch.

(2) The lateral ditches:

(A) tributary to a main ditch; and

(B) constructed as one (1) system of drainage by the use of a dredge machine.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-4

Petition to establish district; filing

Sec. 4. (a) A petition requesting the establishment of a drainage maintenance and repair district under this chapter may not be filed after June 30, 2001.

(b) Twenty percent (20%) of the owners of the real property assessed for a ditch or drain who:

(1) would benefit by the construction of the ditch or drain; and

(2) own not less than twenty percent (20%) of the land in acreage that is assessed for the ditch or drain;

may file, in the office of the clerk of a circuit or superior court having jurisdiction in the county in which is located the greatest acreage of the land as last assessed with benefits for the construction or reconstruction of the ditch, a petition requesting the establishment of a drainage maintenance and repair district.

As added by P.L.1-1995, SEC.20. Amended by P.L.276-2001, SEC.4.

IC 14-27-8-5

Petition to establish district; contents

Sec. 5. A petition filed under section 4 of this chapter must do the

following:

(1) Describe all the land assessed with benefits for the construction or reconstruction of the ditch or drain.

(2) State a general description of the ditch or drain that the district is proposed to keep in repair and to properly maintain.

(3) State that the maintenance and repair of the ditch or drain is a work of necessity or public utility and can be best accomplished by the organization of the district.

(4) Include other facts that are important.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-6

Petition to establish district; signature

Sec. 6. If the proposed district includes a city, town, or part of a city or town, the legislative body of the city or town may, after determining whether the city or town and the owners of land located in the city or town that would be included in the proposed district would benefit by the district, sign the petition. If a petition is signed by the legislative body, the petition shall be treated as if the petition were signed by all owners of land located in the city or town in the proposed district.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-7

Petition to establish district; hearing

Sec. 7. (a) Upon the filing of a petition described in section 4 of this chapter, the clerk of the court shall do the following:

(1) Fix by endorsement upon the petition a day in the next term of the court, not less than twenty (20) days later than the date of the filing of the petition, for the hearing.

(2) Give notice of the filing and hearing at least ten (10) days before the day fixed for the hearing as follows:

(A) By summons, which shall be served by United States mail, return receipt requested.

(B) For owners of land in the city or town, by reading to the legislative body of the city or town or a majority of the members.

(C) By posting notice in five (5) of the most public places within the proposed district.

(D) By posting one (1) notice at the door of the courthouse in the county in which the petition is filed.

(E) For nonresidents of Indiana, by publication one (1) time in a newspaper of general circulation in the county.

(b) When notified under subsection (a), the legislative body shall make every reasonable effort to see that landowners in the city or town included in the proposed district are informed of the proposed district.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-8

Petition to establish district; notice of hearing to resident landowners

Sec. 8. Notice given under section 7 of this chapter must state the following:

(1) The date of the filing.

(2) The time and place of the hearing.

(3) The fact that the petition requests the establishment of a district.

(4) The name and a general description of the dredge ditch or drain for which it is proposed to establish the district.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-9

Petition to establish district; notice of hearing to nonresident landowners

Sec. 9. (a) If a landowner in the proposed district is not a resident of one (1) of the counties in which the proposed district will lie, the petitioners shall file in the clerk's office with the petition an affidavit that does the following:

(1) Gives the name of every nonresident landowner.

(2) States the landowner's post office address if known.

(3) If the landowner's post office address is not known, states that diligent inquiry has been made to ascertain the address but has not been able to do so.

(b) The clerk shall mail a copy of the notice to every nonresident landowner whose post office address is stated in the affidavit not later than the day on which publication of the notice is made.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-10

Petition to establish district; court proceedings

Sec. 10. (a) Upon the hearing of a petition filed under section 4 of this chapter, an owner of real property within the proposed district may appear and contest the necessity for or utility of the establishment of the district.

(b) The court shall determine the following:

(1) Whether the petition is signed by twenty percent (20%) of the landowners in the proposed district.

(2) Whether the landowners represent at least twenty percent (20%) of the land in acreage included in the proposed district.

(c) If the court after hearing the evidence finds that a petition has not been signed as required by this chapter, the court shall dismiss the petition at the cost of the petitioners.

(d) If the court finds that:

(1) a petition has been signed by twenty percent (20%) of the owners of land within the proposed district; and

(2) the signers own at least twenty percent (20%) of the land in acreage;

the finding shall be entered of record and is conclusive upon all landowners owning land within the district who have been notified as required by this chapter.

(e) If it further appears to the court that:

(1) the establishment of the proposed district is necessary; or

(2) the district will be useful and a public utility;

the court shall adjudge the district established unless a remonstrance objecting to the establishment has been filed with the clerk of the court.

(f) A remonstrance filed under subsection (e) must contain the names of the following:

(1) Owners of at least two-thirds (2/3) of the acreage described within the proposed district.

(2) Owners of land abutting on at least fifty-one percent (51%) of the length of the ditch.

(g) The court shall give the district a distinguishing name.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-11

Drainage commissioners; appointment; qualifications

Sec. 11. (a) The board of commissioners of the county shall appoint three (3) drainage commissioners to do the following:

(1) Take charge of the maintenance and repair of the dredge ditch or drain within the district.

(2) Perform other duties assigned to the drainage commissioners under this chapter.

(b) A drainage commissioner must have the following qualifications:

(1) Own land in the district.

(2) Reside in the district.

(3) Be an individual of intelligence and good judgment.

(c) If the district is composed of land from more than one (1) county, the board of commissioners of each county may participate in the appointment of the drainage commissioners.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-12

Drainage commissioners; terms

Sec. 12. (a) The initial drainage commissioners serve for terms designated by the board of commissioners of the county as follows:

(1) One (1) drainage commissioner for one (1) year.

(2) One (1) drainage commissioner for two (2) years.

(3) One (1) drainage commissioner for three (3) years.

(b) Upon the expiration of the initial terms, the board of commissioners of the county shall appoint successors for terms of three (3) years.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-13

Drainage commissioners; oath

Sec. 13. Before entering upon the discharge of their duties, the drainage commissioners shall take and subscribe an oath to do the following:

(1) Faithfully and honestly discharge the duties of office without favor or partiality.

(2) Give a true account of their work to the board of county commissioners whenever required to do so by law.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-14

Drainage commissioners; chairman; secretary

Sec. 14. The drainage commissioners:

(1) shall elect one (1) of the drainage commissioners chairman; and

(2) may elect one (1) of the drainage commissioners secretary.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-15

Drainage commissioners; quorum

Sec. 15. A majority of the drainage commissioners constitutes a quorum. A quorum is sufficient in any matter within their duties as drainage commissioners.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-16

Drainage commissioners; filling of vacancies; removal

Sec. 16. (a) Upon the death or removal from the county of a drainage commissioner, the board of commissioners of the county shall appoint a successor.

(b) A drainage commissioner is subject to removal for cause upon written charges filed against the drainage commissioner in the circuit court.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-17

Drainage commissioners; per diem compensation and traveling expenses

Sec. 17. (a) A drainage commissioner serves without salary, but is entitled to be paid from the drainage maintenance fund twenty-five dollars ($25) per day, not to exceed five hundred dollars ($500) annually, for every day the drainage commissioner is actively and necessarily employed in the following:

(1) Going over the district for the purpose of inspecting the land and ditch and drains in the district.

(2) Preparing the statement of the annual assessment contemplated.

(b) A drainage commissioner is also entitled to be paid for traveling expense while engaged in the performance of duties under

this chapter an amount for mileage equal to that amount per mile paid to state officers and employees.
As added by P.L.1-1995, SEC.20.

IC 14-27-8-18
Maintenance of ditches and drains; labor and materials

Sec. 18. (a) The drainage commissioners:

(1) shall at all times keep and maintain the dredge ditch and drain in proper condition; and

(2) may, subject to subsection (b), hire all labor, purchase all material, and do all acts that are necessary and incident to maintaining the ditch and drain.

(b) An obligation may not be made until the assessments are levied.
As added by P.L.1-1995, SEC.20.

IC 14-27-8-19
Records of expenses; warrants

Sec. 19. (a) The drainage commissioners shall do the following:

(1) Keep a complete record of their proceedings and note in the record all expenses incurred in the maintenance and repair of the ditch and drain.

(2) File with the county auditor an itemized statement showing the costs and expenses of the maintenance, and specifying the amounts due and owing to each person.

(b) The county auditor shall draw a warrant on the county treasurer in favor of each person for the amount due the person. The amount shall be paid out of the drainage maintenance fund created by assessments levied on the land benefited by the maintenance and repair as provided in this chapter.
As added by P.L.1-1995, SEC.20.

IC 14-27-8-20
Fixing of assessment rate

Sec. 20. To raise the drainage maintenance fund, the drainage commissioners shall meet annually to do the following:

(1) Estimate the amount of money necessary to properly maintain the ditch and drain for the ensuing year.

(2) Determine what percent that amount is of the total of the last assessments made and confirmed by the court in the last proceedings to construct or reconstruct the ditch and drain. The drainage commissioners shall by resolution fix that percent as the assessment rate for the ensuing year, subject to the following:

(A) The assessment rate may not be greater than fifty percent (50%) of the last assessment.

(B) If, in a year there is an unencumbered balance in the drainage maintenance fund equal to or greater than four (4) times the estimated annual cost of the drainage maintenance,

the annual assessment shall be omitted for that year.
As added by P.L.1-1995, SEC.20.

IC 14-27-8-21
Itemized statement of costs of petitioners

Sec. 21. The petitioners for the district shall present an itemized statement of all costs incurred by the petitioners in petitioning for the establishment of the district. If the drainage commissioners find the statement to be true and the expenses to be reasonable, the drainage commissioners shall include the expenses in the first assessment and reimburse the petitioners immediately.
As added by P.L.1-1995, SEC.20.

IC 14-27-8-22
Collection of assessments

Sec. 22. (a) The drainage commissioners shall, before November 1 of each year, file with the county auditor a certified copy of the resolution fixing the assessment rate.

(b) The county auditor shall do the following:

(1) Prepare an assessment duplicate assessing each tract of land with an amount determined by multiplying the last assessment on the tract of land made and confirmed by the court in the last proceedings to construct or reconstruct the ditch by the assessment rate.

(2) Deliver the assessment duplicate to the county treasurer at the same time the tax duplicates are delivered. However, if the amount to be collected is not greater than fifty cents ($0.50), the county auditor may not deliver the assessment duplicate to the county treasurer to be collected.

(c) The county treasurer shall collect the assessments in the same ways as taxes are collected, except that the whole amount is due and payable and collected at the time of the payment of the spring installment of taxes. All laws concerning the collection of taxes apply to enforce the collection of assessments.
As added by P.L.1-1995, SEC.20.

IC 14-27-8-23
Carryover of balance in drainage maintenance fund

Sec. 23. A balance remaining in the drainage maintenance fund at the end of a year shall be carried forward into the drainage maintenance fund for the ensuing year.
As added by P.L.1-1995, SEC.20.

IC 14-27-8-24
Dissolution of district; authority

Sec. 24. A district established under this chapter or under IC 13-2-21 (before its repeal) may be dissolved by order of the court that established the district in accordance with:

(1) IC 36-9-27-27; or

(2) section 25 of this chapter.
As added by P.L.1-1995, SEC.20.

IC 14-27-8-25
Dissolution of district; petition

Sec. 25. (a) The court shall dissolve the district if it is shown that a petition for dissolution contains either of the following:

(1) The names of a majority of the drainage commissioners.

(2) The names of:

(A) the owners of at least two-thirds (2/3) of the acreage described within the district; and

(B) the owners of land abutting on at least fifty-one percent (51%) of the length of the ditch involved.

(b) A petition of dissolution may not be presented to the court until the district has been in existence for one (1) year.

(c) If the petition for dissolution is found by the court to be insufficient, the dissolution proceedings shall be dismissed at the cost of the petitioners for dissolution.
As added by P.L.1-1995, SEC.20.

IC 14-27-9
Chapter 9. Powers of Certain Drainage Corporations

IC 14-27-9-1
Assessments

Sec. 1. (a) If a nonprofit drainage corporation organized under Acts 1913, c.165 and reorganized under:

(1) IC 23-7-1 (before its repeal on September 2, 1971);
(2) IC 23-7-1.1 (before its repeal on August 1, 1991); or
(3) IC 23-17;

determines that repairs to a project constructed under a statute specified in this subsection are necessary, the board of directors may assess the land originally assessed for an amount not more than twenty-five percent (25%) of the original cost of construction.

(b) The schedule of assessments for repairs shall be posted in the offices of the corporation and printed in a newspaper of general circulation in the county.

As added by P.L.1-1995, SEC.20.

IC 14-27-9-2
Objections; appeals

Sec. 2. (a) The board shall hear an objection offered by an affected landowner to the assessment for repairs within ten (10) days of the posting under section 1 of this chapter.

(b) An affected landowner may appeal the assessment to the circuit court of the county within ten (10) days after the hearing.

As added by P.L.1-1995, SEC.20.

IC 14-27-9-3
Filing of assessments and placement on tax duplicate

Sec. 3. (a) The board of directors of the corporation shall file a statement of the repair assessments with the county auditor. The assessments are a lien upon filing.

(b) The county auditor shall do the following:

(1) Draw a warrant for the total amount of the repair assessments payable to the treasurer of the corporation.
(2) Place the repair assessments on the tax duplicate of each affected landowner.

As added by P.L.1-1995, SEC.20.

IC 14-28

ARTICLE 28. FLOOD CONTROL

IC 14-28-1

Chapter 1. Flood Control

IC 14-28-1-1

Legislative intent

Sec. 1. The following are declared:

(1) The loss of lives and property caused by floods and the damage resulting from floods is a matter of deep concern to Indiana affecting the life, health, and convenience of the people and the protection of property. To prevent and limit floods, all flood control works and structures and the alteration of natural or present watercourses of all rivers and streams in Indiana should be regulated, supervised, and coordinated in design, construction, and operation according to sound and accepted engineering practices so as to best control and minimize the extent of floods and reduce the height and violence of floods.

(2) The channels and that part of the flood plains of rivers and streams that are the floodways should not be inhabited and should be kept free and clear of interference or obstructions that will cause any undue restriction of the capacity of the floodways.

(3) The water resources of Indiana that have been diminishing should be accumulated, preserved, and protected to prevent any loss or waste beyond reasonable and necessary use.

(4) A master plan or comprehensive plan for the entire state to control floods and to accumulate, preserve, and protect the water resources should be investigated, studied, and prepared, policy and practices should be established, and the necessary works should be constructed and placed in operation.

As added by P.L.1-1995, SEC.21.

IC 14-28-1-1.2

"Boundary river" defined

Sec. 1.2. "Boundary river", for purposes of this chapter, means the part of the Ohio River that forms the boundary between Kentucky and Indiana.

As added by P.L.135-1997, SEC.11.

IC 14-28-1-1.3

"Boundary river floodway" defined

Sec. 1.3. "Boundary river floodway", for purposes of this chapter, means the floodway (as defined by IC 14-8-2-102) of a boundary river.

As added by P.L.135-1997, SEC.12.

IC 14-28-1-2
"Flood control" defined

Sec. 2. As used in this chapter, "flood control" means the following:

(1) The prevention of floods.

(2) The control, regulation, diversion, or confinement of flood water or flood flow.

(3) The protection from flood water, according to sound and accepted engineering practice and including all things incidental to or connected with the protection, to minimize the following:

(A) The extent of floods.

(B) The death, damage, and destruction caused by floods.

As added by P.L.1-1995, SEC.21.

IC 14-28-1-3
"Flood easement" defined

Sec. 3. As used in this chapter, "flood easement" means an easement on property to be inundated or covered by water.

As added by P.L.1-1995, SEC.21.

IC 14-28-1-4
"Water resources" defined

Sec. 4. As used in this chapter, "water resources" means surface and subsurface water.

As added by P.L.1-1995, SEC.21.

IC 14-28-1-5
Adoption of rules

Sec. 5. The commission shall adopt rules under IC 4-22-2 for the following:

(1) The transaction of commission business.

(2) The administration and exercise of the commission's powers and duties.

As added by P.L.1-1995, SEC.21.

IC 14-28-1-6
Furnishing of information

Sec. 6. Each county agent, city engineer, county engineer, county surveyor, and state agency shall obtain, provide, and furnish pertinent data and information that is requested by an order of the commission, subject to the approval of the governor.

As added by P.L.1-1995, SEC.21.

IC 14-28-1-7
Use of state agencies; personnel; purchases

Sec. 7. The commission may do the following:

(1) Use any state agency in connection with:

(A) the commission's investigation, studies, and preparation of plans; or

(B) the performance of other duties.

(2) Employ the technical experts, engineers, and clerical and other assistants that are necessary.

(3) Through the state purchasing agent purchase the supplies, equipment, instruments, and machinery that the commission considers necessary to perform the commission's duties.

As added by P.L.1-1995, SEC.21.

IC 14-28-1-8
Right of entry upon premises

Sec. 8. The commission and the commission's agents, engineers, surveyors, and other employees may enter upon any land or water in Indiana for the purpose of making an investigation, an examination, or a survey provided by this chapter.

As added by P.L.1-1995, SEC.21.

IC 14-28-1-9
Hearings

Sec. 9. The commission may conduct hearings at which at least one (1) of the commission members shall preside. Each commissioner may administer oaths. The commission may obtain information for the commission's purposes from any person, including issuing subpoenas to require the attendance of witnesses and examining witnesses under oath.

As added by P.L.1-1995, SEC.21.

IC 14-28-1-10
Title to property

Sec. 10. The title to all land, easements, flood easements, or other interest in land or other property or rights acquired by the commission must be:

(1) approved by the attorney general; and

(2) taken in the name of the state of Indiana.

As added by P.L.1-1995, SEC.21.

IC 14-28-1-11
Eminent domain powers

Sec. 11. (a) The commission may exercise the power of eminent domain. If the commission is unable to agree with the owner for the purchase of:

(1) land;

(2) an easement;

(3) a flood easement;

(4) other interest in land; or

(5) other property or right that in the commission's opinion is necessary for the commission's purposes;

the commission may acquire the property or right by condemnation under IC 32-24.

(b) The commission must adopt an appropriate resolution and

deliver the resolution to the attorney general.

(c) The attorney general shall commence and prosecute an action in the name of the state of Indiana on the relation of the commission for the appropriation of the property or right. The title to the property or right acquired vests in the state.

As added by P.L.1-1995, SEC.21. Amended by P.L.2-2002, SEC.61.

IC 14-28-1-12

Jurisdiction; comprehensive studies and plans

Sec. 12. The commission has jurisdiction over the public and private waters in Indiana and the adjacent land necessary for flood control purposes or for the prevention of flood damage. The commission shall do the following:

(1) Make a comprehensive study and investigation of all pertinent conditions of the areas in Indiana affected by floods.

(2) Determine the best method and manner of establishing flood control, giving consideration to the following:

(A) The reservoir method.

(B) The channel improvement method.

(C) The levee method.

(D) The flood plain regulation method.

(E) Any other practical method.

(3) Adopt and establish a comprehensive plan or master plan for flood control for all areas of Indiana subject to floods.

(4) Determine the best and most practical method and manner of establishing and constructing the necessary flood control works.

(5) Adopt appropriate measures for the prevention of flood damage.

As added by P.L.1-1995, SEC.21.

IC 14-28-1-13

Construction or obtaining of flood control works

Sec. 13. (a) The commission may construct flood control works or a part of flood control works. The commission may perform the duties in cooperation with any of the following:

(1) A person.

(2) A state agency.

(3) Other states or an agency of another state.

(4) The United States or any agency of the United States.

(b) The commission shall obtain flood control works as follows:

(1) From and through or by cooperation with the United States Army Corps of Engineers or an agency of the United States.

(2) By cooperation with and action of cities and towns under Indiana law relating to flood control.

(3) By cooperation with and action of landowners in rural areas affected by flood control works under Indiana law relating to levees.

As added by P.L.1-1995, SEC.21.

IC 14-28-1-14

Surveys, investigations, plans, and recommendations regarding water resources

Sec. 14. The commission shall do the following:

(1) Make surveys and investigations of the water resources of Indiana, giving consideration to the need for and appropriate sources of suitable water supplies for domestic, agricultural, municipal, industrial, power, transportation, recreation, stream pollution, health, and other beneficial purposes.

(2) Make and formulate plans and recommendations for the further development, protection, and preservation of the water resources of Indiana for such purposes.

As added by P.L.1-1995, SEC.21.

IC 14-28-1-15

Recommendations and information from department

Sec. 15. (a) The commission shall, in the course of the commission's investigations and surveys of multiple purpose flood control reservoirs, obtain recommendations from the department relative to the comprehensive planning of:

(1) recreational facilities;

(2) hunting and fishing opportunities; and

(3) forest improvements;

in connection with the reservoirs.

(b) The recommendations from the department must be accompanied by supporting data and information, as far as is feasible, including the following:

(1) Plans and policies for the acquisition, development, maintenance, operation, and use of land.

(2) Estimates of costs and benefits.

(3) Proposed sources of money.

(c) The information shall:

(1) be made available to the public; and

(2) be included as an integral part of the reports pertaining to multiple purpose flood control reservoirs that are prepared by the commission.

As added by P.L.1-1995, SEC.21.

IC 14-28-1-16

Promotion of local efforts; cooperation with individuals and agencies

Sec. 16. The commission shall do the following:

(1) Encourage and promote local initiative and effort in providing flood control and in the development of water resources, subject to the regulation and control provided by law.

(2) Cooperate with, advise, disseminate information to, and assist any person or state agency in matters relating to flood control and the development of water resources, including flood plain regulations or controls.

As added by P.L.1-1995, SEC.21.

IC 14-28-1-17
Cooperation with federal government

Sec. 17. The commission may do the following:

(1) Represent and act for and in behalf of the state, subject to the approval of the governor, in all matters of flood control and the water resources of Indiana with the United States and any other state.

(2) Cooperate with, obtain, approve, and accept flood control works from and through the United States Army Corps of Engineers.

(3) Cooperate with and obtain, approve, and accept works or a grant of any character or description from and through an agency of the United States relating to flood control and water resources and administer the expenditures of money in connection with the grant.

As added by P.L.1-1995, SEC.21.

IC 14-28-1-18
Easements and rights-of-way

Sec. 18. (a) This section applies to real property:

(1) for which the state has the custody, management, possession, or control; and

(2) in which the state has a right, a title, or an interest.

(b) The state may, with the written approval of the governor, give, grant, and convey to any person:

(1) easements;

(2) rights-of-way; and

(3) the right and privilege;

to construct, erect, maintain, operate, and use any works or structures in connection with flood control or water resources on and in the real property.

As added by P.L.1-1995, SEC.21.

IC 14-28-1-19
Applicability of laws regarding structures in floodways

Sec. 19. Sections 20, 21, 22, 23, 24, and 25 of this chapter do not apply to any of the following:

(1) An abode or a residence constructed on land that meets the following conditions:

(A) Is between the 791.0 mile marker and the 791.5 mile marker on the Ohio River.

(B) Is adjacent to a recreational area.

(C) Has been or may be filled to or above an elevation of three hundred seventy-eight (378) feet above sea level.

(D) Is properly protected by riprap in a manner that minimizes the possibility of erosion by river currents.

(2) An abode or a residence if the following conditions are met:

(A) The abode or residence is rebuilt upon the area of the original foundation and is substantially the same configuration as the former abode or residence.
(B) The abode or residence was unintentionally destroyed by a means other than floodwater.
(C) The rebuilding of the abode or residence is begun within one (1) year and completed within two (2) years after the destruction of the former abode or residence.
(D) The abode or residence is located in the floodway of a stream having a watershed upstream from the abode or residence of less than fifteen (15) square miles in area.
(E) The lowest floor of the rebuilt abode or residence, including the basement, is at or above the one hundred (100) year frequency flood elevation if the abode or residence was totally destroyed.
(F) A variance is obtained from the county or municipality for the lowest floor of the abode or residence to be below the one hundred (100) year frequency flood elevation if the damage to the former abode or residence is less than one hundred percent (100%).
(G) An ordinance allowing the rebuilding of an abode or a residence is adopted by any of the following:
(i) The legislative body of the city or town in which the abode or residence is located.
(ii) The legislative body of the county in which the abode or residence is located if the abode or residence is not located in a city or town.

(3) A property that is to be rehabilitated and reused as an abode or residence if the following conditions are met:
(A) The property is located between the South Newton Bridge (Veterans Memorial Bridge) located at 85.30 miles from the mouth of the Patoka River and the bridge that is part of State Road 164 located at 85.90 miles from the mouth of the Patoka River.
(B) The property is a former industrial site.
(C) The property is adjacent to a navigable waterway.
(D) The property is located adjacent to a riverwalk.
(E) The property is a property in need of revitalization.
(F) The property is vacant or in danger of becoming vacant.
(G) The lowest floor that is used as an abode or residence is at least two (2) feet above the one hundred (100) year frequency flood elevation.

As added by P.L.1-1995, SEC.21. Amended by P.L.108-2013, SEC.4.

IC 14-28-1-20
Erection of structures in floodways prohibited

Sec. 20. A person may not do any of the following:
(1) Erect in or on any floodway a permanent structure for use as an abode or a place of residence, except as authorized under

sections 24, 25, and 26.5 of this chapter.

(2) Except as authorized under section 26.5 of this chapter, erect, make, use, or maintain in or on any floodway, or suffer or permit the erection, making, use, or maintenance in or on any floodway, a structure, an obstruction, a deposit, or an excavation that will do any of the following:

(A) Adversely affect the efficiency of or unduly restrict the capacity of the floodway.

(B) By virtue of the nature, design, method of construction, state of maintenance, or physical condition do any of the following:

(i) Constitute an unreasonable hazard to the safety of life or property.

(ii) Result in unreasonably detrimental effects upon the fish, wildlife, or botanical resources.

(3) Reconstruct or allow or permit the reconstruction of an abode or a residence located in a floodway, except as authorized under sections 24, 25, and 26.5 of this chapter.

As added by P.L.1-1995, SEC.21. Amended by P.L.135-1997, SEC.13.

IC 14-28-1-21
Nuisance abatement

Sec. 21. A structure, an obstruction, a deposit, or an excavation described in section 20(2) of this chapter is a public nuisance. The director may commence, maintain, and prosecute an appropriate action to enjoin or abate a nuisance, including the following:

(1) Any of the nuisances described in section 20(2) of this chapter.

(2) Any other nuisance that:

(A) adversely affects flood control or the safety of life or property; or

(B) is unreasonably detrimental to fish, wildlife, or botanical resources.

As added by P.L.1-1995, SEC.21.

IC 14-28-1-22
Construction permits

Sec. 22. (a) As used in subsection (b)(1) with respect to a stream, "total length" means the length of the stream, expressed in miles, from the confluence of the stream with the receiving stream to the upstream or headward extremity of the stream, as indicated by the solid or dashed, blue or purple line depicting the stream on the most current edition of the seven and one-half (7 1/2) minute topographic quadrangle map published by the United States Geological Survey, measured along the meanders of the stream as depicted on the map.

(b) This section does not apply to the following:

(1) A reconstruction or maintenance project (as defined in IC 36-9-27) on a stream or an open regulated drain if the total

length of the stream or open drain is not more than ten (10) miles.

(2) A construction or reconstruction project on a state or county highway bridge in a rural area that crosses a stream having an upstream drainage area of not more than fifty (50) square miles and the relocation of utility lines associated with the construction or reconstruction project if confined to an area not more than one hundred (100) feet from the limits of the highway construction right-of-way.

(3) The performance of an activity described in subsection (c)(1) or (c)(2) by a surface coal mining operation that is operated under a permit issued under IC 14-34.

(4) Any other activity that is determined by the commission, according to rules adopted under IC 4-22-2, to pose not more than a minimal threat to floodway areas.

(5) An activity in a boundary river floodway to which section 26.5 of this chapter applies.

(6) The removal of a logjam or mass of wood debris that has accumulated in a river or stream, subject to the following conditions:

(A) Work must not be within a salmonid stream designated under 327 IAC 2-1.5-5 without the prior written approval of the department's division of fish and wildlife.

(B) Work must not be within a natural, scenic, or recreational river or stream designated under 312 IAC 7-2.

(C) Except as otherwise provided in Indiana law, free logs or affixed logs that are crossways in the channel must be cut, relocated, and removed from the floodplain. Logs may be maintained in the floodplain if properly anchored or otherwise secured so as to resist flotation or dislodging by the flow of water and placement in an area that is not a wetland. Logs must be removed and secured with a minimum of damage to vegetation.

(D) Isolated or single logs that are embedded, lodged, or rooted in the channel, and that do not span the channel or cause flow problems, must not be removed unless the logs are either of the following:

(i) Associated with or in close proximity to larger obstructions.

(ii) Posing a hazard to navigation.

(E) A leaning or severely damaged tree that is in immediate danger of falling into the waterway may be cut and removed if the tree is associated with or in close proximity to an obstruction. The root system and stump of the tree must be left in place.

(F) To the extent practicable, the construction of access roads must be minimized, and should not result in the elevation of the floodplain.

(G) To the extent practicable, work should be performed

exclusively from one (1) side of a waterway. Crossing the bed of a waterway is prohibited.

(H) To prevent the flow of sediment laden water back into the waterway, appropriate sediment control measures must be installed.

(I) Within fifteen (15) days, all bare and disturbed areas must be revegetated with a mixture of grasses and legumes. Tall fescue must not be used under this subdivision, except that low endophyte tall fescue may be used in the bottom of the waterway and on side slopes.

(c) A person who desires to:

(1) erect, make, use, or maintain a structure, an obstruction, a deposit, or an excavation; or

(2) suffer or permit a structure, an obstruction, a deposit, or an excavation to be erected, made, used, or maintained;

in or on a floodway must file with the director a verified written application for a permit accompanied by a nonrefundable fee of two hundred dollars ($200).

(d) The application for a permit must set forth the material facts together with plans and specifications for the structure, obstruction, deposit, or excavation.

(e) An applicant must receive a permit from the director for the work before beginning construction. The director shall issue a permit only if in the opinion of the director the applicant has clearly proven that the structure, obstruction, deposit, or excavation will not do any of the following:

(1) Adversely affect the efficiency of or unduly restrict the capacity of the floodway.

(2) Constitute an unreasonable hazard to the safety of life or property.

(3) Result in unreasonably detrimental effects upon fish, wildlife, or botanical resources.

(f) In deciding whether to issue a permit under this section, the director shall consider the cumulative effects of the structure, obstruction, deposit, or excavation. The director may incorporate in and make a part of an order of authorization conditions and restrictions that the director considers necessary for the purposes of this chapter.

(g) A permit issued under this section:

(1) is valid for two (2) years after the issuance of the permit; and

(2) to:

(A) the Indiana department of transportation or a county highway department if there is any federal funding for the project; or

(B) an electric utility for the construction of a power generating facility;

is valid for five (5) years from the date of issuance.

A permit that is active and was issued under subdivision (1) before July 1, 2014, is valid for two (2) years beginning July 2014, and a

permit that is active and was issued under subdivision (2) before July 1, 2014, is valid for five (5) years beginning July 2014.

(h) A permit issued under:

(1) subsection (g)(1) may be renewed one (1) time for a period not to exceed two (2) additional years; and

(2) subsection (g)(2) may be renewed one (1) time for a period not to exceed five (5) additional years.

(i) The director shall send a copy of each permit issued under this section to each river basin commission organized under:

(1) IC 14-29-7 or IC 13-2-27 (before its repeal); or

(2) IC 14-30-1 or IC 36-7-6 (before its repeal);

that is affected.

(j) The permit holder shall post and maintain a permit issued under this section at the authorized site.

(k) For the purposes of this chapter, the lowest floor of a building, including a residence or abode, that is to be constructed or reconstructed in the one hundred (100) year floodplain of an area protected by a levee that is:

(1) inspected; and

(2) found to be in good or excellent condition;

by the United States Army Corps of Engineers shall not be lower than the one hundred (100) year frequency flood elevation plus one (1) foot.

As added by P.L.1-1995, SEC.21. Amended by P.L.180-1995, SEC.4; P.L.2-1997, SEC.53; P.L.135-1997, SEC.14; P.L.2-1998, SEC.59; P.L.154-2002, SEC.1; P.L.186-2003, SEC.75; P.L.76-2010, SEC.1; P.L.219-2014, SEC.33; P.L.155-2015, SEC.19.

IC 14-28-1-23

Removal of structures or obstructions

Sec. 23. (a) The director may remove or eliminate a structure, an obstruction, a deposit, or an excavation in a floodway that:

(1) adversely affects the efficiency of or unduly restricts the capacity of the floodway;

(2) constitutes an unreasonable hazard to the safety of life or property; or

(3) is unreasonably detrimental to fish, wildlife, or botanical resources;

by an action in condemnation.

(b) In assessing the damages in the proceedings, the appraisers and the court shall take into consideration whether the structure, obstruction, deposit, or excavation is legally in or on the floodway.

As added by P.L.1-1995, SEC.21.

IC 14-28-1-24

Reconstruction permits; violations

Sec. 24. (a) This section does not apply to the reconstruction of a residence located in a boundary river floodway.

(b) A person may not begin the reconstruction of an abode or a

residence that is located in a floodway and is substantially damaged (as defined in 44 CFR 59.1, as in effect on January 1, 1993) unless the person has:

(1) obtained a permit under this section or section 26.5 of this chapter; or

(2) demonstrated to the department through the submission of material facts, plans, and specifications that the material used to elevate the reconstructed abode or residence:

(A) does not extend beyond the original foundation of the abode or residence; and

(B) meets the criteria set forth in subsection (d)(2) through (d)(7).

(c) A person who desires to reconstruct an abode or a residence that does not meet the requirements under subsection (b)(2) must file with the director a verified written application for a permit accompanied by a nonrefundable fee of fifty dollars ($50). An application submitted under this section must do the following:

(1) Set forth the material facts concerning the proposed reconstruction.

(2) Include the plans and specifications for the reconstruction.

(d) The director may issue a permit to an applicant under this section only if the applicant has clearly proven all of the following:

(1) The abode or residence will be reconstructed:

(A) in the area of the original foundation and in substantially the same configuration as the former abode or residence; or

(B) in a location that is, as determined by the director, safer than the location of the original foundation.

(2) The lowest floor elevation of the abode or residence as reconstructed, including the basement, will be at least two (2) feet above the one hundred (100) year flood elevation.

(3) The abode or residence will be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(4) The abode or residence will be reconstructed with materials resistant to flood damage.

(5) The abode or residence will be reconstructed by methods and practices that minimize flood damages.

(6) The abode or residence will be reconstructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and located to prevent water from entering or accumulating within the components during conditions of flooding.

(7) The abode or residence, as reconstructed, will comply with the minimum requirements for floodplain management set forth in 44 CFR Part 60, as in effect on January 1, 1993.

(e) When granting a permit under this section, the director may establish and incorporate into the permit certain conditions and restrictions that the director considers necessary for the purposes of

this chapter.

(f) A permit issued by the director under this section is void if the reconstruction authorized by the permit is not commenced within two (2) years after the permit is issued.

(g) The director shall send a copy of each permit issued under this section to each river basin commission organized under:

(1) IC 14-29-7 or IC 13-2-27 (before its repeal); or

(2) IC 14-30-1 or IC 36-7-6 (before its repeal);

that is affected by the permit.

(h) The person to whom a permit is issued under this section shall post and maintain the permit at the site of the reconstruction authorized by the permit.

(i) A person who knowingly:

(1) begins the reconstruction of an abode or a residence in violation of subsection (b);

(2) violates a condition or restriction of a permit issued under this section; or

(3) fails to post and maintain a permit at a reconstruction site in violation of subsection (h);

commits a Class B infraction. Each day that the person is in violation of subsection (b), the permit, or subsection (h) constitutes a separate infraction.

As added by P.L.1-1995, SEC.21. Amended by P.L.135-1997, SEC.15; P.L.71-2004, SEC.17; P.L.53-2008, SEC.1.

IC 14-28-1-25

Reconstruction permit exception; violation

Sec. 25. (a) A person who desires to reconstruct an abode or a residence that:

(1) is located in a floodway; and

(2) is not substantially damaged (as defined in 44 CFR 59.1, as in effect on January 1, 1997);

is not required to obtain a permit from the department for the reconstruction of the abode or residence if the reconstruction will meet the requirements set forth in 44 CFR Part 60, as in effect on January 1, 1997.

(b) A person who knowingly reconstructs an abode or a residence described in subsection (a) in a way that does not comply with the requirements referred to in subsection (a) commits a Class B infraction.

As added by P.L.1-1995, SEC.21. Amended by P.L.135-1997, SEC.16; P.L.71-2004, SEC.18; P.L.53-2008, SEC.2.

IC 14-28-1-26

Additions to structures in floodways

Sec. 26. (a) This section does not apply to the construction of an addition to a residence located in a boundary river floodway.

(b) Subject to:

(1) subsection (c); and

(2) the restrictions imposed by the unit (as defined in IC 36-1-2-23) in which the abode or residence is located;

a person may construct at least one (1) addition to an abode or a residence that is located in a floodway.

(c) A person may not construct an addition to an abode or a residence located in a floodway if the addition, in combination with all other additions to the abode or residence that have been constructed since the abode or residence was originally built, would increase the market value of the abode or residence to an amount more than fifty percent (50%) greater than:

(1) the market value of the abode or residence if no additions have been constructed since the abode or residence was originally built; or

(2) the approximate market value the abode or residence would have in the form in which the abode or residence was originally built if at least one (1) addition has already been constructed.

(d) For the purposes of subsection (c), the market value of an abode or a residence does not include the value of the land on which the abode or residence is built.

As added by P.L.1-1995, SEC.21. Amended by P.L.135-1997, SEC.17.

IC 14-28-1-26.5

Mobile home or residence in boundary river floodway; permits

Sec. 26.5. (a) This section applies to the following activities:

(1) The placement or replacement of a mobile home within a boundary river floodway.

(2) The repair of a residence that:

(A) is located in a boundary river floodway; and

(B) has been damaged by floodwaters or another means;

except for the reconstruction of a residence to which section 25 of this chapter applies.

(3) The construction of an:

(A) addition to; or

(B) improvement of;

a residential structure within a boundary river floodway.

(4) The construction of a new residence within a boundary river floodway.

(b) The federal regulations that:

(1) were adopted by the director of the Federal Emergency Management Agency to implement the National Flood Insurance Act (42 U.S.C. 4001 et seq.);

(2) are published in 44 CFR Parts 59 through 60; and

(3) are in effect on January 1, 1997;

are adopted as the criteria for determining whether an activity referred to in subsection (a) is allowed in Indiana. However, the lowest floor of a new residence constructed within a boundary river floodway referred to in subsection (a)(4) must be at least two (2) feet above the one hundred (100) year frequency flood elevation.

(c) A person who wishes to perform an activity referred to in subsection (a) is authorized to perform the activity if:

(1) the federal regulations described in subsection (b) as the governing criteria allow the activity; and

(2) the person obtains a permit for the activity under this section.

(d) To obtain a permit for an activity referred to in subsection (a), a person must:

(1) file with the director a verified written application for a permit on a form provided by the department; and

(2) pay to the department a nonrefundable fee of ten dollars ($10).

(e) An application filed under this section must:

(1) set forth the material facts concerning the proposed activity; and

(2) in the case of an activity described in subsection (a)(1), (a)(3), or (a)(4), include plans and specifications for the construction, reconstruction, or repair.

(f) If an application submitted under this section meets the requirements set forth in subsections (d) and (e), the director may not reject the application unless the regulations adopted as the governing criteria under subsection (b) do not allow the activity.

(g) If the federal regulations adopted as the governing criteria under subsection (b) authorize a type of activity only when certain conditions are met, a permit that the director issues for that type of activity may require the applicant, in carrying out the activity, to meet the same conditions.

(h) If:

(1) there is a dispute under this section about the elevation of a site; and

(2) the elevation of the site has been determined by a professional surveyor;

the elevation determined by the professional surveyor must be used as the accepted elevation.

As added by P.L.135-1997, SEC.18. Amended by P.L.121-2003, SEC.1; P.L.57-2013, SEC.18.

IC 14-28-1-27

Contaminants in lakes or floodways prohibited

Sec. 27. (a) Except as provided in subsection (b), this section does not apply to the following:

(1) A person using chemicals in a normal manner in the production of agricultural products.

(2) A person acting in accordance with an appropriate permit issued by the director.

(3) A person acting in accordance with a permit issued by the department of environmental management under water pollution control laws (as defined in IC 13-11-2-261) or environmental management laws (as defined in IC 13-11-2-71).

(b) This section applies to the permitting requirements set forth in the following:

(1) Section 22 of this chapter.

(2) IC 14-26-2.

(c) A person may not put, throw, dump, or leave a contaminant, garbage, or solid waste:

(1) in, upon, or within fifteen (15) feet of a lake; or

(2) in or upon a floodway.

As added by P.L.1-1995, SEC.21. Amended by P.L.1-1996, SEC.66.

IC 14-28-1-28

Commission floodways

Sec. 28. (a) The commission may by order:

(1) establish a floodway as a commission floodway; and

(2) alter, change, or revoke and terminate the commission floodway.

(b) In the order establishing the commission floodway, the commission shall fix the following:

(1) The floodway's length at any practical distance.

(2) The floodway's width or the landside limits so as to include parts of the flood plains adjoining the channel that, with the channel, are reasonably required to efficiently carry and discharge the flood waters or flood flow of the river or stream.

(c) Notwithstanding any other provision of law, an order establishing a commission floodway is not in force until notice has been given as follows:

(1) In writing to the county executive in the county affected.

(2) By publication at least two (2) times, seven (7) days apart, as follows:

(A) In two (2) daily newspapers in the city of Indianapolis as provided in IC 5-3-1-6.

(B) In newspapers in the counties where all or part of the commission floodway is established as provided in IC 5-3-1-6.

(d) All of the area within a commission floodway is the floodway for all purposes of this chapter.

As added by P.L.1-1995, SEC.21.

IC 14-28-1-29

Coordination of flood control works; approval of plans or specifications

Sec. 29. (a) All works of any nature for flood control in Indiana that are established and constructed shall be coordinated in design, construction, and operation according to sound and accepted engineering practice so as to effect the best flood control obtainable throughout Indiana. A:

(1) person may not construct or install any works of any nature for flood control; and

(2) court may not enter the final order or judgment establishing

or ordering works constructed;

unless the proposed works and the plans and specifications are approved by the commission.

(b) The interested parties must file a verified written application with the commission. The commission shall consider all the pertinent facts relating to the proposed works that will affect flood control in Indiana and shall determine whether the proposed works in the plans and specifications will:

(1) be in aid of and acceptable as part of; or

(2) adversely affect and interfere with;

flood control in Indiana.

(c) The commission shall enter an order approving or disapproving the application, plans, and specifications. If the commission disapproves the application, the order must set forth the objectionable features so that the proposed works and plans and specifications may be corrected or adjusted to obtain the approval of the commission.

As added by P.L.1-1995, SEC.21.

IC 14-28-1-30

Applicability of IC 4-21.5

Sec. 30. IC 4-21.5 applies to the commission.

As added by P.L.1-1995, SEC.21.

IC 14-28-1-31

Reports to governor

Sec. 31. The commission shall report to the governor periodically the results of the commission's study, investigation, and experience so that any necessary additional powers and duties may be obtained to effect and obtain complete flood control and the protection and preservation of water resources.

As added by P.L.1-1995, SEC.21.

IC 14-28-1-32

Violations; Class B infractions

Sec. 32. (a) A person who knowingly violates section 20(2), 20(3), or 29 of this chapter commits a Class B infraction.

(b) Each day of continuing violation after conviction of the offense constitutes a separate offense.

As added by P.L.1-1995, SEC.21. Amended by P.L.71-2004, SEC.19.

IC 14-28-1-33

Violations; Class C infractions

Sec. 33. (a) A person who knowingly fails to:

(1) comply with the requirements of section 20(1) of this chapter; or

(2) obtain a permit under section 22 of this chapter;

commits a Class B infraction.

(b) Each day a person violates section 20(1) or 22 of this chapter constitutes a separate infraction.

As added by P.L.1-1995, SEC.21. Amended by P.L.71-2004, SEC.20.

IC 14-28-1-34
Violations; penalties

Sec. 34. A person who knowingly fails to comply with section 22(j) of this chapter commits a Class B infraction. Each day a person violates section 22(j) of this chapter constitutes a separate infraction.
As added by P.L.1-1995, SEC.21. Amended by P.L.180-1995, SEC.5; P.L.71-2004, SEC.21; P.L.219-2014, SEC.34.

IC 14-28-1-35
Injunctive relief

Sec. 35. The commission may enjoin a violation of this chapter under IC 14-25.5-2.
As added by P.L.1-1995, SEC.21. Amended by P.L.71-2004, SEC.22.

IC 14-28-1-36
Civil penalties

Sec. 36. In addition to other penalties prescribed by this chapter, the director may impose a civil penalty under IC 14-25.5-4.
As added by P.L.1-1995, SEC.21. Amended by P.L.71-2004, SEC.23.

IC 14-28-1-37
Process to improve efficiency in wetland regulatory programs

Sec. 37. The department and the department of environmental management shall, not later than January 1, 2015, develop and implement a process to improve efficiency and transparency in programs for:

(1) water quality certifications from the department of environmental management under IC 13-13-5-1(1) and Section 401 of the federal Clean Water Act (33 U.S.C. 1341);

(2) permits from the department of environmental management for wetland activity in a state regulated wetland under IC 13-18-22; and

(3) permits from the director for a structure, obstruction, deposit, or excavation in a floodway under IC 14-28-1.

As added by P.L.214-2014, SEC.2.

IC 14-28-1-38
Duties of departments in establishing process

Sec. 38. (a) As used in this section, "permit" means any of the following:

(1) A water quality certification from the department of environmental management under IC 13-13-5-1(1) and Section 401 of the federal Clean Water Act (33 U.S.C. 1341).

(2) A permit from the department of environmental management for wetland activity in a state regulated wetland under IC 13-18-22.

(3) A permit from the director for a structure, obstruction,

deposit, or excavation in a floodway under IC 14-28-1.

(b) In establishing the process required under section 37 of this chapter, the department and the department of environmental management shall do the following:

(1) Determine:

(A) how to inform a person who proposes to perform work for which a permit is required of the need to seek a permit for the work; and

(B) how to ensure that a person proposing to perform work for which a permit is required is informed of every state permit the person needs in order to do the work.

(2) Change the:

(A) application forms;

(B) application processes; or

(C) application forms and application processes;

used by the department and the department of environmental management for purposes of permits as necessary to ensure that a person proposing to perform work for which a permit is required is not required to provide the same information separately to the department and the department of environmental management.

(3) Determine how either the department or the department of environmental management may serve as the single point of contact, for purposes of:

(A) distributing and receiving permit applications;

(B) obtaining information needed to complete the processing of permit applications; and

(C) issuing permits;

for an applicant who does not need to have independent contact with the department that is not serving as the single point of contact.

(4) Create an internal process to ensure that the appropriate office within the department and the department of environmental management receives and timely reviews each permit application.

(5) Ensure that the processing of each permit application is monitored.

As added by P.L.214-2014, SEC.3.

IC 14-28-2
Repealed

(Repealed by P.L.2-1997, SEC.89.)

IC 14-28-3

Chapter 3. Flood Plain Management

IC 14-28-3-1

Legislative finding

Sec. 1. The general assembly finds the following:

(1) That the loss of lives and property, the disruption of commerce and government services, and the unsanitary conditions caused by floods, all of which are detrimental to the health, safety, and welfare of the people of Indiana, are a matter of deep concern.

(2) That structural measures alone do not provide an adequate solution to flood problems.

(3) That it is necessary to enact and implement a state flood plain management program to decrease existing flood damages, mitigate future flood damages, and promote the health, safety, and general welfare of the people of Indiana.

As added by P.L.1-1995, SEC.21.

IC 14-28-3-2

Adoption of rules

Sec. 2. The commission shall develop and adopt appropriate rules under IC 4-22-2, including consideration of nonconforming uses, as minimum standards for the delineation and regulation of all flood hazard areas within Indiana. The commission and all counties and municipalities shall consider the production of crops, pasture, forests, and park and recreational uses to be conforming uses. These specific conforming uses shall be included as minimum standards in adoption of the rules.

As added by P.L.1-1995, SEC.21.

IC 14-28-3-3

Designation and regulation of flood hazard areas by subdivisions

Sec. 3. (a) All counties and municipalities are encouraged and authorized to delineate and regulate all flood hazard areas within their respective jurisdictions by adopting and implementing all necessary ordinances, rules, and regulations under procedures established by law. For ordinances, rules, and regulations adopted after June 30, 1974, the ordinances, rules, and regulations:

(1) may not be less restrictive than the minimum rules of the commission adopted under section 2 of this chapter; and

(2) must be approved by the commission before the effective date.

(b) This chapter does not prevent a county or municipality from adopting ordinances, rules, and regulations that are more restrictive than the minimum rules adopted by the commission.

As added by P.L.1-1995, SEC.21.

IC 14-28-3-4

Assistance and cooperation from commission

Sec. 4. (a) The commission may provide technical data and information and otherwise assist a county or municipality in the following:

(1) The identification and delineation of all flood hazard areas within the jurisdiction of the county or municipality.

(2) The preparation of all necessary ordinances, rules, and regulations.

(b) The commission may cooperate with a state, regional, local, or federal board, commission, or agency in the preparation of necessary information or data.

As added by P.L.1-1995, SEC.21.

IC 14-28-3-5

Commission approval required for certain permits within flood hazard areas

Sec. 5. A county or municipality may not issue a permit for a structure, an obstruction, a deposit, or an excavation within a flood hazard area or part of a flood hazard area that lies within a floodway without the prior written approval of the commission as provided in IC 14-28-1.

As added by P.L.1-1995, SEC.21.

IC 14-28-3-6

Cooperation of public agencies and personnel

Sec. 6. City, county, and state employees, agencies, boards, districts, and commissions may cooperate with and furnish information to the commission or a county or municipality for the purpose of implementing this chapter.

As added by P.L.1-1995, SEC.21.

IC 14-28-4

Chapter 4. Flood Plain Commissions

IC 14-28-4-1

"Commission" defined

Sec. 1. As used in this chapter, "commission" refers to a flood plain commission established under this chapter.

As added by P.L.1-1995, SEC.21.

IC 14-28-4-2

"Improvement location permit" defined

Sec. 2. As used in this chapter, "improvement location permit" means a permit to alter, expand, or enlarge any use of land or structure. The term includes the erection of a structure.

As added by P.L.1-1995, SEC.21.

IC 14-28-4-3

Establishment of flood plain commissions

Sec. 3. A county or municipality may establish a flood plain commission by ordinance of the unit's legislative body. The commission may regulate land uses within identified flood hazard areas under this chapter.

As added by P.L.1-1995, SEC.21.

IC 14-28-4-4

Members

Sec. 4. The commission, to be known as the "_____ Flood Plain Commission", consists of three (3) members as follows:

(1) One (1) member of the legislative body of the county or municipality to be appointed by the legislative body.

(2) Two (2) citizens who reside within the jurisdiction of the legislative body and who do not hold an elective public office to be appointed as follows:

(A) The board of commissioners, for a county.

(B) The city executive, for a city.

(C) The town executive, for a town.

As added by P.L.1-1995, SEC.21.

IC 14-28-4-5

Term of members; filling of vacancies

Sec. 5. (a) Commission members serve terms of one (1) year, beginning with the first Monday of January of each year. The initial members serve from the date of establishment of the commission until the first Monday of January of the following year.

(b) If a vacancy occurs, the appointing authority shall appoint a member to fill the unexpired term.

As added by P.L.1-1995, SEC.21.

IC 14-28-4-6
Officers

Sec. 6. (a) At the first regular meeting of each year the commission shall elect from the members of the commission the following officers:

(1) A president.
(2) A vice president.
(3) A secretary.

(b) The vice president may act as president of the commission during the absence or disability of the president.

As added by P.L.1-1995, SEC.21.

IC 14-28-4-7
Regular meetings

Sec. 7. The commission shall fix the time for holding regular meetings, but the commission shall meet at least one (1) time in January, April, July, and October.

As added by P.L.1-1995, SEC.21.

IC 14-28-4-8
Special meetings

Sec. 8. (a) A special meeting of the commission may be called by any member upon written request to the secretary.

(b) The secretary shall send to all the members, at least two (2) days in advance of a special meeting, a written notice fixing the time and place of the meeting.

(c) Written notice of a special meeting is not required if:

(1) the time of the special meeting has been fixed in a regular meeting; or
(2) all members are present at the special meeting.

As added by P.L.1-1995, SEC.21.

IC 14-28-4-9
Quorum

Sec. 9. A majority of the members of the commission constitutes a quorum. To be official, an action of the commission must be authorized by a majority of the commission at a regular or special meeting.

As added by P.L.1-1995, SEC.21.

IC 14-28-4-10
Disqualification of interested members

Sec. 10. A member of the commission or legislative body of the county or municipality may not participate in a hearing or decision upon a zoning matter, other than the preparation and adoption of an initial flood plain zoning ordinance, in which the member is directly or indirectly interested in a financial sense. If a disqualification under this section occurs:

(1) this fact shall be entered on the records of the commission or

legislative body; and

(2) the remaining members shall act upon the matter.

As added by P.L.1-1995, SEC.21.

IC 14-28-4-11

General powers of commissions

Sec. 11. The commission may do the following:

(1) Exercise general supervision of and make rules for the administration of the affairs of the commission.

(2) Prescribe uniform rules pertaining to investigations and hearings.

(3) Supervise the fiscal affairs and responsibilities of the commission.

(4) Keep an accurate and a complete record of all commission proceedings and assume responsibility for the custody and preservation of all papers and documents of the commission.

(5) Make recommendations and an annual report to the legislative body of the county or municipality concerning the operation of the commission.

(6) Make recommendations to the legislative body on the adoption of the initial flood plain zoning ordinance and amendments and any other matter within the commission's jurisdiction under this chapter.

(7) Prepare, publish, and distribute reports, ordinances, and other material relating to the activities authorized under this chapter.

(8) Sue and be sued collectively by the commission's legal name, service of process being had on the president of the commission or any of the members in an action.

(9) Invoke any legal, equitable, or special remedy for the enforcement of this chapter or the commission's action taken under this chapter.

As added by P.L.1-1995, SEC.21.

IC 14-28-4-12

Annual budgets

Sec. 12. The commission shall prepare and submit an annual budget. After the legislative body of the county or municipality has passed an ordinance creating a commission:

(1) money may be appropriated to carry out the duties of the commission; and

(2) the commission may expend, under procedure provided by law, money appropriated to the commission for purposes and activities authorized by this chapter.

As added by P.L.1-1995, SEC.21.

IC 14-28-4-13

Special nonreverting commission funds

Sec. 13. (a) The commission, county, or municipality may accept

gifts, donations, and grants from private and governmental sources for commission purposes. Money accepted shall be deposited in a special nonreverting commission fund available for expenditure by the commission for the purpose designated by the donor.

(b) The disbursing officer of the county or municipality shall draw warrants against regular funds or the special nonreverting fund only upon claims signed by the president and secretary of the commission.
As added by P.L.1-1995, SEC.21.

IC 14-28-4-14
Per diem compensation and traveling expenses

Sec. 14. (a) The county or municipality may compensate the members of the commission for service on the commission.

(b) When the commission determines that it is necessary for members to attend in another city or county a state, regional, or national conference or interview dealing with planning or related problems, the commission may pay the actual expenses of the attending member if the amount has been made available in the commission's appropriation.

(c) The commission may approve a per diem allowance to a member for the purpose of attending a regular or special meeting held by the commission if the amount has been made available in the commission's appropriation.
As added by P.L.1-1995, SEC.21.

IC 14-28-4-15
Proposed initial flood plain zoning ordinances

Sec. 15. (a) To assure the promotion of public health, safety, convenience, and the general welfare within the commission's jurisdiction, the commission shall prepare a proposed initial flood plain zoning ordinance. The ordinance must provide for the following:

(1) The classification of all land within the jurisdiction of the county or municipality into flood plain or nonflooding areas.

(2) The regulation of land use and the location or construction of buildings and other structures within the areas designated as flood plain areas.

(b) In establishing flood plain districts and regulations, the commission may use the special flood hazard area maps supplied by the Federal Insurance Administration or any other criteria approved by the department.
As added by P.L.1-1995, SEC.21.

IC 14-28-4-16
Land classified as flood plain area; effectiveness of mappings or identification

Sec. 16. (a) As used in this section, "flood protection grade" means the elevation of the lowest point around the perimeter of a building at which flood water may enter the interior of the building.

(b) The land classified as flood plain areas may be:

(1) defined and subclassified in the ordinance as floodway or floodway fringe; and

(2) further identified as to flood protection grade.

(c) The mappings or other identification of the areas become effective only at the time that accurate information is made available to the commission and authenticated by the department or the United States Department of Housing and Urban Development.

As added by P.L.1-1995, SEC.21.

IC 14-28-4-17

Ordinance may require buildings or land to conform; improvement location permit fees

Sec. 17. (a) A flood plain zoning ordinance may require that:

(1) a structure may not be located;

(2) a use may not be changed; and

(3) an improvement location permit may not be issued for a structure or change of use;

on land either platted or unplatted within the jurisdiction of the commission unless the structure or use and location conform to the requirements of the flood plain zoning ordinance.

(b) The:

(1) commission may set; and

(2) zoning administrator may collect;

reasonable fees for the issuance of improvement location permits.

As added by P.L.1-1995, SEC.21.

IC 14-28-4-18

Zoning administrators; judicial review of administrator's final decision

Sec. 18. (a) A flood plain zoning ordinance must designate:

(1) the county auditor;

(2) the county surveyor; or

(3) the municipal clerk or clerk-treasurer;

as applicable, as the zoning administrator who issues improvement location permits within the jurisdiction of the commission and in conformance with the flood plain ordinance.

(b) A final decision of the zoning administrator may be judicially reviewed in the same manner and subject to the same limitations as a final decision of a board of zoning appeals under IC 36-7-4.

As added by P.L.1-1995, SEC.21. Amended by P.L.126-2011, SEC.1.

IC 14-28-4-19

Presentation of proposed ordinance to legislative body

Sec. 19. (a) The commission shall prepare and present the proposed initial zoning ordinance, with explanatory maps, to the legislative body of the county or municipality.

(b) The legislative body shall do the following:

(1) Consider the proposed initial zoning ordinance.

(2) Return the ordinance within forty-five (45) days with any suggestions and recommendations to the commission for the commission's final report.

As added by P.L.1-1995, SEC.21.

IC 14-28-4-20

Final report of commission on proposed ordinance

Sec. 20. A county or municipality may not pass an ordinance under this chapter until:

(1) the legislative body of the county or municipality receives; and

(2) the natural resources commission approves;

the final report of the commission.

As added by P.L.1-1995, SEC.21.

IC 14-28-4-21

Legislative action on proposed ordinance; hearing

Sec. 21. (a) After the commission submits the final report, the legislative body of the county or municipality shall give all interested persons an opportunity to be heard with reference to the final report at a public hearing convenient for all persons affected. The legislative body shall publish notice of the hearing in a daily newspaper of general circulation in the county or municipality.

(b) The notice must state the following:

(1) The time and place of the hearing.

(2) That the report contains a flood plain zoning ordinance for the county or municipality.

(3) That written objections to the proposed zoning ordinance filed with the clerk of the legislative body at or before the hearings will be heard.

(4) That the hearing will be continued as is necessary.

(c) The notice shall be published at least two (2) times within the ten (10) days before the time set for the hearing, during which time the proposed zoning ordinance shall be kept on file in the office of the commission or other designated place for public examination.

(d) Upon completion of the public hearing, the legislative body shall proceed to consider the ordinance.

As added by P.L.1-1995, SEC.21.

IC 14-28-4-22

Legislative body may amend or supplement regulations or boundaries in ordinance

Sec. 22. The legislative body of the county or municipality may amend or supplement the regulations and district boundaries fixed by ordinance under this chapter or IC 13-2-22.6 (before its repeal). However, the area designated as flood plain may not be changed unless the change is based upon data:

(1) supplied by the United States Department of Housing and Urban Development; or

(2) supplied or approved by the department.
As added by P.L.1-1995, SEC.21.

IC 14-28-4-23
Petition to amend or supplement zoning ordinance

Sec. 23. The:

(1) commission; or

(2) owners of at least fifty percent (50%) of the land area involved in the matter set forth in a petition;

may present signed petitions to the legislative body of the county or municipality requesting an amendment or supplement of the regulations of the zoning ordinance.
As added by P.L.1-1995, SEC.21.

IC 14-28-4-24
Referral of proposed amendment, supplement, or repeal to commission

Sec. 24. The legislative body shall refer a proposed ordinance for the amendment, supplement, or repeal of the zoning ordinance not originating from petition of the commission to the commission for consideration and a report before the legislative body of the county or municipality takes final action.
As added by P.L.1-1995, SEC.21.

IC 14-28-4-25
Legislative action on proposed amendment, supplement, or repeal; hearing

Sec. 25. (a) Before the commission submits to the legislative body:

(1) a petition; or

(2) a report on a proposed ordinance referred to the commission;

for an amendment, a supplement, or a repeal of the zoning ordinance, the commission shall hold a public hearing.

(b) At least ten (10) days before the date set for the hearing, the commission shall publish in a newspaper of general circulation in the county or municipality a notice of the time and place of the hearing.

(c) After the public hearing has been held, the commission may by resolution recommend the proposed amendments to the legislative body of the county or municipality. However:

(1) the commission may not recommend; and

(2) the legislative body may not adopt;

flood plain district boundaries less extensive than those established by the United States Department of Housing and Urban Development or the department.

(d) The secretary shall do the following:

(1) Certify a copy of an amendment to the legislative body.

(2) Present the amendment at the legislative body's first meeting following commission action.

As added by P.L.1-1995, SEC.21.

IC 14-28-4-26
Building or land violating ordinance declared public nuisance; investigations

Sec. 26. (a) The legislative body of the county or municipality may declare:

(1) a building erected, raised, or converted; or

(2) land or premises used;

in violation of an ordinance or a regulation adopted under this chapter or under IC 13-2-22.6 (before its repeal) to be a common nuisance. The owner of the building, land, or premises is liable for maintaining a common nuisance.

(b) If penalties have been provided for violation of an ordinance, the attorney of the county or municipality shall, upon receipt of information of a violation of an ordinance or a regulation adopted under the county's or municipality's authority, make an investigation of the alleged violation. If the facts are sufficient to establish a reasonable belief that a violation has occurred, the attorney may file a complaint against the violator and prosecute the alleged violation.
As added by P.L.1-1995, SEC.21.

IC 14-28-4-27
Injunctive relief

Sec. 27. (a) The commission may institute the following:

(1) A suit for injunction in the circuit court with jurisdiction in the county to restrain an individual or a governmental entity from violating this chapter or an ordinance adopted under this chapter or under IC 13-2-22.6 (before its repeal).

(2) A suit for a mandatory injunction directing an individual or a governmental entity to remove a structure erected in violation of:

(A) this chapter or IC 13-2-22.6 (before its repeal); or

(B) an ordinance adopted under this chapter or under IC 13-2-22.6 (before its repeal).

(b) If the commission is successful in the commission's suit, the respondent shall pay the costs of the action. A change of venue from the county may not be granted.
As added by P.L.1-1995, SEC.21.

IC 14-28-4-28
Compensation or damages precluded for taking of or injury to building or land violating ordinance

Sec. 28. In:

(1) a proceeding by a county or municipality for the taking, appropriation, or condemnation of land; or

(2) an action against a county or municipality;

compensation or damages may not be awarded for the taking of or injury to a structure erected in violation of an ordinance adopted under this chapter or under IC 13-2-22.6 (before its repeal).
As added by P.L.1-1995, SEC.21.

IC 14-28-4-29
Purpose of chapter

Sec. 29. (a) It is the purpose of this chapter to enable counties and municipalities that have not adopted effective land use ordinances under IC 36-7 to comply with the requirements of:

(1) the federal National Flood Insurance Act (42 U.S.C. 4001 through 4127);
(2) IC 14-28-1; and
(3) IC 14-28-3;

by permitting the establishment of a single-purpose zoning authority to adopt minimum standards and regulations for the management of identified flood hazard areas.

(b) Because zoning ordinances adopted under comprehensive planning legislation require extensive preparation time and because the national flood insurance program and the state statutes enacted under the program require identified counties and municipalities to regulate land use and improvements to the land in flood hazard areas before those zoning ordinances can be adequately prepared, this chapter authorizes counties and municipalities that do not have land use regulation ordinances in effect to form single-purpose flood plain commissions to administer certain local ordinances, including the following:

(1) A set of minimum standards and regulations to meet the requirements of state and federal flood hazard area programs.
(2) An improvement location permit system to ensure that every new location, land use, or structure in the jurisdiction conforms to flood hazard area regulations.
(3) A set of enforcement procedures suitable to ensure minimum compliance with the regulations.

As added by P.L.1-1995, SEC.21.

IC 14-28-4-30
Powers of state, agencies, and subdivisions not affected

Sec. 30. (a) This chapter is supplemental to and does not abrogate the powers extended to agencies, bureaus, departments, commissions, divisions, or officials of state government by other statutes, and these powers remain in full effect. Except as otherwise provided in this chapter, powers of supervision and regulation by divisions of state government over counties, municipalities, individuals, firms, limited liability companies, or corporations also are not abrogated and continue in full effect.

(b) This chapter does not restrict or prohibit the state or any of the state's political subdivisions from the commemoration of persons or objects of historical or architectural interest or value as a part of our citizens' heritage.

As added by P.L.1-1995, SEC.21.

IC 14-28-4-31
Effect of ordinances adopted under IC 36-7

Sec. 31. The adoption of a zoning ordinance under IC 36-7 that provides for flood plain management within the jurisdiction of a county or municipality immediately voids a flood plain commission, ordinance, or regulation adopted under:

(1) this chapter; or

(2) IC 13-2-22.6 (before its repeal).

As added by P.L.1-1995, SEC.21.

IC 14-28-5

Chapter 5. Flood Control Revolving Fund

IC 14-28-5-0.5

"Authority"

Sec. 0.5. "Authority" refers to the Indiana finance authority established by IC 4-4-11-4.

As added by P.L.155-2015, SEC.20.

IC 14-28-5-1

"Flood control program"

Sec. 1. As used in this chapter, "flood control program" includes the following:

(1) The removal of obstructions and accumulated debris from channels of streams.

(2) The clearing and straightening of channels of streams.

(3) The creating of new and enlarged channels of streams, wherever required.

(4) The building or repairing of dikes, levees, or other flood protective works.

(5) The construction of bank protection works for streams.

(6) The establishment of floodways.

As added by P.L.1-1995, SEC.21.

IC 14-28-5-2

"Fund"

Sec. 2. As used in this chapter, "fund" refers to the flood control revolving fund created by this chapter.

As added by P.L.1-1995, SEC.21.

IC 14-28-5-3

"Governing board"

Sec. 3. As used in this chapter, "governing board" means the following:

(1) The legislative body of a county, city, or town.

(2) A board created by law to administer the affairs of a special taxing district.

As added by P.L.1-1995, SEC.21.

IC 14-28-5-4

"Local unit"

Sec. 4. As used in this chapter, "local unit" means county, city, town, or special taxing district created by law.

As added by P.L.1-1995, SEC.21.

IC 14-28-5-5

Creation of fund

Sec. 5. (a) The flood control revolving fund is created. The

authority shall hold the fund in the name of the authority. The authority shall administer the fund in the manner provided by IC 4-4-11 and this chapter.

(b) Loans may be made from the fund to local units in accordance with this chapter and the rules adopted under this chapter.

(c) Money in the fund does not revert to the state general fund. The fund is a revolving fund to be used exclusively for the purposes of this chapter.

As added by P.L.1-1995, SEC.21. Amended by P.L.155-2015, SEC.21.

IC 14-28-5-6

Administration of fund and chapter

Sec. 6. Except as otherwise provided with respect to the administration of the fund, the commission shall administer this chapter. The commission may do the following:

(1) Adopt rules under IC 4-22-2 that are considered necessary by the commission for the proper administration of this chapter.

(2) Subject to the approval of the budget committee, employ the personnel that are necessary for the efficient administration of this chapter.

As added by P.L.1-1995, SEC.21. Amended by P.L.53-2008, SEC.3; P.L.155-2015, SEC.22.

IC 14-28-5-7

Loans to local units; uses and limits

Sec. 7. (a) The authority may make an approved loan from the fund to a local unit. The money loaned is to be used by the local unit for the purpose of instituting, accomplishing, and administering an approved flood control program.

(b) The total amount outstanding under loans made under:

(1) this chapter; and

(2) IC 13-2-23 (before its repeal);

to one (1) local unit may not exceed three hundred thousand dollars ($300,000).

As added by P.L.1-1995, SEC.21. Amended by P.L.53-2008, SEC.4; P.L.155-2015, SEC.23.

IC 14-28-5-8

Conditions for local unit to administer flood control program

Sec. 8. A local unit may institute, accomplish, and administer a flood control program if the following conditions are met:

(1) The program is authorized and approved by ordinance or resolution enacted by the governing board of the local unit.

(2) The flood control program has been approved by the authority and the commission.

As added by P.L.1-1995, SEC.21. Amended by P.L.53-2008, SEC.5; P.L.155-2015, SEC.24.

IC 14-28-5-9
Loans to local units; conditions

Sec. 9. The authority shall authorize the making of a loan to a local unit under this chapter only when the following conditions exist:

(1) An application for the loan has been submitted by the local unit to the authority in the manner and form that the authority directs. The application must state the following:

(A) The need for the flood control program and the need for money for instituting, accomplishing, and administering the program.

(B) A detailed description of the program.

(C) An engineering estimate of the cost of the proposed program acceptable to the authority and the commission.

(D) The amount of money considered to be needed.

(E) Other information that is requested by the authority and the commission.

(2) There is a need, as determined by the commission, for the proposed flood control program for the purpose of protecting the health, safety, and general welfare of the inhabitants of the local unit.

(3) The proposed flood control program has been approved by the commission, if before granting the approval, the commission determines the following:

(A) That the program:

(i) is based upon sound engineering principles;

(ii) is in the interest of flood control; and

(iii) will accomplish the objectives of flood control.

(B) That for flood control programs involving the reconstruction or repair of existing flood control works that:

(i) in the judgment of the commission, constitutes an unreasonable obstruction or impediment to the proper discharge of flood flows; or

(ii) by virtue of their nature, location, or design, are subject to frequent damage or destruction;

approval is limited to the work that is necessary to afford emergency protection against actual or threatened damage to life and property.

(4) The local unit agrees and furnishes assurance, satisfactory to the commission, that the local unit will operate and maintain the flood control program, after completion, in a satisfactory manner.

As added by P.L.1-1995, SEC.21. Amended by P.L.53-2008, SEC.6; P.L.155-2015, SEC.25.

IC 14-28-5-10
Local unit participation in flood control program; costs

Sec. 10. (a) The local unit may:

(1) do work; and

(2) provide labor, equipment, and materials from any source at the local unit's disposal;

for the flood control program.

(b) The commission may do the following:

(1) Evaluate the participation of the local unit in the accomplishment of the project.

(2) Compute the participation as a part or all of the share of cost that the local unit is required to pay toward the total cost of the project for which the loan from the fund is obtained.

(c) Participation authorized under this section must be under the direction of the governing board.

(d) If cash amounts are included in the local unit's share of total cost, the amounts shall be provided in the usual and accepted manner for the financing of the affairs of the local unit.

(e) Costs of engineering and legal services to the borrower may be regarded as a part of the total cost of the project.

As added by P.L.1-1995, SEC.21. Amended by P.L.53-2008, SEC.7.

IC 14-28-5-11

Loans to local units; priority ratings

Sec. 11. (a) The commission shall determine and ascribe to each applicant for a loan a priority rating. The rating must be based primarily on the need of the local unit for the proposed flood control program as the need is related to the needs of other applicants for loans. Except as provided in subsection (b):

(1) the local units having the highest priority rating shall be given first consideration in making loans under this chapter; and

(2) loans shall be made in descending order as shown by the priority ratings.

(b) If an emergency demands immediate relief from actual or threatened flood damage, the application made by a local unit for a loan may be considered regardless of a previous priority rating ascribed to the applicant.

As added by P.L.1-1995, SEC.21. Amended by P.L.53-2008, SEC.8.

IC 14-28-5-12

Loans to local units; terms; repayment

Sec. 12. (a) A loan made under this chapter or under IC 13-2-23 (before its repeal):

(1) may be made for a period not to exceed ten (10) years; and

(2) bears interest at the rate of three percent (3%) a year.

(b) A local unit receiving a loan under this chapter shall agree to repay the loan in equal annual installments, including interest on the unpaid balance of the loan. The repayments, including interest, become part of the fund and do not revert to the state general fund. However, if a local unit levies a tax as provided in this chapter, the first installment of the loan becomes due and payable out of money first received from the levying and the collection of a tax authorized under this chapter. A borrower may prepay a loan in full or in part

without interest penalty.
As added by P.L.1-1995, SEC.21.

IC 14-28-5-13
Loans to local units; levy of property taxes to repay

Sec. 13. A local unit receiving a loan under:

(1) this chapter; or

(2) IC 13-2-23 (before its repeal);

may levy an annual tax on personal and real property located within the geographical limits of the local unit for flood control purposes. The tax is in addition to any other tax authorized by law to be levied for flood control purposes. The tax shall be levied at the rate that will produce sufficient revenue to pay the annual installment and interest on a loan made under this chapter or under IC 13-2-23 (before its repeal). The tax at the rate authorized in this section is in addition to the maximum annual rates prescribed by law.
As added by P.L.1-1995, SEC.21.

IC 14-28-5-14
Loans to local units; default or delinquency

Sec. 14. If a local unit fails to make a payment to the fund or any other payment required by this chapter or under IC 13-2-23 (before its repeal) or is in any way indebted to the fund for an amount incurred or accrued, the state may recover the amount through any of the following:

(1) The state may, through the attorney general and on behalf of the authority, file a suit in the circuit or a superior court with jurisdiction in the county in which the local unit is located to recover the amount that the local unit owes the fund.

(2) The auditor of state may, after a sixty (60) day written notice to the local unit, withhold the payment and distribution of state money that the defaulting local unit is entitled to receive under Indiana law.

(3) For a special taxing district, upon certification by the auditor of state after a sixty (60) day written notice to the special taxing district, the auditor of each county containing land within the special taxing district shall withhold collected tax money for the special taxing district and remit the withheld tax money to the auditor of state. The auditor of state shall make a payment to the fund in the name of the special taxing district. Upon elimination of the delinquency payment, the auditor of state shall certify the fact to the auditors of the counties involved and any additional withheld tax money shall be released to the special taxing district.

As added by P.L.1-1995, SEC.21. Amended by P.L.53-2008, SEC.9; P.L.155-2015, SEC.26.

IC 14-28-5-15
Appropriations from state general fund

Sec. 15. There is appropriated annually to the commission from the state general fund from money not otherwise appropriated an amount sufficient to administer this chapter, subject to the approval of the budget committee.
As added by P.L.1-1995, SEC.21.

IC 14-28-6

Chapter 6. Flood Control; Approval of Plans

IC 14-28-6-1

Requirements for approval

Sec. 1. Notwithstanding any other law to the contrary, a person may not construct, install, or undertake a work of any nature that is designed to regulate or control the streams or other water of Indiana for the purpose of preventing floods caused by excessive precipitation or otherwise unless the plans meet the following conditions:

(1) The plans are submitted to and approved by the department.

(2) The plans are found to be feasible and will ultimately constitute a part of an integrated plan for the entire state or a designated major watershed.

(3) The plans are not disadvantageous to any other section of Indiana.

As added by P.L.1-1995, SEC.21.

IC 14-28-6-2

Approval of federal government plans

Sec. 2. If the federal government or an agency of the federal government develops plans for flood control affecting Indiana or a part of Indiana, the department may:

(1) approve the plans; and

(2) permit the use of the plans in the control of floods in Indiana.

As added by P.L.1-1995, SEC.21.

IC 14-29

ARTICLE 29. RIVERS, STREAMS, AND WATERWAYS

IC 14-29-1

Chapter 1. Navigable Waterways

IC 14-29-1-1

Petition

Sec. 1. The board of county commissioners of each county may declare any stream or watercourse in the county navigable on the petition of at least twenty-four (24) freeholders of the county residing in the vicinity of the stream.

As added by P.L.1-1995, SEC.22.

IC 14-29-1-2

Examination of waterway

Sec. 2. (a) On the filing of a petition under section 1 of this chapter, the board of county commissioners shall have an examination of the stream or watercourse made by a suitable person to ascertain and report to the board of county commissioners the following:

(1) The length of the stream or watercourse.

(2) How much of the stream or watercourse is capable of being declared navigable.

(b) The board of county commissioners shall confirm the report if the board is satisfied that the stream, if navigable, would be of public utility. Upon confirmation the board shall declare the stream navigable and have the report recorded in the records of the board, as public highways are recorded.

As added by P.L.1-1995, SEC.22.

IC 14-29-1-3

Obstruction of waterway

Sec. 3. A person who obstructs a stream or watercourse declared navigable is subject to the same penalties as a person who obstructs a public highway. General Indiana law governing:

(1) public highways; and

(2) the laying out and working of public highways in all other respects;

applies, as far as applicable, to the defining and working of navigable watercourses.

As added by P.L.1-1995, SEC.22.

IC 14-29-1-4

Piers, wharves, or docks

Sec. 4. (a) Subject to subsection (b), a riparian owner of land in Indiana bordering upon a navigable stream may do the following:

(1) Build and maintain:
(A) within the premises bordering on the stream; and
(B) upon the submerged land beneath the water;
a pier, wharf, dock, or harbor in aid of navigation and commerce.
(2) Use, occupy, and enjoy the constructed item as appurtenant to the owner's land.
(b) A pier, dock, or wharf may not do any of the following:
(1) Extend into the stream further than is necessary to accommodate shipping and navigation.
(2) Obstruct shipping and navigation.
As added by P.L.1-1995, SEC.22.

IC 14-29-1-5
Mills, dams, aqueducts, viaducts, bridges, or machinery on the stream
Sec. 5. The declaration of a watercourse as navigable by a board of county commissioners does not affect a mill, a dam, an aqueduct, a viaduct, a bridge, or machinery on the stream, except if the mill, dam, aqueduct, viaduct, bridge, or machinery has been abandoned for at least twelve (12) months.
As added by P.L.1-1995, SEC.22.

IC 14-29-1-6
Removal of obstructions; money
Sec. 6. The board of county commissioners may use the money:
(1) that is appropriated from the county treasury; and
(2) as the board of county commissioners considers necessary;
to remove obstructions from streams that are declared navigable under this chapter.
As added by P.L.1-1995, SEC.22.

IC 14-29-1-7
Gates
Sec. 7. A person living on or owning property along a watercourse that is navigable for boats of a large size may hang gates:
(1) at or near the top of the bank; and
(2) across a road leading down the bank and terminating at the watercourse;
except within the limits of a city or town.
As added by P.L.1-1995, SEC.22.

IC 14-29-1-8
Permits
Sec. 8. (a) A person, other than a public or municipal water utility, may not:
(1) place, fill, or erect a permanent structure in;
(2) remove water from; or
(3) remove material from;

a navigable waterway without a permit from the department.

(b) An application for a permit under this section must be made in a manner prescribed by rule.

(c) The department shall issue a permit if the issuance of the permit will not do any of the following:

(1) Unreasonably impair the navigability of the waterway.

(2) Cause significant harm to the environment.

(3) Pose an unreasonable hazard to life or property.

(d) A separate permit is not required under this section for an activity permitted under any of the following:

(1) IC 14-21-1.

(2) IC 14-28-1.

(3) IC 14-29-3.

(4) IC 14-29-4.

(5) IC 14-34.

(6) IC 14-37.

However, a permit issued under a statute specified in this subsection must also apply the requirements of this section with respect to an activity within a navigable waterway.

(e) A separate permit is not required under this section for an activity for which a permit has been issued under any of the following:

(1) 16 U.S.C. 1451 et seq. (the federal Coastal Zone Management Act).

(2) 33 U.S.C. 1344 (the federal Clean Water Act).

(3) 42 U.S.C. 9601 et seq. (the federal Comprehensive Environmental Response, Compensation, and Liability Act).

(f) The department shall adopt rules under IC 4-22-2 to implement this section.

(g) A person who violates this section commits a Class B infraction.

As added by P.L.1-1995, SEC.22.

IC 14-29-2
Chapter 2. Navigable Streams; Kankakee River

IC 14-29-2-1
Identification of navigable stream

Sec. 1. The part of the Kankakee River that flows through Indiana from the Indiana-Michigan border to the Indiana-Illinois border is a navigable stream for the purpose of exercise of the police power of the state.

As added by P.L.1-1995, SEC.22.

IC 14-29-3

Chapter 3. Sand and Gravel Permits

IC 14-29-3-1

Permit issuance

Sec. 1. The department may issue a permit to a person to take sand, gravel, stone, or other mineral or substance from or under the bed of the navigable water of Indiana.

As added by P.L.1-1995, SEC.22.

IC 14-29-3-2

Area, substance, and fees for permit

Sec. 2. In issuing a permit under this chapter, the department shall do the following:

(1) Fix by the permit the area within which it is lawful and in the best interests of the state to permit the taking by the permittee of the mineral or substance.

(2) Fix by the permit and collect from the permittee when due the amount of the reasonable value of the mineral or substance to be taken, measured by weight, cubic dimensions, or other common and usual measurement.

(3) Collect a fee of fifty dollars ($50) for each permit issued.

As added by P.L.1-1995, SEC.22.

IC 14-29-3-3

Conditions of permit

Sec. 3. (a) A permit issued under this chapter must include the following conditions:

(1) The permittee shall give bond in the amount and with surety approved by the department for full and prompt compliance with the terms and conditions of the permit.

(2) The permittee shall, monthly or quarterly as the department stipulates, make to the department a verified report and full account and payment for all mineral or substance taken during the preceding month or quarter.

(3) The department may, at any time in reasonable hours, inspect the following:

(A) All books, papers, and records of the permittee relating to the account.

(B) The works and workings of the permittee.

(4) The department may revoke or suspend the permit for the failure of the permittee to comply with this chapter or with the terms and conditions of the permit.

(5) Subject to suspension or revocation, the permit will remain in force for the period that the department determines, not to exceed five (5) years from the date of issuance. However, the permit may be renewed by the permittee by written application filed with the department six (6) months before expiration of the

permit.

(6) The works, workings, and operations under the permit must not do any of the following:

(A) Impede the navigation of the water.

(B) Damage or endanger a bridge, highway, railroad, public work, utility, or the property of a riparian owner or adjoining proprietor or adjacent permittee.

(C) Endanger the lives of individuals.

(7) The permittee shall take the measures, to be determined by the department and stipulated in the permit, that are reasonable to avoid the damage and danger.

(b) The department may also prescribe other reasonable conditions in the permit that are in the best interests of the state.

As added by P.L.1-1995, SEC.22.

IC 14-29-3-4

Taking without permit

Sec. 4. (a) A person who knowingly takes sand, gravel, stone, or other mineral or substance from or under the bed of the navigable water of Indiana without a permit commits a Class B infraction.

(b) Each day a violation continues constitutes a separate infraction.

As added by P.L.1-1995, SEC.22. Amended by P.L.71-2004, SEC.24.

IC 14-29-4

Chapter 4. Construction of Channels

IC 14-29-4-1

"Channel" defined

Sec. 1. As used in this chapter, "channel" means:

(1) an artificial channel; or

(2) the improved channel of a natural watercourse;

connecting to any river or stream in Indiana for the purpose of providing access by boat or otherwise to public or private industrial, commercial, housing, recreational, or other facilities.

As added by P.L.1-1995, SEC.22.

IC 14-29-4-2

Regulation of channel construction

Sec. 2. The general assembly finds that the unregulated construction of channels may be injurious to the public health, safety, and welfare and that the construction of these channels shall be regulated.

As added by P.L.1-1995, SEC.22.

IC 14-29-4-3

Approval for construction

Sec. 3. A person may not construct a channel before receiving the written approval of the commission.

As added by P.L.1-1995, SEC.22.

IC 14-29-4-4

Permits

Sec. 4. A person who desires to construct a channel must do the following:

(1) File a verified written application for a permit with the commission that does the following:

(A) States the material facts.

(B) Includes the plans and specifications for the construction of the channel.

(C) Identifies each facility to which the channel will provide access.

(2) Include with the application a nonrefundable fee of one hundred dollars ($100).

As added by P.L.1-1995, SEC.22.

IC 14-29-4-5

Prior approval by department of environmental management

Sec. 5. Before commission consideration of the application, the applicant must do the following:

(1) Obtain the prior written approval of the department of environmental management for sewage disposal facilities

involved with the channel and each facility that the channel is to serve. Prior approval is not required for housing developments of less than six (6) lots.

(2) If a channel will:

(A) connect to a navigable river or stream; and

(B) create additional water areas that will be connected to the navigable river or stream;

dedicate any water created to general public use.

As added by P.L.1-1995, SEC.22.

IC 14-29-4-6

Order of authorization

Sec. 6. The commission shall issue an order of authorization if in the opinion of the commission the channel and each facility that the channel is to serve will not do any of the following:

(1) Constitute an unreasonable hazard to life and property.

(2) Result in undue effects upon the water levels of the river or stream or upon fish and wildlife resources.

(3) Adversely affect the public health, safety, and welfare.

As added by P.L.1-1995, SEC.22.

IC 14-29-4-7

Actions to enjoin

Sec. 7. The commission may, in the name of the state, maintain an action to enjoin a violation of this chapter.

As added by P.L.1-1995, SEC.22.

IC 14-29-4-8

Rules adoption

Sec. 8. The commission may adopt rules under IC 4-22-2 to administer this chapter.

As added by P.L.1-1995, SEC.22.

IC 14-29-4-9

Violations

Sec. 9. (a) A person who violates section 3 of this chapter commits a Class B infraction.

(b) Each day of continuing violation after conviction of the offense or violation constitutes a separate offense or violation.

As added by P.L.1-1995, SEC.22. Amended by P.L.71-2004, SEC.25; P.L.195-2014, SEC.36.

IC 14-29-5
Chapter 5. Change in Watercourses; Highway Construction

IC 14-29-5-1
Changing watercourses; permission of federal agency

Sec. 1. (a) The governing bodies or agencies of the state charged with the duties of the construction, maintenance, and repair of public highways may, to the extent money is available and subject to subsection (b), do the following:

(1) Change the course of a stream, watercourse, or drainage ditch.

(2) Restore to the original or former channel a stream, watercourse, or drainage ditch if the stream, watercourse, or drainage ditch has meandered from the original or former course.

(3) The construction work that is necessary to protect the banks or slopes of a stream, watercourse, or ditch to prevent wash, caving, slides, or erosion if the water of the stream, watercourse, or ditch is causing or threatening injury to, damage to, or destruction of a public highway or bridge by erosion, wash, slides, change of course, or overflow.

(4) Construct walls or levees for the purposes of subdivision (3) if it is determined by an engineering survey that this method would be more practicable or less expensive.

(5) Exercise the authority granted in this section to protect public highways against injury, damage, or destruction caused or threatened by landslides.

(b) If a navigable stream is under the jurisdiction of a federal authority or an agency and the proposed work of the highway officials under this section conflicts or interferes with the jurisdiction of the federal agency, the consent or waiver of the federal agency must be procured by the highway officials before the beginning of the proposed work.

As added by P.L.1-1995, SEC.22.

IC 14-29-5-2
Costs and performance of work

Sec. 2. (a) If work under this chapter involves the protection of an existing highway not under construction, the work shall be performed and the costs paid under Indiana law governing the maintenance of highways applicable to the public agency or authorities having charge of the highway involved in the proposed work.

(b) If work under this chapter involves the construction or reconstruction of a highway, the work shall be performed and the costs paid under Indiana law governing construction of highways applicable to the public agency or body having charge of the highway involved in the proposed work.

(c) If it is necessary in the performance of work under this chapter

to procure a right-of-way or interests in land outside the limits of the highway involved, the costs, if any, of the right-of-way or interests in land shall be paid as follows:

(1) Out of the maintenance fund if the work constitutes maintenance.

(2) Out of the construction fund if the work constitutes construction.

As added by P.L.1-1995, SEC.22.

IC 14-29-5-3

Procuring land or property

Sec. 3. The governing or administrative bodies charged with the control of highways may do the following:

(1) If it becomes necessary to procure rights-of-way or interests in land or property outside the limits of a highway under section 2 of this chapter, procure the rights or interests by grant, purchase, or voluntary donation.

(2) Exercise the power of eminent domain for any purpose designated in this chapter under Indiana eminent domain law.

As added by P.L.1-1995, SEC.22.

IC 14-29-6

Chapter 6. Natural, Scenic, and Recreational River System

IC 14-29-6-1

"Adjacent land" defined

Sec. 1. As used in this chapter, "adjacent land" means the area of land paralleling, but not necessarily contiguous to, a river needed to preserve, protect, and manage the natural, scenic, or recreational character of the river.

As added by P.L.1-1995, SEC.22.

IC 14-29-6-2

"Recreational river" defined

Sec. 2. As used in this chapter, "recreational river" means a river that does not have the characteristics necessary to qualify as a natural or scenic river, but that still maintains scenic or recreational characteristics of unusual and significant value.

As added by P.L.1-1995, SEC.22.

IC 14-29-6-3

"River" defined

Sec. 3. As used in this chapter, "river" means any flowing body of water and adjacent land or part of the body of water and adjacent land.

As added by P.L.1-1995, SEC.22.

IC 14-29-6-4

"Scenic river" defined

Sec. 4. As used in this chapter, "scenic river" means a river that:

(1) is free of impoundments;

(2) is accessible in several places; and

(3) has minimal pollution and shoreline developments.

As added by P.L.1-1995, SEC.22.

IC 14-29-6-5

"System" defined

Sec. 5. As used in this chapter, "system" means the Indiana natural, scenic, and recreational river system.

As added by P.L.1-1995, SEC.22.

IC 14-29-6-6

Administration

Sec. 6. The department shall administer this chapter.

As added by P.L.1-1995, SEC.22.

IC 14-29-6-7

Public policy

Sec. 7. As part of the continuing growth of the population and

development of the economy of Indiana, it is necessary and desirable that rivers of unusual natural, scenic, or recreational significance be set aside and preserved for the benefit of present and future generations before the rivers have been destroyed. After rivers are destroyed, the rivers cannot be wholly restored. It is essential to the people of Indiana that the people retain the opportunities to maintain close contact with the natural, scenic, and recreational rivers and to benefit from the scientific, aesthetic, cultural, recreational, scenic, and spiritual values the rivers possess. It is, therefore, the following public policy of Indiana:

(1) That a natural, scenic, and recreational river system be established and maintained.

(2) That such areas be designated, acquired, and preserved by the state.

(3) That other agencies, organizations, and individuals, both public and private, be encouraged to set aside adjacent land for the common benefit of the people of present and future generations.

As added by P.L.1-1995, SEC.22.

IC 14-29-6-8

Selection of rivers for inclusion into system; "natural river" defined

Sec. 8. (a) As used in this section, "natural river" means a river that, free of impoundments, is generally unpolluted, undeveloped, and inaccessible.

(b) The director may study and periodically submit to the commission proposals for the inclusion of a section of a river into the system that, in the director's judgment, falls within at least one (1) of the following categories:

(1) Natural river.

(2) Scenic river.

(3) Recreational river.

(c) In recommending a river or section for inclusion in the system, the director shall prepare a detailed report on the factors that, in the director's judgment, make the river worthy of designation for inclusion in the system. This report shall evaluate among other categories the following:

(1) Length of segment.

(2) Condition of naturally occurring vegetation.

(3) Stream scenic view.

(4) Physical modification of stream course.

(5) Human developments along stream.

(6) Unique or special features of area.

(7) Water quality.

(8) Paralleling roads.

(9) Number of stream crossings.

(d) Specific criteria for each of these natural river, scenic river, and recreational river categories shall be selected after having given

due consideration to the categories specified in subsection (c) and any other categories that are considered to be important.
As added by P.L.1-1995, SEC.22.

IC 14-29-6-9
Rules to designate rivers

Sec. 9. (a) Based upon the study and recommendations of the director, the commission may adopt rules under IC 4-22-2 to designate a river for inclusion into the system.

(b) Before adopting rules, the director shall do the following:

(1) Notify each adjoining or abutting landowner of the plans and recommendations by registered mail.

(2) Conduct a public hearing in the county that contains the largest section of the river being considered.

As added by P.L.1-1995, SEC.22.

IC 14-29-6-10
Altering river classification

Sec. 10. In all planning for the use and development of water and related land resources of rivers in the system, including the construction of impoundments, diversions, realignments, riprap, roadways, crossings, channelizations, locks, canals, or other uses that change the character of a river or destroy the river's scenic values:

(1) full review and evaluation of the river as a scenic resource shall be given; and

(2) the environmental impact of the proposed use and development shall be determined as specified in IC 13-12-4;

before the commission approves plans for use and development.
As added by P.L.1-1995, SEC.22. Amended by P.L.1-1996, SEC.68.

IC 14-29-6-11
Nonapproval of use or development of water

Sec. 11. Use or development of water and related land resources of rivers in the system may not be approved if in the judgment of the commission the use or development may alter the original classification of a river in the system.
As added by P.L.1-1995, SEC.22.

IC 14-29-6-12
River system plan

Sec. 12. (a) The director shall prepare and maintain a plan for the establishment, development, management, use, and administration of rivers in the system. The river system plan shall be included and becomes an integral part of the comprehensive state plans for water management and outdoor recreation.

(b) When a river is proclaimed a part of the system, the river becomes an administrative responsibility of the director. The director shall take the necessary action in keeping with the policy of this chapter to acquire, develop, maintain, and preserve the river and

authorized related land area in accordance with the director's powers and duties with respect to parks, fish and wildlife areas, reservoirs, forests, and miscellaneous areas. The director may seek assistance in the development, operation, and maintenance of scenic rivers from other governmental units and agencies.
As added by P.L.1-1995, SEC.22.

IC 14-29-6-13
"Conservation easement", "land use easement", "scenic easement", and "water use easement" defined; land acquisition

Sec. 13. (a) As used in this section, "conservation easement" has the meaning set forth in IC 32-23-5-2.

(b) As used in this section, "land use easement" means the granting of the right of the general public to use the adjacent land.

(c) As used in this section, "scenic easement" means the granting of protection of adjacent land in the land's present state to preserve the land's natural or scenic characteristics.

(d) As used in this section, "water use easement" means the granting of the right of the general public to travel along or across all water parts of the river.

(e) The director may do the following:

(1) Acquire on behalf of the state land in fee title or any other interest in land, including the following:

(A) Water use easements.

(B) Scenic easements.

(C) Land use easements.

(2) Exercise the right of eminent domain on behalf of the state to acquire the following:

(A) Conservation easements.

(B) Water use easements.

(f) Land or an interest in land may be acquired by purchase with appropriated or donated money, exchanges, donations, or otherwise.

(g) The director may seek financial assistance for land acquisition and for facility development of scenic rivers from the following:

(1) Federal and local governmental sources.

(2) Private groups and individuals.

As added by P.L.1-1995, SEC.22. Amended by P.L.2-2002, SEC.62.

IC 14-29-6-14
Easements encouraged

Sec. 14. Recognizing that most of the rivers recommended for inclusion in the system may not be state owned, the general assembly encourages riparian owners to grant easements to the director for the purposes of this chapter.
As added by P.L.1-1995, SEC.22.

IC 14-29-6-15
Expenditures

Sec. 15. The department may expend money that is:

(1) already appropriated for the purposes of this chapter; or
(2) periodically appropriated to the department from any fund for the purpose of developing public recreation facilities.

As added by P.L.1-1995, SEC.22.

IC 14-29-7
Chapter 7. River Commissions

IC 14-29-7-1
Application of chapter

Sec. 1. This chapter applies only to land in a county whose board of county commissioners has elected to participate in a river commission.

As added by P.L.1-1995, SEC.22.

IC 14-29-7-2
"River" defined

Sec. 2. As used in this chapter, "river" means that part of a body of flowing water and adjacent land that is the subject of a river commission established under this chapter.

As added by P.L.1-1995, SEC.22.

IC 14-29-7-3
Establishment; name; termination

Sec. 3. (a) The department may establish a river commission for a river designated as a natural, scenic, or recreational river under IC 14-29-6. An established river commission shall be known as the "_____ River Commission".

(b) Each river commission shall be established for a period of four (4) years, at the end of which the river commission terminates. After termination, a river commission may be reestablished any number of times.

As added by P.L.1-1995, SEC.22.

IC 14-29-7-4
Election to participate

Sec. 4. The board of county commissioners of each county containing a river for which a river commission has been established may elect that the county participate in the river commission.

As added by P.L.1-1995, SEC.22.

IC 14-29-7-5
Membership of commission

Sec. 5. The membership of a river commission consists of the following:

(1) The director or the director's designee.

(2) Two (2) individuals appointed for terms of four (4) years by the board of commissioners of each participating county from among owners of land that is:

(A) within the county; and

(B) contiguous to the river.

As added by P.L.1-1995, SEC.22.

IC 14-29-7-6
Vacancies

Sec. 6. A vacancy on a river commission shall be filled for the unexpired term in the same manner as original appointments are made.

As added by P.L.1-1995, SEC.22.

IC 14-29-7-7
Voting

Sec. 7. Each member of a river commission is entitled to one (1) vote. Voting by proxy is not permitted.

As added by P.L.1-1995, SEC.22.

IC 14-29-7-8
Service without compensation

Sec. 8. Members of a river commission serve without compensation.

As added by P.L.1-1995, SEC.22.

IC 14-29-7-9
Quorum

Sec. 9. A majority of the members of a river commission constitutes a quorum. The affirmative vote of a majority of the members is necessary to issue a permit.

As added by P.L.1-1995, SEC.22.

IC 14-29-7-10
First meeting

Sec. 10. As soon as possible after a river commission has been established, the director shall designate the time and place of the first meeting.

As added by P.L.1-1995, SEC.22.

IC 14-29-7-11
Officers

Sec. 11. (a) At the first meeting of a river commission, the river commission shall select the following:

(1) A chairman from the membership.

(2) Other officers that the river commission determines.

(b) The officers serve for terms of one (1) year.

As added by P.L.1-1995, SEC.22.

IC 14-29-7-12
Bimonthly meetings

Sec. 12. (a) Each river commission shall hold not less than six (6) regular, bimonthly meetings at a time and place fixed at the initial meeting.

(b) A river commission may hold special meetings that the river commission considers necessary.

(c) The chairman of a river commission may call special meetings.
As added by P.L.1-1995, SEC.22.

IC 14-29-7-13
Employees

Sec. 13. Each river commission may:

(1) appoint;
(2) prescribe the duties of; and
(3) fix the compensation of;

the employees that are necessary for the discharge of the duties and responsibilities of the river commission.
As added by P.L.1-1995, SEC.22.

IC 14-29-7-14
Powers of commission

Sec. 14. Each river commission may do the following:

(1) Adopt a seal.
(2) Sue and be sued in the river commission's own name.
(3) Establish bylaws and rules for the river commission's government.
(4) Make and enter into all contracts or agreements.
(5) Do all things necessary or incidental to the performance of the powers and duties of the river commission under this chapter.

As added by P.L.1-1995, SEC.22.

IC 14-29-7-15
Powers of members or employees

Sec. 15. A member or an employee of a river commission may do the following:

(1) Conduct a hearing or an investigation.
(2) Take evidence.
(3) Report the evidence to the river commission for consideration and action.

As added by P.L.1-1995, SEC.22.

IC 14-29-7-16
Memorandum of understanding

Sec. 16. As soon as possible after the establishment of a river commission, the river commission and the department shall negotiate a memorandum of understanding for the management and preservation of the natural and scenic qualities of the river.
As added by P.L.1-1995, SEC.22.

IC 14-29-7-17
Cooperation with department

Sec. 17. Each river commission shall protect and enhance the natural and scenic qualities of the river in cooperation with the department.

As added by P.L.1-1995, SEC.22.

IC 14-29-7-18
Permits required

Sec. 18. A person may not substantially affect the natural or scenic qualities of a river that is the subject of a river commission unless the person has secured a permit to do so from the river commission.
As added by P.L.1-1995, SEC.22.

IC 14-29-7-19
Issuance of permits

Sec. 19. (a) After a hearing and subject to subsection (b), a river commission may issue a permit to a person to substantially affect the natural or scenic qualities of the river if the river commission finds the need of the person seeking the permit to be more compelling than the need of the people to have the natural and scenic qualities of the river preserved.

(b) A permit may not be issued that substantially affects the natural or scenic qualities of a river in a manner visible from five (5) feet above the water surface of the river at normal water level between May 1 and October 15 of a year.
As added by P.L.1-1995, SEC.22.

IC 14-29-7-20
Appeals

Sec. 20. A person adversely affected by a decision of a river commission may appeal the decision, de novo, to the circuit or superior court with jurisdiction in the county in which the affected land is located.
As added by P.L.1-1995, SEC.22.

IC 14-29-7-21
Structures existing when commission established

Sec. 21. The lawful use of a structure existing at the time of the effective date of the establishment of a river commission:

(1) may be continued even though the use does not conform to this chapter; and

(2) may be extended throughout the structure if a structural alteration is not made, except those required by law.

As added by P.L.1-1995, SEC.22.

IC 14-29-7-22
Permits issued before commission established

Sec. 22. This chapter does not require a change in the plans, construction, or designated use of a building for which a building permit was issued before the river commission was established if the following conditions are met:

(1) Construction is begun not later than ninety (90) days of the date of the permit.

(2) The building is completed according to the plans not later than two (2) years from the date the river commission was established.

As added by P.L.1-1995, SEC.22.

IC 14-29-7-23

Property rights not affected

Sec. 23. The establishment of a river commission does not affect the right of:

(1) the owner of land to sell; or

(2) the department to acquire;

an easement or other property interest under IC 14-29-6-13.

As added by P.L.1-1995, SEC.22.

IC 14-29-7-24

Eminent domain

Sec. 24. The director may not use the power of eminent domain to acquire an easement under IC 14-29-6-13 on land subject to the authority of a river commission.

As added by P.L.1-1995, SEC.22.

IC 14-29-7-25

Violations

Sec. 25. (a) If a river commission brings an action in the circuit or superior court with jurisdiction in the county in which the land is located, the court shall order a person who violates section 18 of this chapter to be:

(1) enjoined from continuing the violation; and

(2) required to do the following:

(A) Remove a structure erected in violation of:

(i) this chapter; or

(ii) IC 13-2-27 (before its repeal).

(B) Restore the natural and scenic qualities of the river altered by the person's activities.

(C) Pay the costs of the action.

(b) In addition to the requirements of subsection (a), a person who violates section 18 of this chapter may be assessed a civil penalty of:

(1) at least ten dollars ($10); and

(2) not more than three hundred dollars ($300);

for each day the violation continues.

As added by P.L.1-1995, SEC.22.

IC 14-29-8

Chapter 8. Recreational Streams

IC 14-29-8-1

"Stream" defined

Sec. 1. As used in this chapter, "stream" means a natural or an altered river, creek, slough, or artificial channel that has:

(1) definable banks and a bed capable of conducting confined runoff;

(2) visible evidence of the flow or occurrence of water; and

(3) a watershed in excess of one (1) square mile.

As added by P.L.1-1995, SEC.22.

IC 14-29-8-2

Use of recreational stream

Sec. 2. (a) A person may use a stream that is capable of use by a watercraft for boating, fishing, or other recreational purposes if the stream is designated as a recreational stream by rule adopted by the commission.

(b) The right of a person to use a recreational stream is limited to the water within the stream and does not do any of the following:

(1) Authorize the use of the bed or bank of the stream, except in an emergency.

(2) Establish a right of access to the stream over private land.

As added by P.L.1-1995, SEC.22.

IC 14-29-8-3

Designation as recreational stream; hearing

Sec. 3. (a) The commission shall adopt rules under IC 4-22-2 for the designation of streams or parts of streams as recreational streams.

(b) Before a hearing on the designation of a stream as a recreational stream and in addition to the notification requirements under IC 4-22-2, the commission shall do the following:

(1) Publish notice at least twenty-one (21) days before the hearing in a newspaper of general circulation in the county where a stream is located that the commission proposes to designate the stream as a recreational stream. The notice must state the time and place of the hearing.

(2) Conduct a separate hearing in each county where a stream is proposed to be designated as a recreational stream.

(c) If a stream:

(1) is located wholly within one (1) county; and

(2) is a regulated drain under IC 36-9-27;

the county drainage board must concur in the designation before final adoption of the rule.

As added by P.L.1-1995, SEC.22.

IC 14-29-8-4

Use not affecting owner or navigability

Sec. 4. The use of a stream designated under this chapter does not do any of the following:

(1) Impose a duty upon the riparian landowner or tenant to provide for the safe use of the stream.

(2) Affect ownership of the bed of the stream.

(3) Affect a determination of the stream's navigability.

As added by P.L.1-1995, SEC.22.

IC 14-29-8-5

Littering and trespassing

Sec. 5. A person who:

(1) throws, dumps, or leaves refuse in the water or on the banks of a stream designated under this chapter; or

(2) crosses private land to gain access to a designated stream without the permission of the landowner or tenant of the land;

commits a Class B misdemeanor.

As added by P.L.1-1995, SEC.22.

IC 14-30

ARTICLE 30. RIVER BASIN COMMISSIONS

IC 14-30-1

Chapter 1. Kankakee River Basin Commission

IC 14-30-1-1

"Basin" defined

Sec. 1. As used in this chapter, "basin" refers to the Kankakee River basin.

As added by P.L.1-1995, SEC.23.

IC 14-30-1-2

"Commission" defined

Sec. 2. As used in this chapter, "commission" refers to the Kankakee River basin commission established by this chapter.

As added by P.L.1-1995, SEC.23.

IC 14-30-1-3

"Kankakee River basin" defined

Sec. 3. As used in this chapter, "Kankakee River basin" means the area in Jasper County, LaPorte County, Lake County, Marshall County, Newton County, Porter County, St. Joseph County, and Starke County that is drained by the Kankakee River and tributaries of the Kankakee River in Indiana.

As added by P.L.1-1995, SEC.23.

IC 14-30-1-4

Establishment

Sec. 4. The Kankakee River basin commission is established.

As added by P.L.1-1995, SEC.23.

IC 14-30-1-5

Activities limited

Sec. 5. The commission shall limit the commission's activities to the Kankakee River basin.

As added by P.L.1-1995, SEC.23.

IC 14-30-1-6

Members

Sec. 6. The commission consists of the following three (3) individuals from each county that contains part of the basin:

(1) The county surveyor or an employee of the county surveyor appointed by the county surveyor to represent the county surveyor on the commission.

(2) One (1) member of the board of supervisors of the soil and water conservation district, appointed by the supervisors of the soil and water conservation district.

(3) One (1) member appointed by the executive of the county.
As added by P.L.1-1995, SEC.23. Amended by P.L.141-1997, SEC.1.

IC 14-30-1-7
Term of office

Sec. 7. The term of office of an appointed member of the commission is three (3) years and continues until a successor is appointed and certified.
As added by P.L.1-1995, SEC.23.

IC 14-30-1-8
Reappointment; vacancies

Sec. 8. (a) An individual appointed to the commission is eligible for reappointment.

(b) If a vacancy occurs in the position of an appointed member of the commission, the entity authorized under section 6(2) or 6(3) of this chapter to appoint the member shall appoint a new member to fill the vacancy in the same way that the member to be replaced was appointed.
As added by P.L.1-1995, SEC.23. Amended by P.L.141-1997, SEC.2.

IC 14-30-1-9
Officers

Sec. 9. (a) The commission shall elect the following officers:
(1) A chairman.
(2) A vice chairman.
(3) A secretary.
(4) A treasurer.

(b) The:
(1) terms of the officers elected under subsection (a) may not exceed one (1) year; and
(2) officers are eligible for reelection.

(c) The commission may establish and fill other offices the commission considers necessary.

(d) Each officer of the commission shall perform the duties usually pertaining to the office.
As added by P.L.1-1995, SEC.23.

IC 14-30-1-10
Meetings

Sec. 10. (a) The commission shall fix the times of the commission's regular meetings. The commission shall hold regular meetings at least bimonthly.

(b) A special meeting of the commission may be called by the chairman or by five (5) members upon written notice fixing the time and place of the meeting. However, written notice of a special meeting is not required if:
(1) the time of the special meeting was fixed at a regular meeting; or

(2) all the members are present at the special meeting.

(c) A member of the commission may waive notice of a meeting by a written waiver filed with the secretary of the commission.

As added by P.L.1-1995, SEC.23. Amended by P.L.141-1997, SEC.3.

IC 14-30-1-11

Rules

Sec. 11. (a) The following rules apply to proceedings of the commission:

(1) Twelve (12) members constitute a quorum.

(2) At least eight (8) affirmative votes are required for the commission to take action.

(3) The commission shall keep a record of the commission's resolutions, transactions, and findings. This record is a public record.

(b) The commission may adopt additional rules for the transaction of business.

As added by P.L.1-1995, SEC.23. Amended by P.L.141-1997, SEC.4.

IC 14-30-1-12

Annual report

Sec. 12. The commission shall make an annual report of the commission's activities to the following:

(1) The executive of each county in the basin.

(2) Upon request to the following:

(A) The governor.

(B) The general assembly. The report must be in an electronic format under IC 5-14-6.

As added by P.L.1-1995, SEC.23. Amended by P.L.28-2004, SEC.132.

IC 14-30-1-13

Duties

Sec. 13. (a) The commission:

(1) shall coordinate the development of the basin; and

(2) may request assistance of the regional planning commissions affected in the preparation of a comprehensive development plan for the basin.

(b) All planning and development programs of the commission must be approved by the following:

(1) Each regional planning commission affected.

(2) The department.

As added by P.L.1-1995, SEC.23.

IC 14-30-1-14

Powers

Sec. 14. The commission may do the following:

(1) Conduct all studies necessary for the performance of the commission's duties.

(2) Publicize, advertise, and distribute reports on the commission's purposes, objectives, and findings.

(3) When requested, provide recommendations in matters related to the commission's functions and objectives to the following:

(A) Political subdivisions in the basin.

(B) Other public and private agencies.

(4) When requested, act as a coordinating agency for programs and activities of other public and private agencies that are related to the commission's objectives.

As added by P.L.1-1995, SEC.23.

IC 14-30-1-15

Grants and appropriations

Sec. 15. (a) The commission may receive grants and appropriations from the following:

(1) Federal, state, and local governments.

(2) Individuals, foundations, and other organizations.

(b) The commission may enter into agreements or contracts regarding the acceptance or use of these grants and appropriations for the purpose of carrying out the commission's activities under this chapter.

(c) The commission must expend money appropriated to the commission for the purpose for which the money is appropriated.

As added by P.L.1-1995, SEC.23. Amended by P.L.141-1997, SEC.5.

IC 14-30-1-16

Property interests

Sec. 16. (a) The commission may:

(1) acquire and dispose of real or personal property by grant, gift, purchase, lease, devise, or otherwise; and

(2) hold, use, improve, maintain, operate, own, manage, or lease as lessor or lessee real or personal property or any interest in that property;

for the purposes prescribed by this chapter.

(b) The commission may exercise the powers granted by this section for the development of the water resources of the basin.

As added by P.L.1-1995, SEC.23.

IC 14-30-1-17

Capacity to sue or be sued

Sec. 17. The commission may sue and be sued.

As added by P.L.1-1995, SEC.23.

IC 14-30-1-18

Agreements with agencies in other states

Sec. 18. The commission may, with the approval of the regional planning commissions affected and the department, enter into agreements with agencies in another state that are responsible for the

planning or development of all or part of the basin in the other state.
As added by P.L.1-1995, SEC.23.

IC 14-30-1-19
Executive board

Sec. 19. (a) The commission may establish an executive board consisting of the following:

(1) The chairman of the commission.

(2) Eight (8) other members, one (1) from each county in the basin, to be chosen in a manner prescribed by the commission.

(b) The commission may delegate to the executive board the power to do the following:

(1) Recommend to the commission rules and regulations for the use and operation of commission properties.

(2) Conduct hearings on proposed commission projects.

(3) Perform other administrative duties assigned by the commission.

As added by P.L.1-1995, SEC.23.

IC 14-30-1-20
Advisory committees

Sec. 20. The commission may appoint advisory committees consisting of individuals whose experience, training, or interest in the program enables the individuals to assist the commission. A member of an advisory committee is not entitled to compensation for the member's services.
As added by P.L.1-1995, SEC.23.

IC 14-30-1-21
Budgets and appropriations

Sec. 21. (a) The counties in the basin may budget, appropriate, and disburse an aggregate amount not to exceed fifty thousand dollars ($50,000) per year to carry out the purposes of the commission under this chapter. The appropriation shall be apportioned among the counties in the basin in direct relationship to the amount of land area lying within the basin boundaries.

(b) The department shall certify the boundaries and the drainage area of each county within the basin after consultation with the respective county surveyors and the United States Army Corps of Engineers. The determination and certification shall be prepared before submission of budgets to the appropriating bodies so that the correct amount can be appropriated.

(c) A regional planning commission may, upon request from the commission, furnish for a reasonable charge the support staff necessary for the commission.
As added by P.L.1-1995, SEC.23.

IC 14-30-1-22
Duties

Sec. 22. (a) The commission shall do the following:

(1) Prepare and adopt by majority vote an annual budget.

(2) Submit the budget to each county, municipality, or agency appropriating money for the use of the commission.

(b) After approval of the budget by the commission, money may be expended only as budgeted unless a majority vote of the commission authorizes other expenditure.

(c) Any appropriated amounts remaining unexpended or unencumbered at the end of the year become part of a nonreverting cumulative fund to be held in the name of the commission. The commission may authorize unbudgeted expenditures from this fund by a majority vote of the commission.

(d) The commission is responsible for the safekeeping and deposit of money the commission receives under this chapter. The state board of accounts shall:

(1) prescribe the methods and forms for keeping; and

(2) periodically audit;

the accounts, records, and books of the commission.

(e) The treasurer of the commission may receive, disburse, and handle money belonging to the commission, subject to the following:

(1) Applicable statutes.

(2) Procedures established by the commission.

As added by P.L.1-1995, SEC.23.

IC 14-30-1-23

Mileage allowance

Sec. 23. A member of the commission is entitled in the performance of official duties to an amount for mileage equal to that fixed by the budget agency as payment to all persons entitled to receive a mileage allowance from the state.

As added by P.L.1-1995, SEC.23.

IC 14-30-2
Chapter 2. Maumee River Basin Commission

IC 14-30-2-1
"Basin" defined
Sec. 1. As used in this chapter, "basin" refers to the Maumee River basin.
As added by P.L.1-1995, SEC.23.

IC 14-30-2-2
"Commission" defined
Sec. 2. As used in this chapter, "commission" refers to the Maumee River basin commission established by this chapter.
As added by P.L.1-1995, SEC.23.

IC 14-30-2-3
"Maumee River basin" defined
Sec. 3. As used in this chapter, "Maumee River basin" means the area in Indiana drained by the Maumee River and the tributaries of the Maumee River.
As added by P.L.1-1995, SEC.23.

IC 14-30-2-4
"Participating county" defined
Sec. 4. As used in this chapter, "participating county" refers to a county that joins the commission under section 7 of this chapter.
As added by P.L.1-1995, SEC.23.

IC 14-30-2-5
"Plan" defined
Sec. 5. As used in this chapter, "plan" refers to a plan described in section 14(1) of this chapter.
As added by P.L.1-1995, SEC.23.

IC 14-30-2-6
Separate municipal corporation
Sec. 6. The Maumee River basin commission is established as a separate municipal corporation.
As added by P.L.1-1995, SEC.23.

IC 14-30-2-7
Participating county; designation
Sec. 7. The executive of a county that includes territory in the Maumee River basin may do the following:
(1) Elect to participate in the commission by designating the county as a participating county.
(2) Revoke the designation.
As added by P.L.1-1995, SEC.23.

IC 14-30-2-8
Voting members

Sec. 8. The following shall serve as voting members of the commission:

(1) Each member of the county executive for a participating county.

(2) The executive director or, if a county does not have an executive director, the chairman of a soil and water conservation district that:

(A) is subject to IC 14-32;

(B) includes territory in a participating county; and

(C) includes territory in the basin.

(3) The county surveyor of each participating county.

As added by P.L.1-1995, SEC.23. Amended by P.L.142-1997, SEC.1.

IC 14-30-2-9
Repealed

(Repealed by P.L.142-1997, SEC.3.)

IC 14-30-2-10
Member designation and revocation

Sec. 10. (a) A member of the commission may:

(1) designate another individual to perform the duties of the member on the commission; and

(2) revoke the designation.

(b) A designation or a revocation of a designation under this section must be filed with the commission to be effective.

As added by P.L.1-1995, SEC.23.

IC 14-30-2-11
Officers

Sec. 11. (a) The commission shall annually elect from among the voting members the following officers:

(1) A chairperson.

(2) A vice chairperson.

(3) A secretary.

(4) A treasurer.

(b) The officers elected under subsection (a) shall be elected and shall perform the duties specified in the commission's bylaws.

(c) The commission may establish other offices and determine the means of filling the offices.

As added by P.L.1-1995, SEC.23.

IC 14-30-2-12
Travel expenses and salary per diem

Sec. 12. (a) Each member of the commission is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as provided in the state travel policies and procedures established by the Indiana

department of administration and approved by the budget agency. Money paid under this section may be paid only from the money available to the commission.

(b) A county may pay members of the commission the salary per diem provided by IC 4-10-11-2.1(b) for the performance of the member's duties on the commission.

As added by P.L.1-1995, SEC.23. Amended by P.L.142-1997, SEC.2.

IC 14-30-2-13

Powers of commission

Sec. 13. (a) The commission may do the following:

(1) Sue and be sued.

(2) Manage the commission's internal affairs.

(3) Employ staff.

(4) Enter into contracts to implement a cooperative agreement described in section 14 of this chapter.

(5) Exercise the powers of a political subdivision specified in a cooperative agreement described in section 14 of this chapter.

(b) This section does not exempt the commission from any statute.

As added by P.L.1-1995, SEC.23.

IC 14-30-2-14

Cooperative agreement between political subdivision and other legal entity

Sec. 14. A political subdivision in a participating county may under IC 36-1-7 enter into a cooperative agreement with the commission and at least one (1) other legal entity to authorize the commission to:

(1) develop a plan to control flooding in that part of the basin that is described in the cooperative agreement;

(2) exercise any of the other powers of the political subdivision to regulate water courses in the basin; or

(3) develop and promote good soil and water conservation practices and procedures.

As added by P.L.1-1995, SEC.23.

IC 14-30-2-15

Flood control

Sec. 15. In developing the plan, the commission shall determine the best method and manner of establishing flood control, giving consideration to the following:

(1) The reservoir method.

(2) The channel improvement method.

(3) The levee method.

(4) Flood plain regulation.

(5) All nonstructural methods.

As added by P.L.1-1995, SEC.23.

IC 14-30-2-16

Public participation

Sec. 16. The commission shall give the public an opportunity to participate in the development of the plan.

As added by P.L.1-1995, SEC.23.

IC 14-30-2-17

State approval

Sec. 17. Before the plan is implemented by a political subdivision, the plan must be approved by the state in accordance with IC 14-25 through IC 14-29.

As added by P.L.1-1995, SEC.23.

IC 14-30-2-18

Appropriations to carry out commission's responsibilities under cooperative agreement

Sec. 18. A political subdivision in a participating county may appropriate money to the commission to carry out any of the commission's responsibilities under a cooperative agreement described in section 14 of this chapter. Money appropriated to the commission that remains at the end of a year does not revert to the political subdivision appropriating the money.

As added by P.L.1-1995, SEC.23.

IC 14-30-2-19

Annual budget

Sec. 19. The commission shall prepare an annual budget for the commission's operation and other expenditures under IC 6-1.1-17. However, the annual budget is not subject to review and modification by the county board of tax adjustment of any county. Notwithstanding any other law, the budget of the commission shall be treated for all other purposes as if the appropriate county board of tax adjustment had approved the budget.

As added by P.L.1-1995, SEC.23. Amended by P.L.224-2007, SEC.104; P.L.146-2008, SEC.426.

IC 14-30-2-20

Rules

Sec. 20. The commission may adopt rules to do the following:

(1) Require that increased water runoff resulting from new construction be impounded on the construction site.

(2) Permit the waiver of requirements of onsite water impoundment on payment of a reasonable fee by the developer of the new construction.

As added by P.L.1-1995, SEC.23.

IC 14-30-2-21

Advisory committees

Sec. 21. The commission may appoint advisory committees consisting of individuals whose experience, training, or interest in the

program enables the committees to assist the commission. A member of an advisory committee is not entitled to compensation for the member's services.
As added by P.L.1-1995, SEC.23.

IC 14-30-2-22
Powers pertaining to property

Sec. 22. (a) For the purposes of this chapter, the commission may do the following:

(1) Acquire by grant, gift, purchase, or devise and dispose of conservation easements under IC 32-23-5 in land within the one hundred (100) year flood plains and the wetlands in the basin.

(2) Acquire by grant, gift, purchase, or devise improvements within the one hundred (100) year flood plains of the basin for the purpose of removal of those improvements.

(3) Adopt rules under IC 4-22-2 that restrict construction within the one hundred (100) year flood plains of the basin.

(4) Acquire, dispose, hold, use, improve, maintain, operate, own, manage, or lease real or personal property by grant, gift, purchase, or devise.

(b) The commission may exercise the powers granted by this section as follows:

(1) For purposes of IC 32-23-5.

(2) To contribute to the following:

(A) Flood control.

(B) Flood damage reduction.

(C) Improvements in water quality.

(D) Soil conservation.

As added by P.L.1-1995, SEC.23. Amended by P.L.2-2002, SEC.63.

IC 14-30-2-23
Right of entry

Sec. 23. (a) The commission, board of directors, employees, or authorized representatives of the commission acting under this chapter may:

(1) enter the land lying within the one hundred (100) year flood plain of any watercourse; and

(2) enter nonflood plain land to gain access to the flood plain land;

to investigate, examine, survey, or investigate suspected violations of the Indiana flood control laws.

(b) The commission must give twenty-one (21) days written notice to:

(1) an affected landowner;

(2) a contract purchaser; or

(3) for a municipality, the executive of the municipality;

before exercising the right of entry granted in this section. The notice must state the purpose of the entry and that there is a right of appeal under this section.

(c) An affected landowner may, within the twenty-one (21) day notice period under subsection (b), appeal to the commission the proposed necessity for entry. If an appeal is made, the commission shall hold a hearing on the necessity for right of entry before the right of entry is exercised.

(d) A person acting under this section must use due care to avoid damage to crops, fences, buildings, or other structures.

(e) The commission, board of directors, employees, or authorized representative of the commission acting under this chapter does not commit criminal trespass under IC 35-43-2-2.

As added by P.L.1-1995, SEC.23.

IC 14-30-2-24

Exemptions

Sec. 24. (a) This section does not apply to the following:

(1) The adoption of rules restricting construction within the one hundred (100) year flood plain.

(2) The acquisition of conservation easements under IC 32-23-5.

(3) The investigation of alleged violations of the Indiana flood control laws.

(b) A power of the commission may not be exercised upon any of the following:

(1) A river included in the natural, scenic, or recreational river system under IC 14-29-6 or the river's associated one hundred (100) year flood plain.

(2) A nature preserve under IC 14-31-1.

As added by P.L.1-1995, SEC.23. Amended by P.L.2-2002, SEC.64.

IC 14-30-3

Chapter 3. St. Joseph River Basin Commission

IC 14-30-3-1

"Basin" defined

Sec. 1. As used in this chapter, "basin" refers to the St. Joseph River basin.

As added by P.L.1-1995, SEC.23.

IC 14-30-3-2

"Commission" defined

Sec. 2. As used in this chapter, "commission" refers to the St. Joseph River basin commission established by this chapter.

As added by P.L.1-1995, SEC.23.

IC 14-30-3-3

"Participating county" defined

Sec. 3. As used in this chapter, "participating county" refers to a county that joins the commission under section 6 of this chapter.

As added by P.L.1-1995, SEC.23.

IC 14-30-3-4

"St. Joseph River basin" defined

Sec. 4. As used in this chapter, "St. Joseph River basin" means the area in Elkhart County, Kosciusko County, LaGrange County, Noble County, St. Joseph County, and Steuben County that drains into the St. Joseph River.

As added by P.L.1-1995, SEC.23.

IC 14-30-3-5

Separate municipal corporation

Sec. 5. The St. Joseph River basin commission is established as a separate municipal corporation.

As added by P.L.1-1995, SEC.23.

IC 14-30-3-6

Participating county; designation

Sec. 6. The executive of a county that includes territory in the basin may do the following:

(1) Elect to participate in the commission by designating the county as a participating county.

(2) Revoke the designation.

As added by P.L.1-1995, SEC.23.

IC 14-30-3-7

Boundary certification

Sec. 7. After consultation with the surveyor of each county in the basin, the director shall certify the boundaries of the basin.

As added by P.L.1-1995, SEC.23.

IC 14-30-3-8
Members

Sec. 8. The commission consists of the following individuals:

(1) From each participating county the following:

(A) The executive of each second class city or the executive's designee.

(B) If the county does not have a second class city, the executive of the municipality with the largest population or the executive's designee.

(2) A member of the county executive or the county executive's designee from each participating county.

(3) The county health officer or the health officer's designee from each participating county.

(4) An individual appointed by the governor who is a member of the board of supervisors of a soil and water conservation district that contains a part of the basin within all or part of the district's boundaries.

(5) The director or the director's designee.

As added by P.L.1-1995, SEC.23.

IC 14-30-3-9
Term of office

Sec. 9. The term of office of an appointed member of the commission is three (3) years and continues until a successor is appointed and certified.

As added by P.L.1-1995, SEC.23.

IC 14-30-3-10
Travel expenses

Sec. 10. The members of the commission serve without compensation. However, each member is entitled to reimbursement for travel, lodging, meals, and other expenses as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.1-1995, SEC.23.

IC 14-30-3-11
Officers

Sec. 11. (a) The commission shall elect from among the members the following officers:

(1) A chairman.

(2) A vice chairman.

(3) A secretary.

(4) A treasurer.

(b) The:

(1) term of office for the officers elected under subsection (a) is one (1) year; and

(2) officers are eligible for reelection.

(c) The commission may establish and fill other offices that the commission considers necessary.

As added by P.L.1-1995, SEC.23.

IC 14-30-3-12

Executive board

Sec. 12. (a) The commission may establish an executive board consisting of the following:

(1) The chairman of the commission.

(2) One (1) member from each participating county that is not represented by the chairman, to be chosen in a manner prescribed by the commission.

(b) The commission may delegate to the executive board the power to do the following:

(1) Recommend agenda items and activities to the commission.

(2) Conduct hearings on proposed commission projects.

(3) Perform other administrative duties assigned by the commission.

As added by P.L.1-1995, SEC.23.

IC 14-30-3-13

Advisory committee

Sec. 13. The commission may appoint an advisory committee to assist the commission. A member of an advisory committee is not entitled to compensation for serving on the advisory committee.

As added by P.L.1-1995, SEC.23.

IC 14-30-3-14

Duties

Sec. 14. (a) The commission shall do the following:

(1) Fix the times of the commission's regular meetings.

(2) Have at least one (1) meeting in each quarter of the year.

(b) A special meeting of the commission may be called in a manner that the commission shall establish.

(c) A member of the commission may waive notice of any meeting by filing a written waiver with the secretary of the commission.

As added by P.L.1-1995, SEC.23.

IC 14-30-3-15

Quorum; vote required to take action

Sec. 15. (a) A majority of all the members of the commission constitutes a quorum.

(b) An affirmative vote of a majority of the entire membership is required for the commission to take action.

As added by P.L.1-1995, SEC.23.

IC 14-30-3-15.5

Electronic meetings

Sec. 15.5. (a) This section applies to meetings under IC 5-14-1.5 of:

(1) the commission; or

(2) an executive board appointed under section 12 of this chapter.

(b) The definitions in IC 5-14-1.5 apply to this section.

(c) A commission member may participate in a meeting by an electronic means that allows:

(1) all participating members; and

(2) all members of the public who are physically present at the meeting;

to simultaneously communicate with each other. The member shall be considered present for purposes of establishing a quorum and may participate in any final action taken at the meeting.

(d) Both of the following apply to a meeting under this section:

(1) At least one-third (1/3) of the members must be physically present at the place where the meeting is conducted.

(2) All votes during the meeting must be taken by roll call vote.

Nothing in this section affects the public's right to attend a meeting at the place where the meeting is conducted and the minimum number of members is physically present.

(e) Each member of the commission is required to physically attend at least one (1) meeting of the commission annually. Each member of the executive board is required to physically attend at least one (1) meeting of the executive board annually.

(f) The commission may adopt a policy to govern participation in the meetings of the commission or the executive board by electronic communication. The policy may do any of the following:

(1) Require a member to request authorization to participate in a meeting by electronic communication within a certain number of days before the meeting to allow for arrangements to be made for the member's participation by electronic communication.

(2) Limit the number of meetings in a calendar year in which any one (1) member may participate by electronic communication.

(3) Provide that a member who participates in a meeting by electronic communication may not cast the deciding vote on any official action. For purposes of this chapter, a member casts the deciding vote on an official action if, regardless of the order in which the votes are cast:

(A) the member votes with the majority; and

(B) the official action is adopted or defeated by one (1) vote.

(4) Require a member participating in a meeting by electronic communication to confirm in writing the votes cast by the member during the meeting within a certain number of days after the date of the meeting.

(5) Provide that in addition to the location where a meeting is conducted, the public may also attend some or all meetings, excluding executive sessions, at a public place or public places

at which a member is physically present and participates by electronic communication. If the commission's policy includes this provision, a meeting notice must provide the following information:

(A) The identity of each member who will be physically present at a public place and participate in the meeting by electronic communication.

(B) The address and telephone number of each public place where a member will be physically present and participate by electronic communication.

(C) Unless the meeting is an executive session, a statement that a location described in clause (B) will be open and accessible to the public.

(6) Establish any other procedures, limitations, or conditions that govern participation in meetings of the commission by electronic communication and are not in conflict with this chapter.

(g) Nothing in this section affects the commission's right to exclude the public from an executive session in which a member participates by electronic communication.

As added by P.L.30-2015, SEC.2.

IC 14-30-3-16

Record

Sec. 16. (a) The commission shall keep a record of the commission's resolutions, transactions, and findings. This record is a public record.

(b) The commission may adopt rules for the transaction of business.

As added by P.L.1-1995, SEC.23.

IC 14-30-3-17

Capacity to sue or be sued

Sec. 17. The commission may sue and be sued.

As added by P.L.1-1995, SEC.23.

IC 14-30-3-18

Annual report

Sec. 18. The commission shall make an annual report of the commission's activities to the executive of each participating county. The commission shall upon request make an annual report to the following:

(1) The governor.

(2) Any member of the general assembly.

As added by P.L.1-1995, SEC.23.

IC 14-30-3-19

Powers

Sec. 19. The commission may do the following:

(1) Provide a forum for the discussion, study, and evaluation of water resource issues of common concern in the basin.
(2) Facilitate and foster cooperative planning and coordinated management of the basin's water and related land resources.
(3) Develop positions on major water resource issues and serve as an advocate of the basin's interests before Congress and federal, state, and local governmental agencies.
(4) Develop plans to improve water quality in the basin.
(5) Publicize, advertise, and distribute reports on the commission's purposes, objectives, studies, and findings.
(6) When requested, make recommendations in matters related to the commission's functions and objectives to political subdivisions in the basin and to other public and private agencies.
(7) When requested, act as a coordinating agency for programs and activities of other public and private agencies that are related to the commission's objectives.

As added by P.L.1-1995, SEC.23.

IC 14-30-3-20
Government officials attending meetings and advising

Sec. 20. The commission may invite the governor, government officials, or other individuals from the St. Joseph River basin in Michigan to do the following:
(1) Attend the commission's meetings.
(2) Advise the commission upon the commission's request.

As added by P.L.1-1995, SEC.23.

IC 14-30-3-21
Interstate compact with Michigan

Sec. 21. The commission shall do the following:
(1) Explore the desirability of entering into an interstate compact with Michigan to improve water quality in the basin.
(2) Make recommendations on the content of a compact.

As added by P.L.1-1995, SEC.23.

IC 14-30-3-22
Grants and appropriations

Sec. 22. (a) The commission may receive grants and appropriations from the following:
(1) Federal, state, and local governments.
(2) Individuals, foundations, and other organizations.

(b) The commission may enter into agreements or contracts regarding the acceptance or use of these grants and appropriations for the purpose of carrying out the commission's activities under this chapter.

As added by P.L.1-1995, SEC.23.

IC 14-30-3-23

Budget

Sec. 23. The commission shall do the following:

(1) Prepare and adopt an annual budget.

(2) Submit the budget to the executive of each participating county.

(3) Make the budget available to each agency appropriating money to the commission.

As added by P.L.1-1995, SEC.23.

IC 14-30-3-24

Appropriations to carry out commission's responsibilities

Sec. 24. (a) The participating counties may budget, appropriate, and disburse money to carry out the purposes of the commission under this chapter.

(b) The appropriation from the participating counties that is needed for all or part of the commission's budget shall be apportioned among the participating counties in direct relationship to the amount of land area in each participating county certified under section 7 of this chapter.

(c) The apportionment that is needed from each participating county shall be presented to the county executive at the same time that budgets are presented by county officers.

As added by P.L.1-1995, SEC.23.

IC 14-30-3-25

Expenditures; deposits

Sec. 25. (a) The commission shall make expenditures only as budgeted. However, the commission may revise the budget at any time to authorize unbudgeted expenditures.

(b) Any appropriated amounts remaining unexpended or unencumbered at the end of the fiscal year become part of a nonreverting cumulative fund to be held in the name of the commission. The commission may authorize unbudgeted expenditures from this fund.

(c) The commission is responsible for the safekeeping and deposit of money the commission receives under this chapter. The state board of accounts shall:

(1) prescribe the methods and forms for keeping; and

(2) periodically audit;

the accounts, records, and books of the commission.

(d) The treasurer of the commission may receive, disburse, and handle money belonging to the commission, subject to the following:

(1) Applicable statutes.

(2) Procedures established by the commission.

As added by P.L.1-1995, SEC.23.

IC 14-30-4

Chapter 4. Upper Wabash River Basin Commission

IC 14-30-4-1

"Basin" defined

Sec. 1. As used in this chapter, "basin" refers to the upper Wabash River basin.

As added by P.L.35-2001, SEC.7.

IC 14-30-4-2

"Commission" defined

Sec. 2. As used in this chapter, "commission" refers to the Upper Wabash River basin commission established by this chapter.

As added by P.L.35-2001, SEC.7.

IC 14-30-4-3

"Participating county" defined

Sec. 3. As used in this chapter, "participating county" refers to a county that joins the commission under section 7 of this chapter.

As added by P.L.35-2001, SEC.7.

IC 14-30-4-4

"Plan" defined

Sec. 4. As used in this chapter, "plan" refers to a plan described in section 13(1) of this chapter.

As added by P.L.35-2001, SEC.7.

IC 14-30-4-5

"Upper Wabash River basin" defined

Sec. 5. As used in this chapter, "upper Wabash River basin" means the area located in Adams County, Huntington County, Jay County, or Wells County that is drained by the Wabash River, including the tributaries of the Wabash River.

As added by P.L.35-2001, SEC.7.

IC 14-30-4-6

Establishment

Sec. 6. The upper Wabash River basin commission is established as a separate municipal corporation.

As added by P.L.35-2001, SEC.7. Amended by P.L.2-2005, SEC.56.

IC 14-30-4-7

Designation as participating county

Sec. 7. Subject to section 6(b) of this chapter, the executive of a county that includes territory in the upper Wabash River basin may do the following:

(1) Elect to participate in the commission by designating the county as a participating county.

(2) Revoke the designation.
As added by P.L.35-2001, SEC.7.

IC 14-30-4-8
Voting members

Sec. 8. The following serve as voting members of the commission:
(1) The three (3) county commissioners from each participating county.
(2) The chairman of a soil and water conservation district for each participating county that:
(A) is subject to IC 14-32;
(B) includes territory in a participating county; and
(C) includes territory in the basin.
(3) The county surveyor of each participating county.
As added by P.L.35-2001, SEC.7.

IC 14-30-4-9
Designation of member; revocation

Sec. 9. (a) A member of the commission may:
(1) designate another individual to perform the duties of the member on the commission; and
(2) revoke the designation.
(b) Any designation or a revocation of a designation under this section must be filed with the commission to be effective.
As added by P.L.35-2001, SEC.7.

IC 14-30-4-10
Officers

Sec. 10. (a) The commission shall annually elect from among the voting members the following officers:
(1) A chairperson.
(2) A vice chairperson.
(3) A secretary.
(4) A treasurer.
(b) The officers elected under subsection (a) shall be elected and shall perform the duties specified in the commission's bylaws.
(c) The commission may establish other offices and determine the means of filling the offices.
As added by P.L.35-2001, SEC.7.

IC 14-30-4-11
Reimbursements; per diems

Sec. 11. (a) Each member of the commission is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency. Money paid under this section may be paid only from the money available to the commission.

(b) A county may pay members of the commission the salary per diem provided by IC 4-10-11-2.1(b) for the performance of the member's duties on the commission.
As added by P.L.35-2001, SEC.7.

IC 14-30-4-12
Powers

Sec. 12. (a) The commission may do the following:

(1) Sue and be sued.
(2) Manage the commission's internal affairs.
(3) Employ staff.
(4) Enter into contracts to implement a cooperative agreement described in section 13 of this chapter.
(5) Exercise the powers of a political subdivision specified in a cooperative agreement described in section 13 of this chapter.

(b) This section does not exempt the commission from any statute.
As added by P.L.35-2001, SEC.7.

IC 14-30-4-13
Cooperative agreements

Sec. 13. A political subdivision in a participating county may under IC 36-1-7 enter into a cooperative agreement with the commission and at least one (1) other legal entity to authorize the commission to:

(1) develop a plan to control flooding and improve drainage in that part of the basin that is described in the cooperative agreement;
(2) organize and coordinate the installation of trails along the upper Wabash River basin through partnerships with other organizations; or
(3) develop and promote good soil and water conservation practices and procedures, including erosion control and bank stabilization.

As added by P.L.35-2001, SEC.7.

IC 14-30-4-14
Flood control plans

Sec. 14. In developing the plan, the commission shall determine the best method and manner of establishing flood control, giving consideration to the following:

(1) The reservoir method.
(2) The channel improvement method.
(3) The levee method.
(4) Flood plain regulation.
(5) All nonstructural methods.

As added by P.L.35-2001, SEC.7.

IC 14-30-4-15
Plans; public hearings; approval

Sec. 15. (a) The commission shall give the public an opportunity to participate in the development of the plan by holding public hearings at which public testimony is heard and by accepting written recommendations from the public.

(b) Before the plan is implemented by a political subdivision, the plan must be approved by the department of natural resources in accordance with IC 14-25 through IC 14-29.

As added by P.L.35-2001, SEC.7.

IC 14-30-4-16

Annual budget

Sec. 16. (a) The commission shall prepare an annual budget for the commission's operation and other expenditures under IC 6-1.1-17. The annual budget is subject to review and modification by the county board of tax adjustment of any participating county.

(b) The commission is not eligible for funding through the Wabash River heritage corridor commission established by IC 14-13-6-6.

As added by P.L.35-2001, SEC.7. Amended by P.L.224-2007, SEC.105; P.L.146-2008, SEC.427.

IC 14-30-4-17

Rules

Sec. 17. The commission may adopt rules under IC 4-22-2 to require that increased water runoff resulting from new construction be impounded on the construction site.

As added by P.L.35-2001, SEC.7.

IC 14-30-4-18

Advisory committees

Sec. 18. The commission may appoint advisory committees consisting of individuals whose experience, training, or interest in the upper Wabash River basin enables the committees to assist the commission. A member of an advisory committee is not entitled to compensation for the member's services.

As added by P.L.35-2001, SEC.7.

IC 14-30-4-19

Access to lands

Sec. 19. (a) The commission, board of directors, employees, or authorized representatives of the commission acting under this chapter may:

(1) enter the land lying within the one hundred (100) year flood plain of any watercourse; and

(2) enter nonflood plain land to gain access to the flood plain land;

to investigate, examine, survey, or investigate suspected violations of the Indiana flood control laws.

(b) The commission must give sixty (60) days written notice to:

(1) an affected landowner;

(2) a contract purchaser; or

(3) for a municipality, the executive of the municipality;

before exercising the right of entry granted in this section. The notice must state the purpose of the entry and that there is a right of appeal under this section.

(c) An affected landowner may, within the sixty (60) day notice period under subsection (b), appeal the proposed necessity for entry to a court in the county in which the property is located. If an appeal is made, the commission may not exercise the right of entry until a final decision is made by the court.

(d) A person acting under this section must use due care to avoid damage to crops, fences, buildings, or other structures.

As added by P.L.35-2001, SEC.7.

IC 14-31

ARTICLE 31. NATURE PRESERVES

IC 14-31-1

Chapter 1. Nature Preserves

IC 14-31-1-1

Public policy

Sec. 1. (a) As part of the continuing growth of the population and the development of the economy of Indiana, it is necessary and desirable that areas of unusual natural significance be set aside and preserved for the benefit of present and future generations before the areas have been destroyed. Once the areas have been destroyed, the areas cannot be wholly restored. The areas are irreplaceable as:

(1) laboratories for scientific research;

(2) reservoirs of natural materials, not all of the uses of which are now known;

(3) habitats for plant and animal species and biotic communities whose diversity enriches the meaning and enjoyment of human life;

(4) living museums where people may observe natural biotic and environmental systems of the earth and the interdependence of all forms of life; and

(5) reminders of the vital dependence of the health of the human community upon the health of the natural communities of which the human community is an inseparable part.

(b) It is essential to the people of Indiana that the people retain the opportunities to:

(1) maintain close contact with the living communities and environmental systems of the earth described in subsection (a); and

(2) benefit from the scientific, esthetic, cultural, and spiritual values the living communities and environmental systems possess.

(c) It is therefore the public policy of Indiana that:

(1) the department establish and maintain a registry of the areas described in subsection (a);

(2) the state acquire and preserve the areas described in subsection (a); and

(3) other agencies, organizations, and individuals, both public and private, be encouraged to set aside the areas described in subsection (a) for the common benefit of the people of present and future generations.

As added by P.L.1-1995, SEC.24.

IC 14-31-1-2

"Area" defined

Sec. 2. As used in this chapter, "area" means an area of land,

water, or both land and water, whether in public or private ownership, that meets one (1) or both of the following conditions:

(1) Retains or has reestablished the area's natural character, although the area need not be undisturbed.

(2) Has:

(A) unusual flora or fauna; or

(B) biotic, geological, scenic, or paleontological features;

of scientific or educational value.

As added by P.L.1-1995, SEC.24.

IC 14-31-1-3

"Articles of dedication" defined

Sec. 3. As used in this chapter, "articles of dedication" means the writing by which an estate, an interest, or a right in an area is formally dedicated as permitted by section 14 of this chapter.

As added by P.L.1-1995, SEC.24.

IC 14-31-1-4

"Dedicate" and "dedication" defined

Sec. 4. As used in this chapter, "dedicate" and "dedication" mean the transfer to the department, for and on behalf of the state, of an estate, an interest, or a right in an area in any manner permitted by sections 10 through 13 of this chapter.

As added by P.L.1-1995, SEC.24.

IC 14-31-1-5

"Nature preserve" defined

Sec. 5. As used in this chapter, "nature preserve" means an area in which an estate, an interest, or a right has been formally dedicated under this chapter.

As added by P.L.1-1995, SEC.24.

IC 14-31-1-6

"System" defined

Sec. 6. As used in this chapter, "system" means the nature preserves held under this chapter.

As added by P.L.1-1995, SEC.24.

IC 14-31-1-7

Purpose

Sec. 7. To secure for the people of Indiana of present and future generations the benefits of an enduring resource of areas, the state shall, acting through the department, acquire and hold in trust for the benefit of the people an adequate system of nature preserves for the following uses and purposes:

(1) For scientific research in fields such as ecology, taxonomy, genetics, forestry, pharmacology, agriculture, soil science, geology, paleontology, conservation, and similar fields.

(2) For the teaching of biology, natural history, ecology,

geology, conservation, and other subjects.
(3) As habitats for plant and animal species and communities and other natural objects.
(4) As reservoirs of natural materials.
(5) As places of natural interest and beauty.
(6) As living illustrations of our natural heritage in which an individual may observe and experience natural biotic and environmental systems of the earth and the processes of the systems.
(7) To promote understanding and appreciation of the esthetic, cultural, scientific, and spiritual values of the areas by the people of Indiana.
(8) For the preservation and protection of nature preserves against modification or encroachment resulting from occupation, development, or other use that would destroy the natural or aesthetic conditions of nature preserves.

As added by P.L.1-1995, SEC.24.

IC 14-31-1-8
Registry of natural areas

Sec. 8. To give recognition to natural areas, the department shall establish and maintain a registry of natural areas of unusual significance. However, a registered area is not a nature preserve unless the area has been dedicated under this chapter.

As added by P.L.1-1995, SEC.24.

IC 14-31-1-9
Administration

Sec. 9. The division of nature preserves shall administer this chapter.

As added by P.L.1-1995, SEC.24.

IC 14-31-1-10
Property rights

Sec. 10. (a) The department may, on behalf of the state, acquire nature preserves by gift, devise, purchase, exchange, condemnation, or any other method of acquiring real property or an estate, an interest, or a right in real property. However, an interest owned by the state or by a subdivision of the state may be dedicated only by voluntary act of the agency having jurisdiction. The department may acquire the fee simple interest in an area or a lesser estate, interest, or right in an area, including any of the following:

(1) A leasehold estate.
(2) An easement:
  (A) either:
    (i) appurtenant; or
    (ii) in gross; and
  (B) either:
    (i) granting the state specified rights of use;

(ii) denying to the grantor specified rights of use; or
(iii) both.
(3) A license.
(4) A covenant.
(5) Other contractual rights.
(b) A nature preserve may be acquired voluntarily for the consideration that the department considers advisable or without consideration.
As added by P.L.1-1995, SEC.24.

IC 14-31-1-11
Dedication of property
Sec. 11. (a) An estate, an interest, or a right in an area may be dedicated by any of the following:
(1) A state agency having jurisdiction of the area.
(2) Any other unit of government within Indiana having jurisdiction of the area.
(3) A private owner of the area.
(b) A dedication is effective and an area becomes a nature preserve only upon the acceptance of the articles of dedication by the department. Articles of dedication shall be placed on public record in the proper record in the county in which the area is located.
As added by P.L.1-1995, SEC.24.

IC 14-31-1-12
Articles of dedication
Sec. 12. Articles of dedication may do the following:
(1) Contain restrictions and other provisions relating to the following:
(A) Management.
(B) Use.
(C) Development.
(D) Transfer.
(E) Public access.
(F) Other restrictions and provisions that are necessary or advisable to further the purposes of this chapter.
(2) Consistent with the purposes of this chapter, define the respective rights and duties of the owner or operating agency and of the department.
(3) Provide procedures to be applied in case of violation of the restrictions and other provisions.
(4) Recognize and create any of the following:
(A) Reversionary rights.
(B) Transfers upon conditions or with limitations.
(C) Gifts over.
(5) Vary in provisions from one (1) nature preserve to another in accordance with differences in the characteristics and conditions of the different areas.
As added by P.L.1-1995, SEC.24.

IC 14-31-1-13
Amendments of articles of dedication

Sec. 13. With the approval of the governor and upon the terms and conditions that the department determines, the department may, after the giving of notice and the holding of a public hearing under section 16 of this chapter, enter into amendments of articles of dedication upon a finding by the commission that the amendments will not permit:

(1) an impairment;
(2) a disturbance;
(3) a use; or
(4) a development;

of the area inconsistent with the purposes of this chapter. However, if the fee simple interest in an area is not held by the state under this chapter, an amendment may not be made without the written consent of the owner of the other interests in the area.

As added by P.L.1-1995, SEC.24.

IC 14-31-1-14
Duties of department

Sec. 14. To further the purposes of and to implement this chapter, the department shall do the following:

(1) Formulate policies for the selection, acquisition, use, management, and protection of nature preserves.
(2) Formulate policies for the selection of areas suitable for registration under this chapter.
(3) Formulate policies for the dedication of areas as nature preserves.
(4) Determine, supervise, and control the management of nature preserves and adopt and amend rules necessary or advisable for the use and protection of nature preserves.
(5) Encourage and recommend the dedication of areas as nature preserves.
(6) Make surveys and maintain registries and records of unique natural areas within Indiana.
(7) Carry on interpretive programs and publish and disseminate information pertaining to nature preserves and other areas within Indiana.
(8) Promote and assist in the establishment, restoration, and protection of and advise in the management of natural areas and other areas of educational or scientific value and otherwise to foster and aid in the establishment, restoration, and preservation of natural conditions within Indiana other than in the system.

As added by P.L.1-1995, SEC.24.

IC 14-31-1-15
Treatment of nature preserves

Sec. 15. (a) The nature preserves within the system:

(1) are to be held in trust for the benefit of the people of Indiana

of present and future generations for those uses and purposes expressed in this chapter that are not prohibited by the articles of dedication;

(2) are declared to be put to the highest, best, and most important use for the public benefit;

(3) shall be managed and protected in the manner approved by and subject to the rules adopted by the department; and

(4) may not be taken for any other use except another public use:

(A) after a finding by the commission of the existence of an imperative and unavoidable public necessity for the other public use; and

(B) with the approval of the governor.

(b) Except as otherwise provided in the articles of dedication, the department may:

(1) grant, upon the terms and conditions that the department determines, an estate, an interest, or a right in; or

(2) dispose of;

a nature preserve.

(c) The department may take action under subsection (b) only:

(1) after a finding by the commission of the existence of an imperative and unavoidable public necessity for the grant or disposition; and

(2) with the approval of the governor.

As added by P.L.1-1995, SEC.24.

IC 14-31-1-16

Notice of proposed action

Sec. 16. (a) Before the commission:

(1) makes a finding of the existence of an imperative and unavoidable public necessity under section 15 of this chapter;

(2) grants an estate, an interest, or a right in a nature preserve under section 15 of this chapter;

(3) disposes of a nature preserve or an estate, an interest, or a right in a nature preserve under section 15 of this chapter; or

(4) enters into an amendment of articles of dedication under section 13 of this chapter;

the department must give notice of the proposed action and an opportunity for any person to be heard.

(b) The notice must be published at least one (1) time in a newspaper printed in the English language with a general circulation in each county in which the nature preserve is located. The notice must do the following:

(1) Set forth the substance of the proposed action.

(2) Describe, with or without legal description, the nature preserve affected.

(3) Specify a place and time not less than thirty (30) days after the publication for a public hearing before the commission on the proposed action.

(c) All persons desiring to be heard shall be given a reasonable opportunity to be heard before action by the commission on the proposal.
As added by P.L.1-1995, SEC.24.

IC 14-31-1-17
Political units, departments, agencies, and instrumentalities urged to dedicate suitable areas

Sec. 17. All units, departments, agencies, and instrumentalities of the state, including:

(1) counties;
(2) townships;
(3) municipalities;
(4) public corporations;
(5) boards;
(6) commissions;
(7) colleges; and
(8) universities;

may and are urged to dedicate as nature preserves suitable areas or parts of areas within their jurisdiction.
As added by P.L.1-1995, SEC.24.

IC 14-31-1-18
Noninterference with parks, preserves, refuges, or other areas

Sec. 18. (a) Except as provided in subsection (b), this chapter does not interfere with:

(1) the purposes stated in the establishment of or pertaining to; or
(2) the proper management and development of:

a state or local park, preserve, wildlife refuge, or other area.

(b) An agency administering an area dedicated as a nature preserve under this chapter is responsible for preserving the character of the area in accordance with the articles of dedication and the applicable rules concerning nature preserves that the department adopts.

(c) The dedication of an area as a nature preserve or an action taken by the department under this chapter does not void or replace a protected status under law that an area would have if the area were not a nature preserve. The protective provisions of this chapter are supplemental to the protected status under law.
As added by P.L.1-1995, SEC.24.

IC 14-31-2

Chapter 2. Indiana Natural Heritage Protection Campaign

IC 14-31-2-1

Purposes

Sec. 1. The general purposes of this chapter are to do the following:

(1) Promote the general health and welfare of citizens of Indiana by promoting the preservation of areas of unusual natural interest for scientific, educational, recreational, cultural, and aesthetic purposes as a link to Indiana's past and a legacy to Indiana's future.

(2) Provide for the completion of Indiana's nature preserve system through a joint public and private campaign for protection of the best available remaining examples of the natural systems that represent Indiana's natural heritage before those unique and outstanding public resources are lost.

(3) Provide for the maintenance and management of those natural areas and the rare native species for which the areas are habitat.

As added by P.L.1-1995, SEC.24.

IC 14-31-2-2

"Appraised value" defined

Sec. 2. As used in this chapter, "appraised value" means the value of property without consideration of the effect, if any, of dedication or other preservation related restrictions.

As added by P.L.1-1995, SEC.24.

IC 14-31-2-3

"Campaign" defined

Sec. 3. As used in this chapter, "campaign" refers to the Indiana natural heritage protection campaign established by this chapter.

As added by P.L.1-1995, SEC.24.

IC 14-31-2-4

"Division" defined

Sec. 4. As used in this chapter, "division" refers to the division of nature preserves.

As added by P.L.1-1995, SEC.24.

IC 14-31-2-5

"Fund" defined

Sec. 5. As used in this chapter, "fund" refers to the Indiana natural heritage protection fund established by this chapter.

As added by P.L.1-1995, SEC.24.

IC 14-31-2-6

"Registry" defined

Sec. 6. As used in this chapter, "registry" refers to the Indiana natural areas registry:

(1) created by IC 14-31-1-8; and

(2) administered by the division under IC 14-31-1-9.

As added by P.L.1-1995, SEC.24.

IC 14-31-2-7

"Trust I" defined

Sec. 7. As used in this chapter, "trust I" refers to the Indiana natural heritage stewardship trust I authorized by this chapter.

As added by P.L.1-1995, SEC.24.

IC 14-31-2-8

"Trust II" defined

Sec. 8. As used in this chapter, "trust II" refers to the Indiana natural heritage stewardship trust II authorized by this chapter.

As added by P.L.1-1995, SEC.24.

IC 14-31-2-9

Natural heritage protection fund

Sec. 9. (a) The Indiana natural heritage protection fund is established. The department shall administer the fund to effect the purposes of this chapter.

(b) The department may expend fund resources, except as provided in section 11 of this chapter, only when property or property interests are acquired as part of the campaign. Acquisition includes the following:

(1) Purchase of property interest by the department.

(2) Acceptance by the department of gifts of property interests as campaign projects.

(3) At the department's option, reimbursement to entities that are not departments or agencies of the state of part or all of the acquisition costs, not to exceed the appraised value, of natural areas or property interest:

(A) that those entities have purchased; and

(B) to which those entities desire to keep title.

However, reimbursement is permitted only when the proposed acquisition project is dedicated as a nature preserve under IC 14-31-1 or under IC 14-4-5 (before its repeal), or the natural features of the site that justify acquisition are otherwise permanently protected through similarly binding legal mechanisms.

(c) The department may expend fund resources supplied by the state only to the extent the resources have been matched with contributions to the fund of equal value from private sources. The private contributions:

(1) may be made in cash or in contributions of land or property interests that are designated by the department as campaign

acquisitions; and

(2) shall be valued, for the purposes of this subsection, in accordance with the appraised value.

(d) The fund shall be managed to earn the highest interest compatible with prudent investment, preservation of principal, and reasonable liquidity. Absent reversion under subsection (e), principal and interest remain in the fund until expended under this chapter.

(e) Fund resources:

(1) appropriated by the state; and

(2) not matched within three (3) years from the date of the appropriation;

revert to the state general fund.

As added by P.L.1-1995, SEC.24.

IC 14-31-2-10

Contributions and pledges

Sec. 10. (a) The department may accept contributions and pledges to the fund. Pledges made contingent on appropriation of state money are acceptable and shall be reported with other pledges as set forth in this section.

(b) On each December 1 that precedes the beginning of a new budgetary biennium, until the campaign size limit is reached, the department shall include:

(1) the amount that has been contributed; and

(2) the amount that has been pledged for payment in the succeeding two (2) calendar years;

in the department's budget request.

(c) In addition to the budget request, the department shall report the amounts to:

(1) the governor; and

(2) the chairmen of the standing committees in the house of representatives and senate considering issues of finance and natural resources;

so that those public officials can take proper steps to secure the appropriation of a matching amount of public money for the fund.

(d) A similar state match of private contributions and pledges for successive years shall be requested in successive biennia until an amount not exceeding five million dollars ($5,000,000) is appropriated to accomplish the purposes of this chapter.

As added by P.L.1-1995, SEC.24.

IC 14-31-2-11

Transfer of money to stewardship trusts

Sec. 11. (a) To ensure the proper management of natural areas acquired in the campaign, concurrent with the acquisition of each campaign site:

(1) an amount equal to twenty percent (20%) of the appraised value of the acquisition shall be transferred from the fund to an account designated the Indiana natural heritage stewardship trust

I; and

(2) an amount equal to five percent (5%) of the appraised value of the acquisition shall be transferred from the fund to an account designated the Indiana natural heritage stewardship trust II.

(b) The amounts to be transferred from the fund to trust I and trust II must be fully and exclusively derived from the following:

(1) Private contributions to the fund.

(2) Interest earned on private contributions to the fund.

(c) Trust I and trust II shall be maintained in a financial institution having a uniform interagency trust composite rating of one (1) or two (2). The financial institution is the trustee of trust I and trust II.

As added by P.L.1-1995, SEC.24.

IC 14-31-2-12

Trustee of stewardship trusts

Sec. 12. The trustee of trust I and trust II shall do the following:

(1) Accept the following:

(A) Transfers from the fund to trust I and trust II in accordance with this chapter.

(B) Any other unrestricted contribution to the trust.

(2) Invest contributions to trust I to earn the highest interest consistent with prudent management for permanent preservation of principal.

(3) Invest contributions to trust II to earn the highest interest consistent with prudent investment, preservation of principal, and reasonable liquidity.

(4) Distribute the income from trust I and trust II quarterly in accordance with the instructions to be provided by the division under section 15 of this chapter.

(5) Distribute the principal of trust II upon and in accordance with instructions from the division under section 16 of this chapter.

As added by P.L.1-1995, SEC.24.

IC 14-31-2-13

Requisition of natural areas

Sec. 13. The department shall use the fund, in accordance with this chapter, to acquire natural areas by purchase, gift, or reimbursement to complete the state nature preserve system. A site may not be acquired as part of the campaign that has not been approved for registry. In addition, in making the determination as to whether particular sites of natural interest will be acquired as part of the campaign, the department shall consider whether the site:

(1) is a relatively undisturbed example of a native ecological community that is uncommon;

(2) is habitat for native plant or animal species classified as endangered or threatened by the division of nature preserves and the Indiana heritage program;

(3) is a superlative example of a native ecological community; or

(4) if acquired, would significantly enhance efforts to protect natural systems or features in an existing nature preserve or campaign acquisition.

As added by P.L.1-1995, SEC.24.

IC 14-31-2-14

Maximum acreage

Sec. 14. The total acreage to be acquired in the campaign may not exceed fifteen thousand (15,000) acres. Campaign acquisition purchases may be made only from willing sellers.

As added by P.L.1-1995, SEC.24.

IC 14-31-2-15

Instructions for trustee

Sec. 15. The division shall prepare, on a quarterly basis, instructions for the trustee of trust I and trust II regarding distribution of income. In preparing these instructions, the division shall consider the following:

(1) What entities have primary management responsibility for sites acquired as part of the campaign.

(2) The amount of campaign acquisition acreage for which each entity has primary management responsibility.

(3) Special management needs of particular campaign sites.

(4) Any special agreement between the department and a primary management entity in which the entity waives the right to be considered for a share of the income from trust I and trust II.

As added by P.L.1-1995, SEC.24.

IC 14-31-2-16

Distribution of principal

Sec. 16. The division may instruct the trustee of trust II to distribute part or all of the principal of trust II to an entity primarily responsible for management of a campaign acquisition if, in the discretion of the division, the income that can be made available to that entity from trust I and trust II under section 15 of this chapter is insufficient for the accomplishment of management activities that are necessary for the preservation of the natural features that justified the acquisition of the site.

As added by P.L.1-1995, SEC.24.

IC 14-31-2-17

Rules

Sec. 17. The commission may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.1-1995, SEC.24.

IC 14-31-3
Chapter 3. Ginseng

IC 14-31-3-1
"Buy" defined
Sec. 1. As used in this chapter, "buy" includes the following:
(1) Offer to buy.
(2) Trade or offer to trade.
(3) Barter or offer to barter.
As added by P.L.1-1995, SEC.24.

IC 14-31-3-2
"Ginseng" defined
Sec. 2. (a) As used in this chapter, "ginseng" refers to American ginseng (Panax quinquefolius L.).
(b) The term does not include ginseng that is:
(1) ready for consumption; and
(2) sold or bought at retail.
As added by P.L.1-1995, SEC.24.

IC 14-31-3-3
"Ginseng dealer" defined
Sec. 3. (a) As used in this chapter, "ginseng dealer" means a person who buys ginseng roots from ginseng harvesters or other ginseng dealers for resale or exportation.
(b) The term does not include a person who sells solely for domestic consumption.
As added by P.L.1-1995, SEC.24.

IC 14-31-3-4
"Harvest season" defined
Sec. 4. As used in this chapter, "harvest season" means the season established by the commission under section 14(b)(1) of this chapter.
As added by P.L.1-1995, SEC.24. Amended by P.L.44-1999, SEC.1.

IC 14-31-3-5
"Sell" defined
Sec. 5. As used in this chapter, "sell" includes the following:
(1) Trade.
(2) Barter.
(3) Offer to sell, trade, or barter.
As added by P.L.1-1995, SEC.24.

IC 14-31-3-6
"Wild ginseng" defined
Sec. 6. As used in this chapter, "wild ginseng" means ginseng in or harvested from the ginseng's native habitat, whether the ginseng:
(1) occurs naturally from that habitat; or

(2) was introduced or increased in abundance by:
(A) sowing ginseng seed; or
(B) transplanting ginseng plants from other areas.
As added by P.L.1-1995, SEC.24.

IC 14-31-3-7
Dealer's license required
Sec. 7. A person must have a license issued by the department to be a ginseng dealer in Indiana.
As added by P.L.1-1995, SEC.24.

IC 14-31-3-8
License requirements
Sec. 8. (a) To obtain a ginseng dealer's license, a person must do the following:
(1) Apply to the department for the license in the manner prescribed by the department.
(2) Pay a license fee of one hundred dollars ($100) before August 15 of each year.
(b) A ginseng dealer's license expires annually on August 31.
As added by P.L.1-1995, SEC.24. Amended by P.L.186-2003, SEC.76.

IC 14-31-3-9
Summary of sales transactions; "selling season" defined
Sec. 9. (a) As used in this section, "selling season" means the season established by the commission under section 14(b)(2) of this chapter.
(b) Each ginseng dealer shall submit a summary of all ginseng purchased and sold by the ginseng dealer during the selling season to the department within thirty (30) days of the last day of the selling season. The summary must also contain other information and be prepared in the manner required by the department by rule.
As added by P.L.1-1995, SEC.24. Amended by P.L.44-1999, SEC.2.

IC 14-31-3-10
Harvest season; limitations
Sec. 10. (a) Wild ginseng may not be harvested except during harvest season.
(b) Ginseng harvested in Indiana may not be possessed by a ginseng harvester during the part of a year established under section 14(b)(3) of this chapter, unless the department gives written authorization otherwise.
(c) Ginseng harvested in Indiana may not be bought, sold, or possessed by a ginseng dealer during the part of a year established under section 14(b)(4) of this chapter, unless the department gives written authorization otherwise.
(d) Ginseng that is harvested in Indiana may not be taken from Indiana without written authorization from the department.

As added by P.L.1-1995, SEC.24. Amended by P.L.44-1999, SEC.3.

IC 14-31-3-11
License revocation

Sec. 11. (a) The department may, after notice and a hearing, revoke or suspend the license of a person who violates this chapter. All proceedings under this chapter to revoke or suspend a license shall be conducted in the manner prescribed by IC 4-21.5-3.

(b) If a court determines that a person has violated this chapter, the court may, in addition to any other penalty, do the following:

(1) Suspend or revoke the license of the person for any period of time for which the license was issued.

(2) Order that a license not be issued to the person for a period not longer than five (5) years.

As added by P.L.1-1995, SEC.24.

IC 14-31-3-12
Scientific research

Sec. 12. The department may carry out scientific research on ginseng to determine the following:

(1) The distribution and abundance of ginseng throughout Indiana.

(2) The effects of current and future harvesting and cultivation practices on the survival of ginseng in Indiana.

As added by P.L.1-1995, SEC.24.

IC 14-31-3-13
Harvesting quotas

Sec. 13. The department may establish ginseng harvesting quotas based on the results of research and data collection.

As added by P.L.1-1995, SEC.24.

IC 14-31-3-14
Rules

Sec. 14. (a) The department may adopt rules under IC 4-22-2 that are necessary to carry out this chapter.

(b) The commission shall adopt rules under IC 4-22-2 to do the following:

(1) Establish the harvest season.

(2) Establish the selling season.

(3) Establish the part of a year when ginseng harvested in Indiana may not be possessed by a ginseng harvester without written authorization from the department.

(4) Establish the part of a year when ginseng harvested in Indiana may not be bought, sold, or possessed by a ginseng dealer without written authorization from the department.

As added by P.L.1-1995, SEC.24. Amended by P.L.44-1999, SEC.4.

IC 14-31-3-15

Violations; dealing without a license

Sec. 15. A ginseng dealer who:

(1) purchases ginseng without a license; or

(2) obtains a license because of a false or an incorrect statement;

commits a Class B misdemeanor.

As added by P.L.1-1995, SEC.24.

IC 14-31-3-16

Violations; harvesting out of season

Sec. 16. A person who harvests ginseng out of a harvest season in violation of section 10 of this chapter commits a Class B misdemeanor.

As added by P.L.1-1995, SEC.24.

IC 14-31-3-17

Violations; processing out of season

Sec. 17. A person who possesses unprocessed ginseng out of a harvest season in violation of section 10 of this chapter commits a Class B misdemeanor.

As added by P.L.1-1995, SEC.24.

IC 14-31-3-18

Violations; exceeding quotas

Sec. 18. A person who harvests ginseng in an amount greater than a quota established under section 13 of this chapter commits a Class B infraction.

As added by P.L.1-1995, SEC.24.

IC 14-31-3-19

Violations; dealing out of season

Sec. 19. A ginseng dealer who buys, sells, or possesses ginseng in violation of section 10 of this chapter commits a Class B misdemeanor.

As added by P.L.1-1995, SEC.24.

IC 14-31-3-20

Violations; exporting out of season

Sec. 20. A person who, without written authorization from the department, takes or sends from Indiana ginseng that is harvested in Indiana in violation of section 9 of this chapter commits a Class A misdemeanor.

As added by P.L.1-1995, SEC.24.

IC 14-31-3-21

Violations; ginseng harvested out of state

Sec. 21. A person who knowingly or intentionally:

(1) takes or sends from Indiana ginseng that was harvested in another state for export from the United States; or

(2) receives ginseng that was harvested in another state for

export from the United States;

without written authorization to export the ginseng under the laws of the state in which the ginseng was harvested commits a Class A misdemeanor.

As added by P.L.1-1995, SEC.24.

IC 14-32

ARTICLE 32. SOIL AND WATER CONSERVATION

IC 14-32-1

Chapter 1. Legislative Policy

IC 14-32-1-1

Conservation declarations

Sec. 1. The following are declared as a matter of legislative determination:

(1) That the land and water resources of Indiana are among the basic assets of Indiana and that the proper management of these resources is necessary to protect and promote the health, safety, and general welfare of the people of Indiana.

(2) That improper land use practices and failure to control and use rainfall and runoff water cause and contribute to deterioration and waste of these resources of Indiana.

(3) That the breaking of natural grass, plant, and forest cover has interfered with the natural factors of soil stabilization, causing loosening of soil and exhaustion of humus and developing a soil condition that favors excessive runoff and erosion, with the following results:

(A) The topsoil is being blown and washed out of the fields and pastures.

(B) There has been an accelerated washing of sloping fields.

(C) These processes of erosion by wind and water speed up with removal of the topsoil, exposing the less absorptive, less protective, less productive, and more erosive subsoil.

(4) That valuable water resources are being lost causing damages in watersheds.

(5) That failure by a land occupier to properly manage the soil and water causes a washing and blowing of these resources onto other land and makes the conservation of these resources on the other land more difficult.

(6) That the consequences of soil erosion and failure to control and use rainfall and runoff water are the following:

(A) The silting and sedimentation of stream channels, reservoirs, dams, ditches, and harbors.

(B) The loss of fertile soil material.

(C) The piling up of soil on lower slopes and the deposit over alluvial plains.

(D) The reduction in productivity or outright ruin of bottom land by flooding and overwash of poor subsoil material, sand, and gravel swept out of the hills.

(E) The deterioration of soil and the soil's fertility, deterioration of crops grown, and reduction in crop yields.

(F) The loss of soil and water that causes destruction of food and cover for wildlife.

(G) A blowing and washing of soil into streams and lakes that silts over spawning beds and destroys water plants, diminishing the food supply of fish.

(H) A diminishing of the underground water reserve and loss of surplus rainfall runoff causing water shortages, intensifying periods of drought, and causing crop failures.

(I) An increase in the speed and volume of rainfall runoff, causing severe and increasing floods.

(J) Economic hardship for those attempting to farm land that is eroded or subject to frequent flooding.

(K) Damage to roads, highways, railways, farm buildings, and other property from floods and from dust storms.

(L) Losses in navigation, hydroelectric power, municipal water supply, recreational water development, irrigation developments, farming, and grazing.

(7) That to conserve soil and water resources, control and prevent soil erosion, protect water quality, reduce flood damage, and further the conservation development, use, and disposal of water, it is necessary that:

(A) land use practices contributing to soil and water wastage, water quality impairment, and soil erosion be discouraged and discontinued; and

(B) appropriate soil and water conserving land use practices and works of improvement for flood prevention or the conservation development, use, and disposal of water be adopted and carried out.

(8) That among the procedures necessary for widespread adoption are the following:

(A) Carrying on of engineering operations such as the construction of flood preventing reservoirs and channels, terraces, terrace outlets, check dams, dikes, ponds, ditches, and similar operations.

(B) The use of soil protecting agronomic practices, such as strip cropping, contour cropping, and conservation tillage.

(C) Land irrigation.

(D) Seeding and planting of sloping, abandoned, or eroded land to water-conserving and erosion-preventing plants, trees, and grasses.

(E) Forestation and reforestation.

(F) Rotation of crops.

(G) Soil stabilization with trees, grasses, legumes, and other thick-growing, soil-holding crops.

(H) Retardation of runoff by impounding the runoff water behind structures, by increasing the absorption of rainfall, and by retiring from cultivation all steep, highly erosive areas and areas already badly eroded.

(I) The use of water quality protection practices, including nutrient and pesticide management on all lands.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.7;

P.L.175-2006, SEC.2.

IC 14-32-1-2
Conservation policies

Sec. 2. In light of the determination set forth in section 1 of this chapter, it is the policy of the general assembly to provide for the proper management of soil and water resources, the control and prevention of soil erosion, the prevention of flood water and sediment damage, the prevention of water quality impairment, and the conservation, development, use, and disposal of water in the watersheds of Indiana to accomplish the following:

(1) Conserve the natural resources, including wildlife.
(2) Control floods.
(3) Prevent impairment of dams and reservoirs.
(4) Assist in maintaining the navigability of rivers and harbors.
(5) Protect the water quality of lakes and streams.
(6) Protect the tax base.
(7) Protect public land.
(8) Protect and promote the health, safety, and general welfare of the people of Indiana.
(9) Protect a high quality water resource.
(10) Protect and improve soil quality.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.8; P.L.175-2006, SEC.3; P.L.129-2011, SEC.1.

IC 14-32-2

Chapter 2. Soil Conservation Board

IC 14-32-2-1

Establishment

Sec. 1. The soil conservation board is established within the Indiana state department of agriculture established by IC 15-11-2-1 as the policy making body for soil and water conservation.

As added by P.L.1-1995, SEC.25. Amended by P.L.1-2006, SEC.218; P.L.175-2006, SEC.4; P.L.2-2008, SEC.33; P.L.120-2008, SEC.11.

IC 14-32-2-2

Members

Sec. 2. The board consists of the following seven (7) members:

(1) Four (4) members who must be land occupiers with farming interests, appointed by the governor.

(2) Three (3) members who must be land occupiers with nonfarming interests, appointed by the governor.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.9; P.L.1-2006, SEC.219; P.L.175-2006, SEC.5.

IC 14-32-2-3

Qualifications of members

Sec. 3. (a) A majority of the seven (7) appointed members of the board must have experience as district supervisors.

(b) In making appointments to the board, the governor may invite and consider the recommendations of the following:

(1) The Purdue University cooperative extension service.

(2) The Indiana state department of agriculture.

(3) The Indiana Association of Soil and Water Conservation Districts.

(c) All appointments to the board shall be made without regard to political affiliation.

(d) The members appointed to the board under section 2(1) and 2(2) of this chapter must be residents of at least four (4) different geographic regions of Indiana.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.10; P.L.1-2006, SEC.220; P.L.175-2006, SEC.6; P.L.120-2008, SEC.12.

IC 14-32-2-4

Term for members

Sec. 4. The term of an appointed member of the board is four (4) years. An appointed member shall serve until a successor is appointed and has qualified. The terms shall be staggered so that at least three (3) members are appointed every two (2) years.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.11; P.L.175-2006, SEC.7.

IC 14-32-2-5
Travel expenses and per diem salary

Sec. 5. The appointed members of the board are entitled to the following:

(1) Reimbursement for travel, lodging, meals, and other expenses as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(2) The minimum salary per diem as provided in IC 4-10-11-2.1(b) for each day that the members are engaged in the official business of the board.

As added by P.L.1-1995, SEC.25.

IC 14-32-2-6
Repealed

(Repealed by P.L.136-1997, SEC.43.)

IC 14-32-2-7
Appointment of advisory members

Sec. 7. (a) The governor may appoint advisory members from other organizations that promote conservation, including local, state, and federal agencies upon the recommendation of the board.

(b) The governor shall appoint members to the advisory board that represent the following:

(1) The Indiana state department of agriculture.

(2) The department of natural resources.

(3) The department of environmental management.

(4) The Purdue University cooperative extension service.

(5) The Indiana Association of Soil and Water Conservation Districts.

(6) The Farm Service Agency of the United States Department of Agriculture.

(7) The Natural Resources Conservation Service of the United States Department of Agriculture.

As added by P.L.1-1995, SEC.25. Amended by P.L.175-2006, SEC.8; P.L.120-2008, SEC.13.

IC 14-32-2-8
Election of chairman of the board

Sec. 8. (a) The members of the board shall elect a member as the chairman of the board.

(b) The director of the division of soil conservation established within the Indiana state department of agriculture by IC 15-11-4-1 is the secretary of the board.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.12; P.L.1-2006, SEC.221; P.L.2-2008, SEC.34; P.L.120-2008, SEC.14.

IC 14-32-2-9

Quorum

Sec. 9. A majority of the members of the board constitutes a quorum. The concurrence of a majority of the members is required for the board to take any action.

As added by P.L.1-1995, SEC.25.

IC 14-32-2-10

Delegation of powers and duties

Sec. 10. The board may delegate the powers and duties that the board considers proper to:

(1) the chairman of the board;

(2) any of the members of the board; or

(3) the division of soil conservation.

As added by P.L.1-1995, SEC.25.

IC 14-32-2-11

Attorney general providing legal services

Sec. 11. (a) The board may call upon the attorney general for the legal services that the board requires.

(b) For the purpose of carrying out any of the board's functions, the supervising officers of a state agency or of a state educational institution shall, upon request of the board, do the following:

(1) Assign or detail to the board any personnel of the agency or educational institution, taking into account available appropriations and the needs of the entity to which the request is directed.

(2) Make the special reports, surveys, or studies that the board requests.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.13.

IC 14-32-2-12

Duties of board

Sec. 12. The board shall do the following:

(1) Provide for the execution of surety bonds for all board employees and officers who are entrusted with money or property.

(2) Provide for the keeping of a full and accurate record of all board proceedings and of all resolutions and rules the board issues or adopts. The accounts of receipts and disbursements are subject to examination by the state board of accounts.

(3) Offer appropriate assistance to the supervisors of soil and water conservation districts to carry out district powers and programs.

(4) Keep the supervisors of districts informed of the activities and experience of all other districts and facilitate cooperation and an interchange of advice and experience among districts.

(5) Coordinate the programs of the districts as far as this may be done by advice and consultation.

(6) Secure the cooperation and assistance of the United States and state agencies in the work of the districts. However, this subdivision does not authorize either of the following:

(A) The transfer or control of authority over districts to a federal agency.

(B) The transfer of title of land or control to the United States.

(7) Disseminate information throughout Indiana concerning the activities and programs of the districts and encourage the formation of districts in areas where organization is desirable.

(8) Coordinate the erosion and sediment part of 33 U.S.C. 1288 (Public Law 92-500, Section 208) and other erosion and sediment reduction programs that affect water quality, in cooperation with state and federal agencies and through districts as provided under IC 14-32-5-1.

(9) Develop a statewide regulatory program to be initiated after all reasonable voluntary approaches to erosion and sediment reduction have been exhausted.

(10) Conduct an inventory of conservation needs for planning purposes and to inform the general assembly.

(11) Hold meetings in locations throughout Indiana.

(12) Adopt rules under IC 4-22-2 to implement this article.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.14; P.L.175-2006, SEC.9.

IC 14-32-2-13

Public hearings

Sec. 13. The board may perform the acts and hold the public hearings that are necessary for the execution of the board's functions under this article.

As added by P.L.1-1995, SEC.25.

IC 14-32-3
Repealed
(Repealed by P.L.136-1997, SEC.43.)

IC 14-32-4
Chapter 4. Supervisors

IC 14-32-4-1
Number and qualifications

Sec. 1. (a) The governing body of a district consists of five (5) supervisors as follows:

(1) Two (2) who are appointed.
(2) Three (3) who are elected.

(b) To hold the position of elected supervisor, an individual:

(1) must be an occupier of a tract of land that is located within the district;
(2) must maintain the individual's permanent residence within the district; and
(3) must be qualified by training and experience to perform the duties that this article imposes on supervisors.

(c) To hold the position of appointed supervisor, an individual:

(1) must be of voting age;
(2) must maintain the individual's permanent residence within the district; and
(3) must be qualified by training and experience to perform the duties that this article imposes on supervisors.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.15; P.L.175-2006, SEC.10; P.L.129-2011, SEC.2.

IC 14-32-4-2
Repealed

(Repealed by P.L.136-1997, SEC.43.)

IC 14-32-4-3
Repealed

(Repealed by P.L.136-1997, SEC.43.)

IC 14-32-4-4
Repealed

(Repealed by P.L.136-1997, SEC.43.)

IC 14-32-4-5
Repealed

(Repealed by P.L.136-1997, SEC.43.)

IC 14-32-4-6
Annual meeting; agenda

Sec. 6. (a) During the first quarter of each calendar year, each district shall hold an annual meeting of all land occupiers in the district. The meeting shall be held on a date designated by the supervisors. The supervisors shall give due notice of the time and place of the meeting.

(b) At the meeting:

(1) the supervisors shall make a full and an accurate report of the activities and financial affairs of the district since the previous annual meeting; and

(2) an election shall be conducted by the land occupiers present to elect one (1) supervisor to a three (3) year term of office beginning on the date of the meeting.

(c) The supervisors shall provide a copy of the annual report presented at the meeting to the board and, upon request, to:

(1) other cooperating agencies;

(2) residents of the district; and

(3) any other individual or entity that requests a copy of the annual report.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.16; P.L.129-2011, SEC.3.

IC 14-32-4-7

Election committee; composition and annual meeting

Sec. 7. (a) The election held at the annual meeting of land occupiers shall be conducted by an election committee appointed under this section.

(b) In October, the district chairman shall do the following:

(1) Appoint an election committee made up of a supervisor as chairman and two (2) interested citizens.

(2) Submit the names of the committee members to the board by November 1.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.17.

IC 14-32-4-8

Election committee duties

Sec. 8. The election committee appointed under section 7 of this chapter shall do the following:

(1) Select qualified individuals as prospective nominees to fill any vacancies that exist among the elected supervisors of the district.

(2) Contact and ascertain the willingness and ability of each individual to serve if elected.

(3) Submit the list of nominees with the qualifications for certification and printing of a sample ballot to the board by December 1.

(4) Place the names of the prospective nominees selected under subdivisions (1) and (2) in nomination at the meeting and provide an opportunity for additional nominations to be made from the floor.

(5) After nominations are closed:

(A) if only one (1) candidate is nominated, allow for the election of the sole candidate by the land occupiers by a show of hands; and

(B) if more than one (1) candidate is nominated, distribute a ballot to each land occupier present at the meeting.

(6) If a ballot is distributed, collect and count the ballots after each land occupier present at the meeting has had an opportunity to vote.

(7) Report the results of the election to the chairman.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.18; P.L.175-2006, SEC.11; P.L.129-2011, SEC.4.

IC 14-32-4-9

Election results

Sec. 9. (a) If a tie vote occurs in an election held at an annual meeting under this chapter, voting shall continue until the tie is broken.

(b) The individual receiving the highest number of votes is elected a supervisor for the three (3) year term. If there is also a vacancy to fill an unexpired term of an elected supervisor, the individual receiving the second highest number of votes is elected to fill the unexpired term.

(c) The chairman shall announce the individuals who have been elected and report the election results to the board.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.19.

IC 14-32-4-10

Appointed supervisor; term; filling position upon expiration of term

Sec. 10. (a) The term of an appointed supervisor is three (3) years.

(b) Before the term of an appointed supervisor expires, the supervisor's position shall be filled as follows:

(1) Not later than November 1, the district supervisors shall recommend to the board in writing one (1) or more individuals qualified to fill the position.

(2) At the first board meeting held after the board receives a recommendation under subdivision (1), the board shall act upon the recommendation.

(3) The board shall notify the supervisors of the appointment made by the board.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.20.

IC 14-32-4-10.5

Appointment of associate supervisors

Sec. 10.5. (a) The board may appoint associate supervisors to assist in performing duties in each district.

(b) Associate supervisors are nonvoting members of the board and may not hold officer positions on the board.

(c) Associate supervisors may be reimbursed for approved expenses but are not entitled to per diem.

As added by P.L.175-2006, SEC.12.

IC 14-32-4-11
Oath of office

Sec. 11. Newly elected and appointed supervisors shall assume the duties of office upon signing an oath of office at the conclusion of the annual meeting of the district.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.21.

IC 14-32-4-12
Successor to supervisor

Sec. 12. A supervisor holds office until the supervisor's successor has been elected or appointed and qualified.

As added by P.L.1-1995, SEC.25.

IC 14-32-4-13
Elected supervisor; vacancy

Sec. 13. (a) If a vacancy in the position of elected supervisor occurs during the district's operating year:

(1) the district supervisors shall, within thirty (30) days after the vacancy occurs, recommend to the board in writing one (1) or more individuals qualified to fill the position;

(2) at the first board meeting held after the board receives a recommendation under subdivision (1), the board shall act upon the recommendation and appoint an individual to temporarily fill the vacancy; and

(3) the board shall notify the supervisors of the appointment made by the board.

(b) The individual appointed to temporarily fill a vacancy under subsection (a) shall serve until the district's next annual meeting.

(c) At the annual meeting immediately following the appointment of an individual to temporarily fill a vacant elected supervisor's position, the position shall be filled through the regular election procedure set forth in sections 6 through 9 of this chapter.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.22.

IC 14-32-4-13.5
Appointed supervisor; vacancy

Sec. 13.5. (a) If a vacancy in the position of appointed supervisor occurs during a district's operating year:

(1) the district supervisors shall, within thirty (30) days after the vacancy occurs, recommend to the board in writing one (1) or more individuals qualified to fill the position;

(2) at the first board meeting held after the board receives a recommendation under subdivision (1), the board shall act upon the recommendation; and

(3) the board shall notify the supervisors of the appointment

made by the board.

(b) The individual appointed to fill a vacant appointed supervisor position under subsection (a) shall serve the unexpired term of the individual's predecessor.

(c) At the expiration of the term of a supervisor appointed under this section, the position of appointed supervisor shall be filled through the regular appointment procedure set forth in section 10 of this chapter.

As added by P.L.136-1997, SEC.23.

IC 14-32-4-14

Chairman

Sec. 14. The supervisors shall designate a chairman and may change the designation.

As added by P.L.1-1995, SEC.25.

IC 14-32-4-15

Removal of supervisor

Sec. 15. The board may, upon notice and a hearing, remove a supervisor for neglect of duty or malfeasance in office, but for no other reason.

As added by P.L.1-1995, SEC.25.

IC 14-32-4-16

Quorum

Sec. 16. A majority of the supervisors constitutes a quorum and the concurrence of a majority of the supervisors is required for the determination of any matter.

As added by P.L.1-1995, SEC.25.

IC 14-32-4-17

Travel expenses and per diem salary

Sec. 17. (a) A supervisor may be paid a salary per diem for any part of a day that the supervisor is engaged in the official business of the district in any amount not to exceed the salary per diem that may be paid by the state under IC 4-10-11-2.1(b).

(b) A supervisor may also receive for travel, lodging, meals, and other expenses any amount not to exceed the amount a county employee of the county in which the supervisor resides is entitled to receive under the policies and procedures established by the county.

(c) All amounts under this section shall be fixed by the supervisors of each district and paid from money of the district.

As added by P.L.1-1995, SEC.25.

IC 14-32-4-18

Personnel

Sec. 18. (a) The supervisors of a district:

(1) may employ necessary personnel, subject to IC 36-2-5-3 and IC 36-2-5-7; and

(2) shall:
(A) determine the qualifications and duties of the personnel; and
(B) provide supervision to personnel.

(b) In any district except a district containing a consolidated city, an employee of the district:
(1) is considered to be an employee of the county in which the employee works, except as provided in subsection (c); and
(2) is eligible for and shall be included in all fringe benefit programs provided for employees of the county.

(c) An employee of a district whose position is funded entirely from sources outside the county in which the employee works solely on the basis of the funding of the employee's position is not considered an employee of the county.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.24; P.L.129-2011, SEC.5.

IC 14-32-4-19
Legal counsel

Sec. 19. (a) The supervisors and employees of a district are subject to IC 34-13-3.

(b) The supervisors of a district may employ their own counsel and legal staff.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.25; P.L.1-1998, SEC.111.

IC 14-32-4-20
Delegation of powers and duties

Sec. 20. The supervisors may delegate the powers and duties that the supervisors consider proper to any of the following:
(1) The chairman.
(2) Any number of supervisors.
(3) Any number of agents or employees.

As added by P.L.1-1995, SEC.25.

IC 14-32-4-21
Information concerning supervisors' activities

Sec. 21. The supervisors of a district shall furnish to the board, upon request, copies of rules, contracts, forms, and other information concerning the activities of the supervisors that the board requires in the performance of duties under this article.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.26.

IC 14-32-4-22
Duties of supervisors

Sec. 22. The supervisors of a district shall do the following:
(1) Provide for the execution of surety bonds for all district employees and officers who are entrusted with money or

property.

(2) Provide for the keeping of a full and accurate record of all district proceedings and of all district resolutions and orders issued or adopted.

(3) Provide for an annual audit of the accounts of receipts and disbursements of the district.

(4) Provide a copy of each annual financial statement of the district to the board not later than March 31.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.27; P.L.175-2006, SEC.13.

IC 14-32-4-23

Municipality or county designating representative

Sec. 23. The supervisors may invite the legislative body of a municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the supervisors on all questions of program and policy that affect the property, water supply, or other interests of the municipality or county.

As added by P.L.1-1995, SEC.25.

IC 14-32-4-24

Approval of claims

Sec. 24. (a) Claims against a district must be allowed and approved by the governing body of the district before payment by the district's fiscal officer. However, the governing body may, subject to review and approval at the governing body's next regular meeting, authorize the following:

(1) Payroll.

(2) Insurance premiums.

(3) Utility payments.

(4) Bulk mailing fees.

(5) Maintenance agreements and service agreements.

(6) Lease agreements and rental agreements.

(7) Expenses that must be paid because of emergency circumstances.

(8) Recurring or periodic expenses specifically authorized by a resolution adopted at a governing body meeting.

(b) Each payment under this section must be certified by the district's fiscal officer. The certification must be on a form prescribed by the state board of accounts.

As added by P.L.52-2010, SEC.1.

IC 14-32-5

Chapter 5. Powers and Duties of Districts

IC 14-32-5-1

General powers

Sec. 1. (a) A district constitutes a governmental subdivision of the state and a public body corporate and politic exercising public powers.

(b) A district may do the following:

(1) Carry out soil erosion and water runoff preventive and control measures within the district, including engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and the measures listed in IC 14-32-1-1(7) and IC 14-32-1-1(8), on the following:

(A) Land owned or controlled by the state with the consent and cooperation of the agency administering and having jurisdiction of the land.

(B) Any other land within the district upon obtaining the consent of the occupier of the land or the necessary rights or interests in the land.

(2) Construct, improve, operate, and maintain the structures that are necessary or convenient for the performance of any of the operations authorized in this article.

(3) Cooperate or enter into agreements with, and within the limits of appropriations made available to the district by law to furnish financial or other aid to, a federal, state, or other agency or an occupier of land within the district in the carrying on of conservation operations within the district, subject to the conditions that the supervisors consider necessary to advance the purpose of this article.

(4) Obtain options upon and acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, real or personal property or rights or interests in property.

(5) Maintain, administer, and improve property acquired, receive income from the property, and expend the income in carrying out this article.

(6) Sell, lease, or otherwise dispose of property or interests in property in furtherance of this article.

(7) Make available to land occupiers within the district, on terms that the district prescribes:

(A) agricultural and engineering machinery and equipment;

(B) fertilizer;

(C) seeds;

(D) seedlings;

(E) other material or equipment; and

(F) services from the district;

that will assist in conserving the soil and water resources of the land occupiers.

(8) Develop or participate in the development of comprehensive plans for the proper management of soil and water resources within the district that specify the acts, procedures, performances, and avoidances necessary or desirable for the effectuation of the plans.
(9) Publish plans and information developed under subdivision (8) and bring the plans and information to the attention of land occupiers within the district.
(10) Take over, with the consent of the United States or the state, by purchase, lease, or otherwise, and administer any soil and water conservation, erosion control, water quality protection, or flood prevention project of the entity located within the district's boundaries.
(11) Manage, as agent of the United States or the state, any soil and water conservation, erosion control, water quality protection, flood prevention, or outdoor recreation project within the district's boundaries.
(12) Act as agent for the United States or the state in connection with the acquisition, construction, operation, or administration of any soil and water conservation, erosion control, water quality protection, flood prevention, or outdoor recreation project within the district's boundaries.
(13) Accept donations, gifts, and contributions in money, services, materials, or otherwise from the United States and use or expend the services, materials, or other contributions in carrying on the district's operations.
(14) Sue and be sued in the name of the district.
(15) Have perpetual succession unless terminated as provided in this article.
(16) Make and execute contracts and other instruments necessary or convenient to the exercise of the district's powers.
(17) Adopt rules and regulations consistent with this article to carry into effect the purposes and powers of this article.
(18) Require an occupier of land not owned or controlled by the state, as a condition to extending benefits under this article to or the performance of work upon the land, to do either or both of the following:
(A) Make contributions in money, services, materials, or otherwise to an operation conferring benefits.
(B) Enter into agreements or covenants concerning the use and treatment of the land that will tend to:
(i) prevent or control soil erosion;
(ii) achieve water conservation and water quality protection; and
(iii) reduce flooding;
on the land.
(19) Cooperate with the state in the following:
(A) Conducting surveys, investigations, and research relating to the character of soil erosion and water losses and the

preventive and control measures needed.

(B) Publishing the results of the surveys, investigations, or research.

(C) Disseminating information concerning the preventive and control measures.

(D) The management of watersheds.

(20) Cooperate with the state in conducting, within the district, soil and water conservation, erosion control, water quality protection, and flood prevention demonstration projects:

(A) on land owned or controlled by the state with the agency administering and having jurisdiction of the land; and

(B) on any other land upon obtaining the consent of the occupier of the land or the necessary rights or interests in the land.

(21) Serve as the management agency for:

(A) the erosion and sediment part of 33 U.S.C. 1288 (P.L. 92-500, section 208); and

(B) other erosion and sediment reduction programs that affect water quality in each county.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.28; P.L.175-2006, SEC.14.

IC 14-32-5-2

Inapplicable provisions

Sec. 2. A provision concerning the acquisition, operation, or disposition of property by other public bodies does not apply to a district unless the provision specifically states that the provision applies.

As added by P.L.1-1995, SEC.25.

IC 14-32-5-3

Bids, proposals, or quotations submitted by a trust

Sec. 3. If:

(1) a district disposes of real property or awards a contract for the procurement of property by acceptance of bids, proposals, or quotations; and

(2) a bid, proposal, or quotation is submitted by a trust (as defined in IC 30-4-1-1(a));

the bid, proposal, or quotation submitted by the trust must identify each beneficiary of the trust and each settlor empowered to revoke or modify the trust.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.29.

IC 14-32-5-3.5

Certificate of organization; rebuttable presumption of establishment of district

Sec. 3.5. (a) In an action or proceeding that:

(1) relates to; or

(2) involves the validity or enforcement of;
a contract, proceeding, or action of a district, proof of the issuance of a certificate of organization to the district by the secretary of state creates a rebuttable presumption of the establishment of the district under this article or IC 13-3-1 (before its repeal).

(b) A copy of a certificate of organization that was issued to a district and certified by the secretary of state is:

(1) admissible in evidence in an action or proceeding referred to in subsection (a); and

(2) proof of the filing and contents of the certificate.

As added by P.L.136-1997, SEC.30.

IC 14-32-5-4
"Landfill"; inspection

Sec. 4. (a) As used in this section, "landfill" means a facility where solid waste is to be disposed of through placement on or beneath the surface of the ground. However, the term does not include any of the following:

(1) A land application operation regulated under 327 IAC 6.

(2) A surface impoundment.

(3) An injection well.

(4) A facility for the disposal of solid waste other than sludge from a municipal wastewater treatment plant that is:

(A) generated at the site of the facility; or

(B) generated by the owner or operator of the facility.

(5) An operation permitted under IC 14-34.

(b) As used in this section, "underground injection" means the subsurface emplacement of fluids through:

(1) a bored, drilled, or driven shaft; or

(2) a dug hole, the depth of which is greater than the hole's largest surface dimension.

(c) A district shall inspect every landfill located within the boundaries of the district for compliance with rules adopted under IC 13-18 or IC 13-19 concerning erosion and sediment control. Each landfill shall be inspected under this section at least two (2) times each calendar year as follows:

(1) One (1) time before July 1.

(2) One (1) time after June 30 and before December 31.

(d) Not later than ten (10) days after an inspection of a landfill under this section, the individual who conducted the inspection on behalf of the district shall prepare a written report on the results of the inspection and send the report to the following:

(1) The executive of the county.

(2) The commissioner of the department of environmental management.

(3) The director of the division of soil conservation established within the Indiana state department of agriculture by IC 15-11-4-1.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997,

SEC.31; P.L.1-2006, SEC.222; P.L.2-2008, SEC.35; P.L.120-2008, SEC.15.

IC 14-32-5-5
Prohibited actions

Sec. 5. A district may not do any of the following:

(1) Exercise the right of eminent domain.

(2) Incur indebtedness beyond available money.

(3) Issue bonds.

(4) Take contributions by exactions or persuasions. However, the district may accept voluntary contributions from any source if the following conditions are met:

(A) The donations are offered for the sole and exclusive purpose of promoting soil and water conservation within the district.

(B) The district satisfactorily guarantees to the donors the faithful use of the donations for that purpose.

(5) Engage in:

(A) the marketing of farm products; or

(B) the buying and selling of farm supplies;

other than those products or supplies used or needed directly or indirectly in soil and water conservation work.

(6) Engage in agricultural research or agricultural extension teaching except in cooperation with Purdue University.

(7) Levy taxes.

(8) Make or levy benefit assessments or any other kind of assessments.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.32.

IC 14-32-5-6
Cooperation among districts

Sec. 6. Districts organized under this article or IC 13-3-1 (before its repeal) may cooperate with each other in carrying on the work of the districts. However, this section does not permit the transfer of authority or powers from one (1) district to another.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.33.

IC 14-32-5-7
State agencies and governmental subdivisions cooperating with districts

Sec. 7. (a) An:

(1) agency of the state; or

(2) county or other governmental subdivision of the state;

that has jurisdiction over or is charged with the administration of publicly owned land lying within the boundaries of a district shall cooperate to the fullest extent with the district to effect programs and operations undertaken by the district under this article.

(b) The district shall be given free access to enter and perform work upon the publicly owned land referred to in subsection (a).
As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.34.

IC 14-32-5-8
Appropriations

Sec. 8. The fiscal body of each county that contains a district in whole or in part may appropriate money for the use of the district serving the county from which the appropriation is to be made.
As added by P.L.1-1995, SEC.25.

IC 14-32-6
Repealed

(Repealed by P.L.136-1997, SEC.43.)

IC 14-32-6.5

Chapter 6.5. Changing the Boundaries of a District or Dissolving a District

IC 14-32-6.5-1

Petitions to change boundaries or dissolve districts

Sec. 1. (a) Land occupiers of a district may file a petition with the board requesting either of the following:

(1) That the boundaries of the district be changed to encompass territory described in the petition.

(2) That the district cease to operate and be dissolved.

(b) A petition filed under this section must be signed by at least twenty-five (25) land occupiers whose tracts of land are located within the boundaries of the district referred to in the petition.

As added by P.L.136-1997, SEC.35.

IC 14-32-6.5-2

Petition to change boundaries; conditions

Sec. 2. In the case of a petition filed under section 1(a)(1) of this chapter to change the boundaries of a district, the following conditions apply:

(1) The territory proposed for inclusion in the reconfigured district may consist of two (2) or more separate tracts, and the tracts need not be contiguous.

(2) The petition must include a generally accurate description of the territory proposed for inclusion in the reconfigured district, but the territory need not be defined by metes and bounds or by legal subdivisions.

As added by P.L.136-1997, SEC.35.

IC 14-32-6.5-3

Petition to change boundaries; requirements of territory proposed for inclusion

Sec. 3. (a) If:

(1) a petition is filed under section 1(a)(1) of this chapter to change the boundaries of a district; and

(2) the territory proposed for inclusion in the reconfigured district includes all or part of the territory of one (1) or more existing districts;

the petition must meet the requirement set forth in subsection (b), subsection (c), or subsection (d).

(b) If the territory proposed for inclusion includes only a portion of the existing district, a petition described in subsection (a) must be signed by at least twenty-five (25) land occupiers whose tracts of land are located within the territory, except as provided in subsection (d).

(c) If the territory proposed for inclusion includes all or part of two (2) or more existing districts, the petition must be signed by at

least twenty-five (25) land occupiers whose tracts of land are located within the part of each existing district that is proposed for inclusion, except as provided in subsection (d).

(d) If there are fewer than fifty (50) land occupiers whose tracts of land are located in:

(1) a territory referred to in subsection (b); or

(2) a part of a district referred to in subsection (c);

the petition must be signed by a majority of the land occupiers whose tracts of land are located within the territory or part of a district.

(e) The signature requirements of this section are in addition to the signature requirement imposed by section 1(b) of this chapter.

As added by P.L.136-1997, SEC.35.

IC 14-32-6.5-4

Petition to change boundaries; joint resolution of districts required

Sec. 4. (a) If:

(1) a petition is filed under section 1(a)(1) of this chapter to change the boundaries of a district; and

(2) the territory proposed for inclusion in the reconfigured district includes all or part of the territory of one (1) or more other existing districts;

the petition must be accompanied by a copy of a joint resolution described in subsection (b).

(b) The resolution required by this section must be adopted by the supervisors and certified by the secretary of:

(1) the district into which the territory proposed for inclusion would be incorporated; and

(2) each district whose territory would be incorporated into the district referred to in subdivision (1).

(c) The resolution required by this section must set forth:

(1) the amount of the assets and obligations that would be transferred to the district referred to in subsection (b)(1) by each district referred to in subsection (b)(2) as part of the incorporation of territory; and

(2) the amount of the assets and obligations of the district referred to in subsection (b)(1) that would be retained by the district after the incorporation of territory.

As added by P.L.136-1997, SEC.35.

IC 14-32-6.5-5

Petitions to change boundaries or dissolve districts; invalidity

Sec. 5. If a petition filed under section 1 of this chapter does not meet the requirements set forth in sections 1 through 4 of this chapter, the board shall:

(1) declare the petition invalid;

(2) in writing, inform the person who filed the petition that the petition is invalid, specifying the reason or reasons for the invalidity of the petition; and

(3) return the petition to the person who filed it for the

incorporation of corrections to remedy the invalidity.
As added by P.L.136-1997, SEC.35.

IC 14-32-6.5-6
Petitions to change boundaries or dissolve districts; hearing

Sec. 6. (a) If a petition filed under section 1 of this chapter meets the requirements set forth in sections 1 through 4 of this chapter, the board shall do the following:

(1) Not more than sixty (60) days after the filing of the petition, give due notice that a hearing will be held concerning the petition.

(2) Pay all expenses arising from the issuance of the notice and the holding of the hearing.

(3) Conduct the hearing.

(b) The hearing held on the petition shall be open to the public. The following may testify at the hearing:

(1) A land occupier whose tract of land is located within the district or territory referred to in the petition.

(2) An individual of voting age who resides within the district or territory referred to in the petition.

(c) Testimony may be presented at the hearing concerning:

(1) the desirability and necessity, in the interest of the public welfare, of granting the petition;

(2) the validity of:

(A) the petition; and

(B) proceedings conducted on the petition under this chapter; and

(3) all questions relevant to the petition.
As added by P.L.136-1997, SEC.35.

IC 14-32-6.5-7
Petitions to change boundaries or dissolve districts; considerations

Sec. 7. (a) When considering a petition to change the boundaries of a district, the board shall consider and give due weight to the following:

(1) The information presented at the hearing held under section 6 of this chapter.

(2) The attitudes toward the change in district boundaries expressed by land occupiers whose tracts of land are located within the territory proposed for inclusion within the district.

(3) The desirability and necessity of including the territory within the district, including the benefits that the land occupiers whose tracts of land are located within the territory may receive from the inclusion.

(4) The relation of the territory to:

(A) watersheds;

(B) agricultural regions; and

(C) other districts.

(5) The physical, geographical, and economic factors that are

relevant, having regard to the legislative determination set forth in IC 14-32-1.

(b) When considering a petition to dissolve a district, the board shall consider and give due weight to the following:

(1) The information presented at the hearing held under section 6 of this chapter.

(2) The attitudes toward dissolution of the district expressed by land occupiers whose tracts of land are located within the district.

(3) The approximate wealth and income of the residents of the district.

(4) The probable expense of carrying on soil and water resource protection activities within the district.

(5) Other economic and social factors that are relevant, having regard to the legislative determination set forth in IC 14-32-1.

As added by P.L.136-1997, SEC.35.

IC 14-32-6.5-8

Denial of petition

Sec. 8. Not more than sixty (60) days after a public hearing on a petition is held under section 6 of this chapter, the board shall determine whether the petition should be denied.

As added by P.L.136-1997, SEC.35.

IC 14-32-6.5-9

Denial of petition; record of determination; notice

Sec. 9. If, after the hearing and consideration of the factors set forth in section 7 of this chapter, the board determines that a petition should be denied, the board shall, when appropriate, do the following:

(1) Record the determination.

(2) Deny the petition.

(3) Notify a representative of the petitioners in writing that the petition is denied.

As added by P.L.136-1997, SEC.35.

IC 14-32-6.5-10

Petitions to change boundaries or dissolve districts; procedures if not denied

Sec. 10. (a) If, after the hearing and consideration of the factors set forth in section 7(a) of this chapter, the board determines that a petition to change the boundaries of a district should not be denied, the board shall, when appropriate, do the following:

(1) Record the determination.

(2) Define, by metes and bounds or by legal subdivisions, the territory to be included in the proposed reconfigured district.

(3) In consultation with the petitioners, establish a name for the proposed reconfigured district.

(4) Not more than sixty (60) days after recording the

determination, give due notice that an election, by secret ballot, will be held on the local public question set forth in the petition.

(5) Prescribe appropriate procedures for the conduct of the election and the determination of the eligibility of voters.

(6) Supervise the conduct of the election.

(7) Publish the results of the election.

(8) Pay all expenses arising from the issuance of notices and the holding of the election.

(b) If, after the hearing and consideration of the factors set forth in section 7(b) of this chapter, the board determines that a petition to dissolve a district should not be denied, the board shall, when appropriate, do the following:

(1) Record the determination.

(2) Not more than sixty (60) days after recording the determination, give due notice that an election, by secret ballot, will be held on the local public question set forth in the petition.

(3) Prescribe appropriate procedures for the conduct of the election and the determination of the eligibility of voters.

(4) Supervise the conduct of the election.

(5) Publish the results of the election.

(6) Pay all expenses arising from the issuance of notices and the holding of the election.

As added by P.L.136-1997, SEC.35.

IC 14-32-6.5-11

Elections to change boundaries or dissolve districts; contents of ballots

Sec. 11. (a) The ballot provided for an election on whether to change the boundaries of a district must contain the following:

(1) A definition, by metes and bounds or by legal subdivisions, of the territory within the proposed reconfigured district.

(2) Two (2) propositions, one (1) of which reads "For creation of the (insert name) soil and water conservation district comprising the territory defined here" and the other of which reads "Against creation of the (insert name) soil and water conservation district comprising the territory defined here".

(3) A square in front of each proposition.

(4) Instruction to insert an X mark in the square before only one (1) of the propositions to indicate that the voter favors or opposes the inclusion of the described territory within the district.

(b) The ballot provided for an election on whether to dissolve a district must contain the following:

(1) Two (2) propositions, one (1) of which reads "For terminating the existence of the (insert name) soil and water conservation district" and the other of which reads "Against terminating the existence of the (insert name) soil and water conservation district".

(2) A square in front of each proposition.

(3) Instruction to insert an X mark in the square before only one (1) of the propositions to indicate that the voter favors or opposes the dissolution of the district.

As added by P.L.136-1997, SEC.35.

IC 14-32-6.5-12

Elections to change boundaries or dissolve districts; voting

Sec. 12. (a) All land occupiers whose tracts of land are located within:

(1) the boundaries of the district as they would be changed to encompass the territory proposed for inclusion; or

(2) the district proposed for dissolution;

are eligible to vote in the election on the local public question held under section 10(a) or 10(b) of this chapter.

(b) A voting place used in the election must be arranged so that the voter can mark a ballot without disclosing to any person how the ballot was marked.

(c) An informality in the conduct of the election on the local public question or in a matter relating to the election does not invalidate the election or the result of the election if:

(1) due notice of the election was given substantially as required by section 10 of this chapter and IC 14-8-2-80; and

(2) the election was conducted fairly.

As added by P.L.136-1997, SEC.35.

IC 14-32-6.5-13

Elections to change boundaries or dissolve districts; simple majority required to deny

Sec. 13. If at least a simple majority of the votes cast on the local public question are against the request set forth in the petition, the board shall, when appropriate, do the following:

(1) Certify the results of the election in the records of the board.

(2) Declare the request set forth in the petition denied.

As added by P.L.136-1997, SEC.35.

IC 14-32-6.5-14

Elections to change boundaries or dissolve districts; simple majority required to implement request

Sec. 14. (a) In an election on the local public question of whether to change the boundaries of a district, the board shall proceed under subsection (c) if at least a simple majority:

(1) of all the votes cast; and

(2) of the votes cast in each:

(A) district; or

(B) portion of a district;

that would be included within the proposed reconfigured district;

are in favor of the inclusion of the described territory within the district.

(b) In an election on the local public question of whether to dissolve a district, the board shall proceed under subsection (c) if at least a simple majority of the votes cast on the local public question are in favor of the dissolution of the district.

(c) Under the circumstances set forth in subsection (a) or (b), the board shall do the following:

(1) Certify the results of the election in the records of the board.

(2) Implement the request set forth in the petition under:

(A) sections 15 through 21 of this chapter, if changing the boundaries of a district; or

(B) sections 22 through 23 of this chapter, if dissolving a district.

As added by P.L.136-1997, SEC.35.

IC 14-32-6.5-15

Appointed supervisors; terms

Sec. 15. (a) To incorporate the described territory within the district, the board shall do the following not more than thirty (30) days after certifying the election:

(1) Appoint two (2) individuals who meet the qualifications set forth in IC 14-32-4-1(c) as supervisors of the district.

(2) Establish the length of the terms of the appointed supervisors within the limits set forth in subsection (b).

(b) The term of one (1) supervisor appointed under subsection (a) may not be more than three (3) years. The term of the other supervisor appointed under subsection (a) may not be more than two (2) years.

As added by P.L.136-1997, SEC.35.

IC 14-32-6.5-16

Letter of application; presentation to secretary of state; contents

Sec. 16. (a) Not more than thirty (30) days after being appointed under section 15(a) of this chapter, the two (2) appointed supervisors shall present to the secretary of state the following:

(1) A notarized letter of application, signed by the two (2) appointed supervisors, for reorganization of the district as a governmental subdivision and a public body corporate and politic under this article.

(2) A copy of the original petition filed with the board.

(3) A copy of the certification by the board of the results of the election held on the local public question.

(4) A copy of the records of appointment by the board of the two (2) supervisors who signed the letter of application.

(b) The letter of application presented under subsection (a) must include the following:

(1) The name proposed for the district.

(2) A definition, by metes and bounds or by legal subdivisions, of the reconfigured boundaries of the district.

(3) A statement certifying that, upon notification by the

secretary of state of the approval of the application, an existing district lying entirely within the boundaries of the newly reorganized district will terminate operation and cease to exist.

As added by P.L.136-1997, SEC.35.

IC 14-32-6.5-17

Certificate of organization

Sec. 17. (a) After receiving, examining, and approving a letter of application and the accompanying documents that are presented under section 16 of this chapter, the secretary of state shall do the following:

(1) Issue to the appointed supervisors a certificate of organization indicating that the district is reestablished with boundaries incorporating the territory defined in the notarized letter of application presented under section 16 of this chapter.

(2) Record the certificate of organization with the letter of application and accompanying documents in an appropriate record.

(3) Issue to the supervisors of any existing district lying entirely within the boundaries of the newly reestablished district a certificate of dissolution of the existing district.

(4) Record the certificate of dissolution in an appropriate record.

(b) On the date the secretary of state issues the certificates required by subsection (a):

(1) all property and responsibilities of any existing district lying entirely within the boundaries of the newly reestablished district are assumed by the reestablished district; and

(2) any existing district lying entirely within the boundaries of the newly reestablished district ceases to exist.

As added by P.L.136-1997, SEC.35.

IC 14-32-6.5-18

Elected supervisors; petitions for nomination

Sec. 18. (a) After the secretary of state issues a certificate of organization to the supervisors of a newly reestablished district under section 17 of this chapter, the board shall, when appropriate, circulate petitions for the nomination of candidates for the three (3) elected supervisor positions of the reestablished district. The petitions must be filed with the board not more than sixty (60) days after the secretary of state issues the certificate of organization. However, the board may extend the time within which the petitions may be filed.

(b) To be valid, a nominating petition must meet the following conditions:

(1) The candidate named on the petition must meet the qualifications for elected supervisors set forth in IC 14-32-4-1(b).

(2) The petition must be signed by at least twenty-five (25) land occupiers whose tracts of land are located within the district.

(c) A land occupier may sign more than one (1) petition to

nominate more than one (1) candidate.

(d) Not more than thirty (30) days after receiving at least four (4) valid nominating petitions, the board shall do the following:

(1) Give due notice that an election, by secret ballot, will be held to elect the three (3) supervisors of the newly reestablished district.

(2) Prescribe appropriate procedures for the conduct of the election and the determination of the eligibility of voters.

(3) Supervise the conduct of the election.

(4) Publish the results of the election.

(5) Pay all expenses arising from the issuance of notices and the holding of the election.

As added by P.L.136-1997, SEC.35.

IC 14-32-6.5-19

Election of supervisors; contents of ballots

Sec. 19. (a) The ballot provided for the initial election of supervisors of a newly reestablished district must contain the following:

(1) The names, in alphabetical order of the surnames, of all the nominees on behalf of whom valid nominating petitions have been filed.

(2) A square in front of each name.

(3) Instruction to insert an X mark in the square before any three (3) of the names to indicate the voter's preference.

(b) A land occupier whose tract of land is located within the newly reestablished district is eligible to vote in the election.

As added by P.L.136-1997, SEC.35.

IC 14-32-6.5-20

Elected supervisors; terms

Sec. 20. (a) The three (3) candidates who receive the largest number of votes cast in the initial election of supervisors of a newly reestablished district are elected.

(b) The terms of office of the elected supervisors are as follows:

(1) The individual receiving the highest number of votes has a three (3) year term of office.

(2) The individual receiving the second highest number of votes has a two (2) year term of office.

(3) The individual receiving the third highest number of votes has a (1) year term of office.

(c) If a tie vote occurs among the three individuals elected as supervisors, the terms of office for those receiving the same number of votes shall be decided by lot.

As added by P.L.136-1997, SEC.35.

IC 14-32-6.5-21

Elected supervisors; oath of office; commencement of term

Sec. 21. (a) The five (5) initial supervisors of a newly

reestablished district shall assume the duties of office upon taking and signing an oath of office. The oath shall be administered:

(1) to the two (2) appointed supervisors at the date of their appointment by the board; and

(2) to the three (3) elected supervisors within one (1) week after publication by the board of the results of the election.

(b) An appointed supervisor holding office when a district is reestablished under sections 15 through 21 of this chapter is discharged from office when the initial appointed supervisors of the reestablished district assume the duties of office under subsection (a). An elected supervisor holding office when a district is reestablished under sections 15 through 21 of this chapter is discharged from office when the initial elected supervisors of the reestablished district assume the duties of office under subsection (a).

(c) Although an initial supervisor assumes the duties of office at the time set forth in subsection (a), the term of office of the supervisor does not begin until the conclusion of the first annual meeting of the newly reestablished district for purposes of determining the expiration of the supervisor's term of office.

As added by P.L.136-1997, SEC.35.

IC 14-32-6.5-22

Dissolution; procedures; certificate

Sec. 22. (a) To proceed with the dissolution of a district under section 14(b) of this chapter in accordance with the results of an election, the supervisors of the district, upon notification of the results of the election, shall do the following:

(1) Begin immediately to terminate the affairs of the district.

(2) Dispose of all property belonging to the district at public auction and pay over the proceeds of the sale into the state treasury.

(3) File with the secretary of state a notarized letter of application for dissolution of the district that:

(A) recites that the property of the district has been disposed of and the proceeds of the sale paid over as required by this section; and

(B) sets forth a full accounting of the property and proceeds of the sale.

(4) Transmit with the letter of application a copy of the certification by the board of the results of the election on the local public question of whether to dissolve the district.

(b) Upon receipt, examination, and approval of the letter of application and accompanying required document, the secretary of state shall do the following:

(1) Issue to the supervisors a certificate of dissolution.

(2) Record the certificate with the letter of application and accompanying required document in an appropriate record.

As added by P.L.136-1997, SEC.35.

IC 14-32-6.5-23
Dissolution; contracts remain in force

Sec. 23. (a) Despite the issuance of a certificate of dissolution of a district under section 22 of this chapter, all contracts to which the district is a party remain in force and effect for the period provided in the contracts.

(b) The board:

(1) is substituted for the district as party to the contracts;

(2) is entitled to all benefits and subject to all liabilities under the contracts; and

(3) has the same right and obligation under the contracts as the district would have had to:

(A) perform;

(B) require performance;

(C) sue and be sued; and

(D) modify or terminate the contracts by mutual consent or otherwise.

As added by P.L.136-1997, SEC.35.

IC 14-32-6.5-24
Denial of petition for change in boundaries; delay before similar request considered

Sec. 24. If a valid petition requesting a change in the boundaries of a district or the dissolution of a district has been denied due to:

(1) the determination of the board after a public hearing; or

(2) the results of an election held on the local public question;

the board may not consider a later petition containing the same request or a similar request until two (2) years after the denial of the original petition.

As added by P.L.136-1997, SEC.35.

IC 14-32-6.5-25
Procedures for organization of new district in same territory as dissolved district

Sec. 25. If a district is dissolved under this chapter, the board may prescribe the procedure under which a new district may be organized within the territory encompassed by the dissolved district.

As added by P.L.136-1997, SEC.35.

IC 14-32-7

Chapter 7. Duties of Department

IC 14-32-7-1

Policy of department

Sec. 1. (a) The general assembly recognizes the following:

(1) That the land resource of Indiana, including the principal elements of geology, landscape, and soils, is one (1) of the basic natural resources of Indiana.

(2) That an ever increasing demand upon the fixed and limited land resource is resulting from a growing population, with the accompanying expansions in commercial, industrial, transportation, recreation, and cultural development and the continuing need for an adequate agricultural base for the production of food and fiber.

(3) That conservation of the land resource is essential to protect and promote the public health, safety, and welfare.

(4) That the task of conservation can only be accomplished through a factual knowledge and understanding of the land resource.

(b) Therefore, it is the policy of the general assembly that the state promote and participate in the conservation of the land resource of Indiana by doing the following:

(1) Providing new or expanded means for the securing, development, and furnishing to land use decision makers of adequate factual knowledge concerning the geology, landscape, and soils of Indiana, including their potentials, limitations, and interrelationships, in the manner set forth in this chapter.

(2) Strengthening the capabilities of local soil and water conservation districts.

(3) Expanding the level of small watershed planning for soil and water conservation measures.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.36.

IC 14-32-7-2

"Geology"

Sec. 2. As used in this chapter, "geology" means the study of the following:

(1) Earth materials, which are minerals, rocks, water, and soil.

(2) The processes that have formed earth materials.

As added by P.L.1-1995, SEC.25.

IC 14-32-7-3

"Land conservation"

Sec. 3. As used in this chapter, "land conservation" means the wise use of land:

(1) for the satisfaction of human needs; and

(2) based upon knowledge and understanding of the land's capabilities and limitations.

As added by P.L.1-1995, SEC.25.

IC 14-32-7-4
"Landscape"

Sec. 4. As used in this chapter, "landscape" means the aggregate of all factors and features that constitute the total visual and perceptive impact of a given area of the earth's surface upon the human senses.

As added by P.L.1-1995, SEC.25.

IC 14-32-7-5
"Soil"

Sec. 5. As used in this chapter, "soil" means the surface layer of the earth that serves as a natural medium for the growth of plant life.

As added by P.L.1-1995, SEC.25.

IC 14-32-7-6
Division of soil conservation; administration and coordination of duties and responsibilities of department of agriculture; annual report

Sec. 6. (a) The division of soil conservation:

(1) shall administer and coordinate the duties and responsibilities of the Indiana state department of agriculture under the land resource programs authorized by this chapter; and

(2) in carrying out its duties under subdivision (1), may work in cooperation with the following:

(A) Federal and state agencies.

(B) Local governmental agencies involved in land use planning and zoning.

(C) Any person, firm, institution, or agency, public or private, having an interest in land conservation.

(b) The Indiana state department of agriculture may employ the personnel and provide facilities and services that are necessary to carry out the Indiana state department of agriculture's duties and responsibilities under this chapter.

(c) The Indiana state department of agriculture shall prepare an annual report of the division of soil conservation's expenditures and accomplishments and that contains a proposed business plan.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.37; P.L.1-2006, SEC.223; P.L.175-2006, SEC.15; P.L.120-2008, SEC.16.

IC 14-32-7-7
"Urban geology survey"

Sec. 7. (a) As used in this section, "urban geology survey" means a systematic scientific identification, inventory, and mapping of the

earth materials of a given area that sets forth the capabilities, potentials, and limitations of the earth materials for human needs.

(b) The Indiana state department of agriculture shall use the money appropriated by the general assembly to initiate and carry out a program of urban geology surveys, together with other geologic investigations, for Indiana to develop and present the geologic data and information necessary to a coordinated land conservation program that will promote sound land use decisions.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.38; P.L.1-2006, SEC.224; P.L.120-2008, SEC.17.

IC 14-32-7-8

"Landscape survey"

Sec. 8. (a) As used in this section, "landscape survey" means a systematic scientific identification, inventory, and mapping of the features of the earth's surface that serve to constitute the landscape of a given area, including key factors such as the following:

(1) Land form.
(2) Vegetation.
(3) Wildlife.
(4) Physical characteristics.
(5) Visual perception.
(6) Historical and cultural sites.

(b) The Indiana state department of agriculture shall use the money appropriated by the general assembly to initiate and carry out a program of landscape surveys for Indiana to develop and present the surficial landscape data and information necessary to promote wise land use decisions.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.39; P.L.1-2006, SEC.225; P.L.120-2008, SEC.18.

IC 14-32-7-8.5

"Soil surveys and geographic information systems"

Sec. 8.5. (a) As used in this section, "soil survey" means a systematic scientific identification, inventory, and mapping of the soils of a given area that sets forth the capabilities, potential, and limitations of the soils in the satisfaction of human needs.

(b) The Indiana state department of agriculture shall use the money appropriated by the general assembly to implement and supplement a program of modern soil surveys and geographic information systems (GIS) for Indiana that will, within the shortest practicable time, provide a modern soil survey and geographic information system for each county as an essential tool in land conservation.

As added by P.L.136-1997, SEC.40. Amended by P.L.1-2006, SEC.226; P.L.175-2006, SEC.16; P.L.120-2008, SEC.19.

IC 14-32-7-9

Support and assistance to local soil and water conservation districts

Sec. 9. The Indiana state department of agriculture shall provide more support and assistance to the local soil and water conservation districts by:

(1) granting to the districts the additional money that is appropriated by the general assembly; and

(2) increased coordination and consultative services;

to obtain increased participation by the districts in the development of improved local land use practices and decisions.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.41; P.L.1-2006, SEC.227; P.L.120-2008, SEC.20.

IC 14-32-7-10

Appropriations; uses

Sec. 10. The Indiana state department of agriculture shall use the money appropriated by the general assembly to expand the small watershed planning program as carried out in cooperation with the Natural Resources Conservation Service of the United States Department of Agriculture under 16 U.S.C. 1001 et seq., to reduce the accumulation of approved watershed planning requests and expedite the realization of the multiple benefits of this soil and water conservation program.

As added by P.L.1-1995, SEC.25. Amended by P.L.1-2006, SEC.228; P.L.120-2008, SEC.21.

IC 14-32-7-11

Coordination and scheduling of urban geology survey program and landscape survey program

Sec. 11. The Indiana state department of agriculture shall coordinate and schedule the programs authorized by sections 7 through 8 of this chapter to provide, as nearly as practicable, for concurrent completion and furnishing of the results of each program for each selected area study unit.

As added by P.L.1-1995, SEC.25. Amended by P.L.1-2006, SEC.229; P.L.120-2008, SEC.22.

IC 14-32-7-12

Duties of soil conservation division

Sec. 12. (a) As used in this section, "river" includes streams and the tributaries of rivers.

(b) The division of soil conservation shall do the following:

(1) Perform all administrative duties required by the rules of the board.

(2) Provide professional assistance to districts in planning, coordinating, and training for the following:

(A) Adult soil and water conservation education.

(B) Natural resources conservation information programs for elementary and secondary schools.

(C) Supervisors and staff.

(3) Provide professional soil conservation technical assistance

to districts.

(4) Provide nonagricultural soils interpretive and erosion control expertise on a regional basis.

(5) Assist the districts and other federal, state, and local entities in encouraging and monitoring compliance with those aspects of the programs that are related to erosion and sediment reduction.

(6) Administer a cost share program for installation of erosion control structural measures on severely eroding cropland and for conversion of highly erodible land from crop production to permanent vegetative cover.

(7) Administer a lake and river enhancement program to do the following:

(A) Control sediment and associated nutrient inflow into lakes and rivers.

(B) Accomplish actions that will forestall or reverse the impact of that inflow and enhance the continued use of Indiana's lakes and rivers.

(8) Provide professional assistance to districts in conservation needs assessments, program development, and program evaluation.

As added by P.L.1-1995, SEC.25. Amended by P.L.136-1997, SEC.42; P.L.175-2006, SEC.17.

IC 14-32-7-13

Administration

Sec. 13. The Indiana state department of agriculture shall administer this article subject to the direction of the board.

As added by P.L.1-1995, SEC.25. Amended by P.L.1-2006, SEC.230; P.L.120-2008, SEC.23.

IC 14-32-8

Chapter 8. Clean Water Indiana Program

IC 14-32-8-1

"Fund" defined

Sec. 1. As used in this chapter, "fund" means the clean water Indiana fund established by this chapter.

As added by P.L.160-1999, SEC.4.

IC 14-32-8-2

"Political subdivision" defined

Sec. 2. As used in this chapter, "political subdivision" means a county, township, city, or town.

As added by P.L.160-1999, SEC.4.

IC 14-32-8-3

"Program" defined

Sec. 3. As used in this chapter, "program" means the clean water Indiana program established by this chapter.

As added by P.L.160-1999, SEC.4.

IC 14-32-8-4

Program established

Sec. 4. The clean water Indiana program is established. The division of soil conservation established within the department of agriculture by IC 15-11-4-1 shall administer the program subject to the direction of the board.

As added by P.L.160-1999, SEC.4. Amended by P.L.1-2006, SEC.231; P.L.2-2008, SEC.36.

IC 14-32-8-5

Purpose of program

Sec. 5. The purpose of the program is to provide financial assistance to:

(1) soil and water conservation districts;
(2) land occupiers; and
(3) conservation groups;

to implement conservation practices to reduce nonpoint sources of water pollution through education, technical assistance, training, and cost sharing programs.

As added by P.L.160-1999, SEC.4. Amended by P.L.175-2006, SEC.18.

IC 14-32-8-6

Clean water Indiana fund

Sec. 6. (a) The clean water Indiana fund is established to carry out the purposes of this chapter. The fund shall be administered by the division of soil conservation subject to the direction of the board.

(b) The fund consists of:

(1) amounts deposited in the fund under IC 6-7-1-29.3;
(2) amounts appropriated by the general assembly; and
(3) donations, grants, and money received from any other source.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund or any other fund but remains in the fund to be used for the purposes of the fund.

As added by P.L.160-1999, SEC.4. Amended by P.L.241-2005, SEC.5; P.L.24-2009, SEC.1.

IC 14-32-8-7
Expenditures from fund

Sec. 7. Money in the fund may be spent in the following ways:

(1) To increase district technical assistance in local conservation efforts.

(2) To develop an environmental stewardship program to assist land occupiers in complying with environmental regulations voluntarily.

(3) To qualify for federal matching funds.

(4) To provide for the following cost sharing programs:

(A) A program to encourage land occupiers to implement conservation practices to reduce nutrient, pesticide, and sediment runoff.

(B) Programs that encourage land occupiers to implement nutrient management programs by sharing the cost of any of the following:

(i) Fencing for intensive grazing systems.
(ii) Purchasing nutrient management equipment.
(iii) Voluntary environmental audits.
(iv) Other similar expenditures related to nutrient management.

(5) To provide matching grants to districts for the following:

(A) Professional watershed coordinators to facilitate and administer local watershed protection projects.

(B) District managers to administer district conservation policies and programs.

(6) To increase state technical and capacity building assistance to districts and local conservation efforts by providing for the following:

(A) Capacity building specialists to train district personnel in grant writing, grant administration, and leadership development.

(B) Conservation education specialists to help implement district conservation education efforts.

(C) Urban storm water specialists to provide technical assistance to developers to contain soil erosion on construction sites.

(7) To make distributions as provided under section 8 of this chapter.

(8) Implementation of geographic information systems (GIS) or similar technology.

As added by P.L.160-1999, SEC.4. Amended by P.L.175-2006, SEC.19; P.L.129-2011, SEC.6.

IC 14-32-8-8

Additional funds from division of soil conservation

Sec. 8. (a) In addition to funds provided to a district under section 7 of this chapter or from any other source, the division of soil conservation shall pay to the district one dollar ($1) for every one dollar ($1) the district receives from a political subdivision.

(b) The state is not obligated to match more than ten thousand dollars ($10,000) under this section.

(c) In order to receive funding under this section each year, a district must certify to the division of soil conservation the amount of money the district received from all political subdivisions during the one (1) year period beginning January 1 of the previous year. The information prepared under this subsection must be part of the annual financial statement prepared and provided to the board under IC 14-32-4-22. The division of soil conservation shall make distributions under this section not later than July 15 of each year.

(d) Before making distributions under this section, the division of soil conservation shall determine the total amount of money that has been certified by all districts as having been provided by political subdivisions. If the cumulative amount to be distributed to all districts exceeds the amount appropriated to the fund, the division of soil conservation shall reduce the distribution to each district proportionately.

(e) A district must spend money received under this section for the purposes of the district.

As added by P.L.160-1999, SEC.4. Amended by P.L.155-2002, SEC.9 and P.L.158-2002, SEC.8; P.L.175-2006, SEC.20; P.L.1-2007, SEC.129.

IC 14-32-8-9

Report

Sec. 9. The districts shall coordinate with the division of soil conservation to compile and provide a report to the executive director of the legislative services agency each year. The report must be in an electronic format under IC 5-14-6 and must describe:

(1) the expenditures of the clean water Indiana fund; and

(2) the number, type, status, and effectiveness of conservation efforts funded by the clean water Indiana program.

As added by P.L.160-1999, SEC.4. Amended by P.L.28-2004, SEC.133.

IC 14-33

ARTICLE 33. CONSERVANCY DISTRICTS

IC 14-33-1

Chapter 1. Purposes

IC 14-33-1-1

General purposes

Sec. 1. (a) A conservancy district may be established for any of the following purposes:

(1) Flood prevention and control.

(2) Improving drainage.

(3) Providing for irrigation.

(4) Providing water supply, including treatment and distribution, for domestic, industrial, and public use.

(5) Providing for the collection, treatment, and disposal of sewage and other liquid wastes.

(6) Developing forests, wildlife areas, parks, and recreational facilities if feasible in connection with beneficial water management.

(7) Preventing the loss of topsoil from injurious water erosion.

(8) Storage of water for augmentation of stream flow.

(9) Operation, maintenance, and improvement of:

(A) a work of improvement for water based recreational purposes; or

(B) other work of improvement that could have been built for any other purpose authorized by this section.

(b) These purposes may be accomplished by cooperating with federal and state agencies whose programs are designed to accomplish any of the purposes of the district.

As added by P.L.1-1995, SEC.26.

IC 14-33-1-2

Sewage collection, treatment, and disposal; petition to engage in services outside territory boundaries

Sec. 2. (a) A district established for the purpose of section 1(a)(5) of this chapter that proposes to collect, treat, or dispose of sewage and other liquid wastes produced outside of the district boundaries must petition the Indiana utility regulatory commission for territorial authority to engage in the services to territory outside of the boundaries of the district.

(b) Upon notice and hearing, the Indiana utility regulatory commission shall determine the following:

(1) The territory outside of the boundaries from which sewage and other liquid wastes may be collected, treated, or disposed of.

(2) The rates and charges that the district may make for the services.

As added by P.L.1-1995, SEC.26.

IC 14-33-1-3
Use of powers to accomplish purpose of district

Sec. 3. Powers granted by this article may be used only to accomplish each purpose set forth by the court in the order establishing the district. However, a district plan or act of the board necessary to accomplish a purpose for which the district is established is not invalid because the district plan or act incidentally accomplishes a purpose other than a purpose for which the district is established.

As added by P.L.1-1995, SEC.26.

IC 14-33-1-4
Adding purpose to established district

Sec. 4. To add a purpose to an established district:

(1) the same procedure may be used as is provided for the establishment of a district; or

(2) the board may pass a resolution adding an additional authorized purpose to the district already established if the board has received a petition that:

(A) is signed by at least ten percent (10%) of the freeholders in the district; and

(B) requests the addition of the purpose to the district.

As added by P.L.1-1995, SEC.26.

IC 14-33-1-5
Procedures following passage of resolution

Sec. 5. (a) If a petition is filed and a resolution passed under section 4 of this chapter, the board shall file the resolution and petition with the court.

(b) Upon receipt, the court shall do the following:

(1) Order a hearing.

(2) Have a copy of the resolution and the date of the hearing forwarded to the commission.

(3) Order notice of the hearing as follows:

(A) A copy of the resolution and the time and place of the hearing shall be published at least one (1) time in at least one (1) newspaper of general circulation in each county containing land in the district.

(B) A copy of the notice as prepared for publication shall be sent by mail, first class postage prepaid, to each freeholder.

(c) The mailing of notice and proof of notice is the same as is required for notice of the hearing on the original petition to establish the district.

(d) The notice to the commission, the publication, and the mailing must be done at least thirty (30) days before the date of the hearing.

(e) If:

(1) at the hearing an objection is not filed by the commission or

by an owner of real property; and

(2) the court determines that the petition is proper;

the court shall order the district to be established also for the additional purpose.

(f) If an objection is filed, the court shall do the following:

(1) Determine at the hearing the following:

(A) The sufficiency of the petition.

(B) The necessity and feasibility of adding the purpose.

(2) Make the order according to the facts found.

As added by P.L.1-1995, SEC.26.

IC 14-33-2
Chapter 2. Establishment

IC 14-33-2-1
Filing petition

Sec. 1. Freeholders who desire the establishment of a district must initiate proceedings by filing a petition in the office of the clerk of the circuit court with jurisdiction in the county containing the most land within the proposed district.
As added by P.L.1-1995, SEC.26.

IC 14-33-2-2
Minimum number of freeholders signing petition

Sec. 2. A petition filed under section 1 of this chapter must be signed by freeholders owning land in the proposed district in the minimum number or proportion of all the freeholders in the proposed district as follows:

(1) Districts of not more than one thousand (1,000) freeholds, thirty percent (30%) of the freeholders.
(2) Districts of at least one thousand one (1,001) and not more than five thousand (5,000) freeholds, fifteen percent (15%) of the freeholders but not less than three hundred (300) signatures.
(3) Districts of at least five thousand one (5,001) and not more than twenty-five thousand (25,000) freeholds, ten percent (10%) of the freeholders but not less than seven hundred fifty (750) signatures.
(4) Districts of at least twenty-five thousand one (25,001) freeholds, five percent (5%) of the freeholders but not less than two thousand five hundred (2,500) signatures.

As added by P.L.1-1995, SEC.26.

IC 14-33-2-3
Number of freeholds in district; number of freeholders qualified to sign petition

Sec. 3. To determine the number of freeholds in the proposed district and the number or proportion of freeholders owning land in the district qualified to sign a petition for establishment, the following apply:

(1) Only one (1) freeholder's signature may be counted for any one (1) freehold. If a freehold is held in joint title, only one (1) freeholder's signature may be counted and it may be the signature of any one (1) of the freeholders owning the freehold in joint title. If a given freeholder qualifies as set forth in this section for at least two (2) freeholds, the freeholder's signature shall be counted for each freehold.
(2) One (1) or more tracts of land owned solely by only one (1) freeholder constitute one (1) freehold.
(3) One (1) or more tracts of land owned in joint title by at least two (2) identical freeholders constitute one (1) freehold.

However, if one (1) of the freeholders owning the freehold in joint title is a different or additional person, each freehold in joint title among nonidentical persons constitutes a separate and additional freehold.

(4) Subject to subdivisions (1), (2), and (3), if:

(A) a petition for the establishment of a district is filed by a municipality by ordinance adopted by the municipality's legislative body; or

(B) the municipality by ordinance has joined in a petition for inclusion in whole or part in the proposed district;

each freeholder in the area of the municipality that is in the proposed district is counted as a signatory to the petition. However, if a freeholder in the area of the municipality that is in the proposed district, after the filing of the petition for the establishment of the district, files a petition against the establishment of the proposed district, the number of freeholders considered and counted as signatories to the petition must be reduced by the number of freeholders in the area of the city that is in the proposed district filing a petition against the establishment of the district.

(5) Private corporations owning land in the proposed district may sign the petition by any officer authorized by the corporation. The officer's signature is prima facie evidence of the officer's authorization to sign the petition.

As added by P.L.1-1995, SEC.26.

IC 14-33-2-4

Contents of petition

Sec. 4. A petition must contain the following:

(1) The name for the proposed district, which should be in the form of "_____ Conservancy District".

(2) A description of the territory to be included, not necessarily by metes and bounds, but sufficiently accurate to inform the court and apprise the landowners of the possibility of the inclusion of their land in the district.

(3) A statement of each specific purpose for which the district is to be established.

(4) A statement of the necessity of accomplishing each purpose.

(5) A statement that the creation of the district will be conducive to the public health, safety, or welfare.

(6) A statement that the costs and damages of and to be paid solely by the district will probably be less than the benefits received in the district. If the purpose is declared to be water supply or sewage disposal, this statement need not be included.

(7) Whether the petition is conditioned upon a grant of federal or state money, or both, identifying the money upon which the petition is conditioned.

(8) Whether conditions attached to federal or state aid, or both, are acceptable if the federal or state government, or both, offer

a grant of money.

(9) Whether maintenance and operation of the works of improvement necessary to accomplish any or all of the purposes will be paid for:

(A) solely by annual levy of the special benefits tax;

(B) by both annual levy of the special benefits tax and an annual assessment on land found to be exceptionally benefited if exceptional benefits are expected to exist; or

(C) by use of any other method provided by statute as long as the proportion between the tax and assessment is in approximately the same ratio as used to pay the cost of establishing the district and placing the district plan into operation.

(10) The number of directors to serve on the board, which must be three (3), five (5), seven (7), or nine (9).

(11) A statement of the division of the proposed district into areas, which must be equal in number to the number of directors.

As added by P.L.1-1995, SEC.26.

IC 14-33-2-5

Motion for dismissal of petition

Sec. 5. If:

(1) a petition is conditioned upon a promise of federal money; and

(2) the responsible federal agency informs the court that federal money is not available for the district as proposed by the petition or amendments to the petition;

the petitioners may move that the petition be dismissed. The court shall grant the motion.

As added by P.L.1-1995, SEC.26.

IC 14-33-2-6

Petition in several counterparts

Sec. 6. A petition may be circulated in several counterparts and still constitute a single petition.

As added by P.L.1-1995, SEC.26.

IC 14-33-2-7

Petition by municipality

Sec. 7. A municipality (as defined in IC 36-1-2) may file a petition to initiate a proposed district by ordinance adopted by the legislative body (as defined in IC 36-1-2). The proposed district may include land:

(1) solely inside the municipality; or

(2) partially inside and partially outside the municipality.

As added by P.L.1-1995, SEC.26.

IC 14-33-2-8

Bond

Sec. 8. (a) The petitioners must post a bond sufficient to pay the cost of notice and all legal costs of the court connected with the proceedings in case the court refuses to establish the district and dismisses the petition.

(b) The petitioners shall pay the cost of notice and all legal costs if the court dismisses the petition.

As added by P.L.1-1995, SEC.26.

IC 14-33-2-9

Jurisdiction

Sec. 9. The circuit court with jurisdiction in the county having the most land in the proposed district has exclusive jurisdiction over the establishment of the district. If the district is established, this court also has exclusive jurisdiction over all further hearings in connection with the district.

As added by P.L.1-1995, SEC.26.

IC 14-33-2-10

Transfer to court having jurisdiction

Sec. 10. (a) A court in which a petition is filed shall order the proceedings transferred to the court having jurisdiction under section 9 of this chapter if:

(1) the petition was filed in the wrong court by mistake; or

(2) the petition is amended so that another county has more land in the proposed district.

(b) The court that establishes a district retains jurisdiction over the district regardless of a change in area of the district that results from later proceedings.

As added by P.L.1-1995, SEC.26.

IC 14-33-2-11

Docket; hearing date

Sec. 11. Upon receipt of a petition for the establishment of a district, the court shall docket the petition as a civil case and set a date for hearing. The court shall give priority to the hearing in determining the date, but the court must allow at least thirty (30) days for interested persons to receive notice.

As added by P.L.1-1995, SEC.26.

IC 14-33-2-12

Notice of hearing on petition

Sec. 12. The petitioners shall give notice of hearing on the petition as follows:

(1) By publication in two (2) newspapers of general circulation in each county having land in the proposed district, three (3) times at successive weekly intervals. The first publication must be at least thirty (30) days before the date of the hearing. If there is only one (1) newspaper of general circulation in a county,

three (3) publications in that newspaper are sufficient.

(2) By mailing a copy of the notice at least twenty (20) days before the date of the hearing, first class postage prepaid, to each freeholder who has not signed the petition and who owns land in the proposed district, according to the records of the county auditor. The person having the notice mailed shall file an affidavit with the court showing the following:

(A) The names of the persons to whom notice was sent.

(B) The address to which the notice was sent.

(C) The date on which the notice was mailed.

As added by P.L.1-1995, SEC.26.

IC 14-33-2-13

Notice of further proceedings

Sec. 13. Notice of the hearing on a petition serves as notice of all further proceedings in connection with the district.

As added by P.L.1-1995, SEC.26.

IC 14-33-2-14

Notice of hearing; contents

Sec. 14. The notice of the hearing on the petition, in addition to all other requirements, must contain the following:

(1) A statement that a petition for a district is before the court.

(2) A statement of each purpose for which the district is proposed.

(3) A statement as to which municipalities, townships, and counties the area of the proposed district lies within, in whole or in part.

(4) The place of the hearing.

(5) The date of the hearing.

As added by P.L.1-1995, SEC.26.

IC 14-33-2-15

Petition against establishment of a district

Sec. 15. (a) A petition against the establishment of a district may be presented to the court:

(1) at the hearing on a petition; or

(2) at any time thereafter before the fifth day before the hearing day initially ordered by the court after the receipt of the commission's report.

(b) If the court finds a petition against the establishment of a district contains the signatures of:

(1) at least fifty-one percent (51%) of the freeholders in the proposed district; or

(2) the freeholders who own at least sixty-six and two-thirds percent (66 2/3%) as determined by the assessed valuation of the real property in the proposed district;

the court shall dismiss the petition for the establishment of the district.

(c) Sections 3 and 6 of this chapter apply to this section.

(d) The fifth day before the hearing date initially ordered by the court after the receipt of the commission's report is the last date on which a petition to withdraw signatures may be filed.

As added by P.L.1-1995, SEC.26.

IC 14-33-2-16

Petition requirements and conformity

Sec. 16. (a) At the hearing on a petition for the establishment of a district, the court shall determine whether the petition:

(1) bears the necessary signatures; and

(2) complies with the requirements as to form and content.

(b) The court may not dismiss a petition with the requisite signatures because of alleged defects without permitting, in this or subsequent proceedings, amendments to correct errors in form or content. The court shall hear any interested person on the question.

(c) The following are prima facie evidence concerning the requirements for signatures on a petition:

(1) Verified certification, based on personal knowledge or information and belief, by:

(A) the persons who carried the petition; or

(B) other persons knowing the facts as to the identity of the persons signing the petition and as to the ownership by those persons of land within the proposed district.

(2) The records of the county auditor or county treasurer.

(d) The determination of:

(1) the number of freeholds; and

(2) the necessary number and identity of freeholders;

shall be made as of the date of filing a petition. If the petition as of that date bears the necessary number of signatures, the petition may not be dismissed because petitioners withdraw signatures that reduces the number of signatures below the required amount unless the withdrawals constitute more than fifty percent (50%) of the signers as of the date of filing.

As added by P.L.1-1995, SEC.26.

IC 14-33-2-17

Commission's determination and report

Sec. 17. (a) This section applies to all districts, except for districts described in section 18 of this chapter.

(b) If the court determines that a petition conforms to the requirements, the court shall enter an order referring the petition to the commission.

(c) The commission shall make a determination and report to the court whether the proposed district meets the following conditions:

(1) The proposed district appears to be necessary.

(2) The proposed district holds promise of economic and engineering feasibility.

(3) The proposed district seems to offer benefits in excess of

costs and damages for purposes other than the following:
(A) Water supply.
(B) Storage of water for augmentation of stream flow.
(C) Sewage disposal.
(4) Whether the public health will be served immediately or prospectively by the establishment of the district for any of the following purposes:
(A) Water supply.
(B) Sewage disposal.
(C) Storage of water for augmentation of stream flow.
(D) Any combination of these purposes.
(5) The proposed district proposes to cover and serve a proper area.
(6) The proposed district could be established and operated in a manner compatible with established:
(A) conservancy districts;
(B) flood control projects;
(C) reservoirs;
(D) lakes;
(E) drains;
(F) levees; and
(G) other water management or water supply projects.

(d) The fact that all the land included in the proposed district is owned by one (1) freeholder or a limited number of freeholders is not a sufficient reason for the commission or the court to make unfavorable findings on:
(1) the question of the establishment of the district; and
(2) later, if the district is established, the approval of the district plan.

However, it must appear from the evidence that the land is subdivided or intended for subdivision and development and that the accomplishment of the purposes proposed and in the manner proposed would be necessary and desirable for the person acquiring and using the land after subdivision and development.
As added by P.L.1-1995, SEC.26.

IC 14-33-2-18
Commission's determination and report for certain counties

Sec. 18. (a) This section applies only to a district to be located in a county having a population of more than one hundred forty thousand (140,000) but less than one hundred fifty thousand (150,000).

(b) If the court determines that a petition conforms to the requirements, the court shall enter an order referring the petition to the commission.

(c) The commission shall make a determination and report to the court whether the proposed district should be established after determining whether the proposed district meets the following conditions:

(1) The proposed district appears to be necessary.
(2) The proposed district holds promise of economic and engineering feasibility.
(3) The proposed district seems to offer benefits in excess of costs and damages for purposes other than the following:
(A) Water supply.
(B) Storage of water for augmentation of stream flow.
(C) Sewage disposal.
(4) Whether the public health will be served immediately or prospectively by the establishment of the district for any of the following purposes:
(A) Water supply.
(B) Sewage disposal.
(C) Storage of water for augmentation of stream flow.
(D) Any combination of these purposes.
(5) The proposed district proposes to cover and serve a proper area.
(6) The proposed district can be established and operated in a manner compatible with established:
(A) districts;
(B) flood control projects;
(C) reservoirs;
(D) lakes;
(E) drains;
(F) levees;
(G) regional water districts;
(H) regional sewer districts; and
(I) other water management or water supply projects.

(d) The fact that all the land included in the proposed district is owned by one (1) freeholder or a limited number of freeholders is not a sufficient reason for the commission or the court to make unfavorable findings on:
(1) the question of the establishment of the district; and
(2) later, if the district is established, the approval of the district plan.

However, it must appear from the evidence that the land is subdivided or intended for subdivision and development and that the accomplishment of the purposes proposed and in the manner proposed would be necessary and desirable for the person acquiring and using the land after subdivision and development.

As added by P.L.1-1995, SEC.26. Amended by P.L.170-2002, SEC.95; P.L.119-2012, SEC.122.

IC 14-33-2-19
Commission's hearings to determine facts

Sec. 19. (a) In determining the facts, the commission shall hold hearings at which the commission shall give any interested person the right to be heard. At the request of an interested person, the commission shall hold hearings at the county seat of a county

containing land in the proposed district. The commission shall choose the county seat.

(b) The commission shall give notice of the hearings by publication at least one (1) time in one (1) newspaper of general circulation in each county containing land in the proposed district.

As added by P.L.1-1995, SEC.26.

IC 14-33-2-20

Expenses

Sec. 20. The expenses of the hearings and other expenses of necessary investigations and surveys, together with any expense incurred by the commission in subsequent studies of district plans, are payable initially out of the general money of the commission. The district shall repay the expenditures, not to exceed thirty percent (30%) of the amount paid by the district to independent private engineers for the preparation of plans, to the commission from the district's planning money. Commission expenses include only expenses incurred by an assisting or a cooperating state agency for services provided by an entity that is not a state agency.

As added by P.L.1-1995, SEC.26. Amended by P.L.165-2011, SEC.25.

IC 14-33-2-21

Purpose within jurisdiction of another agency

Sec. 21. (a) If a proposed purpose is within the administrative jurisdiction of another state agency, the commission shall request technical assistance of the agency and give full weight to the agency in making a report to the court.

(b) State agencies shall furnish assistance to the commission necessary to accomplish the purposes of this article.

As added by P.L.1-1995, SEC.26.

IC 14-33-2-22

Report of commission's findings

Sec. 22. The commission shall make a report of the commission's findings to the court, including findings on the territorial limits of the proposed district. The commission shall make this report within one hundred twenty (120) days after the petition is referred to the commission, unless the commission requests and receives approval from the court for additional periods of thirty (30) days each.

As added by P.L.1-1995, SEC.26.

IC 14-33-2-23

Report as prima facie evidence of facts

Sec. 23. The factfinding report of the commission on the proposed district is prima facie evidence of the facts stated in the report in all subsequent proceedings.

As added by P.L.1-1995, SEC.26.

IC 14-33-2-24
Amendments to petition

Sec. 24. (a) The court may permit amendments to a petition to conform to the findings of the commission.

(b) If a petition is amended to include additional land other than the land published in the notice for hearing on the petition, the court may make a final determination on the establishment of the district only after there is published notice of the amendments or of motion to amend by the petitioners. In addition, the petitioners shall mail a notice of the amendments or of the motion to amend to all freeholders of the additional land according to section 14 of this chapter, including mailing of notice under section 12 of this chapter.

(c) If a petition is amended to include additional land:

(1) the requirements regarding signatures in sections 2 and 3 of this chapter must be satisfied as if the land had been included in the petition as originally filed; and

(2) the following may be filed with the court at any time before the conclusion of the hearing after the receipt of the commission's report:

(A) Additional signatures to the petition for the establishment of the district.

(B) Signatures to a petition against the establishment of a district.

(C) Withdrawals from either petition.

As added by P.L.1-1995, SEC.26.

IC 14-33-2-25
Court hearing; notice

Sec. 25. (a) Upon receipt of the commission's report, the court shall set a date for a hearing. The court shall give priority to this hearing in determining the date, but the court must allow at least twenty-one (21) days for interested persons, including petitioners, to file exceptions.

(b) The court shall order notice for this hearing as the court considers necessary, but at least one (1) publication must be made in one (1) newspaper of general circulation in each county having land in the proposed district.

As added by P.L.1-1995, SEC.26.

IC 14-33-2-26
Court's determination

Sec. 26. (a) If the court finds at the hearing that:

(1) the only purpose of the district is water supply or sewage disposal, or both; and

(2) the public health is not served immediately or prospectively by the establishment of the district;

the court shall dismiss the petition.

(b) If the court finds at the hearing that:

(1) a purpose of the district is other than water supply or sewage

disposal; and

(2) the costs and damages incident to the establishment of the district will exceed the benefits received within the district;

the court shall dismiss the petition.

(c) If the court finds that the evidence does support the statements in a petition, the court shall order the district established for the purposes named in the petition.

(d) If the court finds that the evidence supports at least one (1) of the purposes named in a petition but does not support at least one (1) of the other purposes, the court shall order the district established only for the purposes the court finds supported by the evidence.

As added by P.L.1-1995, SEC.26.

IC 14-33-2-27

Order establishing district; modification of election procedures

Sec. 27. (a) If the court orders a district established, the court shall in the order establishing the district determine the following:

(1) The number of directors to serve on the board and the procedures for the election of the directors.

(2) The division of the district into areas.

(3) The time of the annual meeting of the district, which must be before March 1 each year.

(b) After the district is established, the board of directors of the conservancy district may petition the court to modify its order to change the procedures for election of the directors as provided in IC 14-33-5-2.

As added by P.L.1-1995, SEC.26. Amended by P.L.88-2003, SEC.1.

IC 14-33-2-28

Appeals

Sec. 28. An order:

(1) dismissing a petition; or

(2) establishing a district;

may be appealed to the supreme court within thirty (30) days.

As added by P.L.1-1995, SEC.26.

IC 14-33-2-29

Final order

Sec. 29. If:

(1) a district is established by order of the court and an appeal is not taken within thirty (30) days; or

(2) an order establishing a district is affirmed by the supreme court;

the establishment of the district is final and may not be directly or collaterally questioned in any action or proceeding.

As added by P.L.1-1995, SEC.26.

IC 14-33-2-30

New petition; filing

Sec. 30. If a petition is dismissed:

(1) because the court finds the evidence does not support the petition according to section 26 of this chapter; or

(2) according to section 15 of this chapter;

a new petition may not be addressed to any court to establish a district with essentially the same boundaries for any of the same purposes for two (2) years after the date of the order dismissing the petition. However, a petition dismissed for want of jurisdiction, including an insufficient number of signatures, may be refiled at any time after the correction of the jurisdictional defect.

As added by P.L.1-1995, SEC.26.

IC 14-33-3
Chapter 3. Boundaries

IC 14-33-3-1
Area of district

Sec. 1. Any area may be established as a district if each part of the district is contiguous to another part. A municipality may be included in whole or in part in the district only if at least one (1) of the following conditions exist:

(1) The freeholders in the municipality or the part of the municipality to be included in the district have petitioned to be included in the same proportion as required by IC 14-33-2-2 for the proposed district as a whole.

(2) The municipality has by ordinance of the municipality's legislative body petitioned or joined in the petition to be included in whole or in part in the district.

As added by P.L.1-1995, SEC.26.

IC 14-33-3-2
Flood control

Sec. 2. (a) This section applies to a district described in IC 14-33-9-4.

(b) If one (1) purpose of the district is flood control, the commission and the court in establishing the boundaries of the district under this article shall consider all watersheds affected by the flooding water.

As added by P.L.1-1995, SEC.26.

IC 14-33-3-3
Land included in two districts

Sec. 3. A parcel of land may be included in two (2) districts established for the same purpose only with the written consent of all the owners of the land.

As added by P.L.1-1995, SEC.26.

IC 14-33-4

Chapter 4. Additions to Districts

IC 14-33-4-1

"Proposed district" defined

Sec. 1. As used in this chapter, "proposed district" refers to the district and the area proposed to be added to the district.

As added by P.L.1-1995, SEC.26.

IC 14-33-4-2

Procedures

Sec. 2. (a) This section applies to all districts.

(b) To add area to a district already established:

(1) the same procedure must be used as is provided for the establishment of a district with the petition addressed to the court having jurisdiction over the district; or

(2) the board may pass a resolution adding additional area to the district already established if the board has received a petition that:

(A) is signed by:

(i) the majority of freeholders; or

(ii) a municipality under IC 14-33-2-7;

within the area proposed to be added; and

(B) requests the addition of the area to the district.

The resolution may contain reasonable terms and conditions imposed on the additional area.

(c) The board shall file the resolution and petition with the court.

(d) Upon receipt of a petition or a petition and a resolution, the court shall do the following:

(1) Set a date for a hearing.

(2) Have notice published and mailed to:

(A) the commission; and

(B) the freeholders both in the district and in the area proposed to be added;

in the same manner in which notice is required for notice of the hearing on the original petition to establish the district.

(e) If:

(1) an objection is not filed at the hearing by:

(A) the commission; or

(B) an owner of real property either in the district or in the area to be added; and

(2) the court determines that the petition is proper;

the court shall order the district established in the additional area.

(f) If an objection is filed, the court shall do the following:

(1) Determine at the hearing the following:

(A) The sufficiency of the petition.

(B) The necessity and feasibility of adding the area.

(2) Make the order according to the facts found.

As added by P.L.1-1995, SEC.26. Amended by P.L.4-2004, SEC.1.

IC 14-33-4-3
Repealed

(As added by P.L.1-1995, SEC.26. Amended by P.L.170-2002, SEC.96. Repealed by P.L.4-2004, SEC.3.)

IC 14-33-5
Chapter 5. Board of Directors

IC 14-33-5-0.5
Repealed

(As added by P.L.185-1995, SEC.1. Repealed by P.L.95-2006, SEC.10.)

IC 14-33-5-1
Appointment of initial board of directors

Sec. 1. (a) Within twenty (20) days after an order establishing a district, the board of commissioners of the county shall appoint the initial board of directors. A director shall be appointed for each of the areas in the district established by the court.

(b) A director must have the following qualifications:

(1) Be:

(A) a freeholder of the area of the district for which appointed; or

(B) an officer or a nominee of a corporate freeholder of the area of the district for which appointed.

(2) Be qualified by knowledge and experience in matters pertaining to the development of the district.

(c) A majority of the directors must be:

(1) resident freeholders of the district if available and qualified; and

(2) petitioners for the establishment of the district. For this purpose an officer or a nominee of a corporate freeholder of the district, if the corporation is a petitioner, is considered a petitioner.

As added by P.L.1-1995, SEC.26.

IC 14-33-5-2
Election to fill vacancies; number of votes to elect

Sec. 2. (a) At each annual meeting of the district, directors shall be elected to fill vacancies on the board due to expiration of terms, resignation, or otherwise. The election shall be conducted by written ballots. Except as provided in subsection (c), to be elected an individual must receive a majority of the votes of the freeholders of the district who are:

(1) present and voting in person; or

(2) absent but have mailed or delivered a written ballot vote.

(b) A written ballot vote must be signed and mailed or delivered to the district office. A ballot is valid if delivered or received before the scheduled date of the annual meeting.

(c) Upon receipt of a petition from the board of directors of a conservancy district, the circuit court may modify the order establishing the district under IC 14-33-2-27 to provide that each director representing an area established under IC 14-33-2-27 shall

be elected by a majority of the votes of the freeholders of the respective areas.
As added by P.L.1-1995, SEC.26. Amended by P.L.88-2003, SEC.2.

IC 14-33-5-3
Nominations

Sec. 3. (a) Beginning October 24 and not later than November 1, the board shall invite nominations to fill vacancies on the board at the next annual meeting by one (1) publication in a newspaper of general circulation in each county in the district. Each publication must do the following:

(1) Contain the names of the directors whose terms are expiring and the area of the district involved.
(2) Invite nominations to fill vacancies.
(3) State the qualifications for the office as prescribed by section 1 of this chapter, except for the following:
(A) A nominee does not have to have been a petitioner for the establishment of the district.
(B) A nominee does not have to be a resident of the area of the district for which nominations are invited.

(b) Nominations for director must:

(1) be submitted to the office of the district in writing before December 1 following notice of vacancies; and
(2) be signed by at least five (5) freeholders from the areas designated by the secretary's notice.

(c) Nominations that are mailed are valid if:

(1) delivered or postmarked before December 1;
(2) the envelope has sufficient United States postage; and
(3) the envelope is addressed to the district's office.

As added by P.L.1-1995, SEC.26.

IC 14-33-5-4
Annual meeting

Sec. 4. (a) The annual meeting of the district must be held at the time designated by the court:

(1) at the district's office; or
(2) at a place in or near the district as determined by resolution of the board adopted before December 1 of the year.

(b) Notice of the annual meeting of the district must be given by one (1) publication in a newspaper of general circulation in each county in the district at least fourteen (14) and not more than thirty-one (31) days before the annual meeting. The notice must contain the following:

(1) The names of the nominees.
(2) The place where the election will be held.
(3) The time of the election.
(4) The fact that this is the annual meeting of the district.
(5) The purposes of the meeting.
(6) The time during which ballots may be cast.

As added by P.L.1-1995, SEC.26.

IC 14-33-5-5
Ballots; certification

Sec. 5. (a) Before the annual meeting, the board shall prepare the ballots and a list of the freeholders of the district, which must be certified by the county auditor and placed in the district's files. A deficiency in this process or an omission of the names of any freeholders does not void action taken at an annual meeting.

(b) Only one (1) vote may be cast per freehold.

As added by P.L.1-1995, SEC.26. Amended by P.L.16-2010, SEC.1.

IC 14-33-5-6
Voting procedures

Sec. 6. (a) At each annual meeting and before the election of directors, the chairman shall appoint three (3) freeholders of the district who are present at the annual meeting to act as clerks of and conduct the election.

(b) Before the casting of a vote, each freeholder must sign the list of freeholders opposite the freeholder's name in the presence of the secretary of the district. If the clerks find that a freeholder's name is erroneously omitted from the list, the clerks shall place the name on the list. The omitted freeholder is then entitled to cast a ballot.

(c) The clerks shall note the fact of receipt of a valid written ballot vote opposite the freeholder's name who cast that vote. At this time the written ballot vote is considered cast.

(d) At the close of the election poll, the clerks shall count the cast ballots and make a report of the results. The secretary of the district shall record the results in the records of the district. The chairman shall then declare the successful nominees elected, and the elected directors are entitled to and shall assume all the duties of the office for which elected.

As added by P.L.1-1995, SEC.26.

IC 14-33-5-7
Oath of director

Sec. 7. Promptly after appointment or election a director shall take the following oath:

> "I solemnly swear that I shall, to the best of my ability, strive to accomplish the purposes for which the district is established and properly to operate and maintain its works of improvement.".

As added by P.L.1-1995, SEC.26.

IC 14-33-5-8
Petition to fill vacancies

Sec. 8. If a district fails to conduct an election of directors as provided by this chapter, any interested person of the district may petition the board of commissioners of the county to appoint a director to fill vacancies. The board of commissioners of the county

shall make an appointment within fifteen (15) days from the date the petition is filed.
As added by P.L.1-1995, SEC.26.

IC 14-33-5-9
District composed of land from more than one county

Sec. 9. For the purposes of this chapter, if the district is composed of land from more than one (1) county, the board of commissioners of each county may participate in the following:

(1) The appointment of the initial board.
(2) The filling of vacancies on the board.

As added by P.L.1-1995, SEC.26.

IC 14-33-5-10
Advisory members of board; area directors

Sec. 10. (a) Notwithstanding other provisions of this chapter, this section applies to all districts described in IC 14-33-9-4.

(b) The following shall serve as advisory members of the board and have all privileges of membership except the right to vote:

(1) The city engineer of each second class city in the district.
(2) The county surveyor of the county.
(3) The chairman of the county soil and water conservation district.

(c) On the same day as the primary election held in even-numbered years, the voters shall select the area directors. At the initial election held under this section, the authority that makes the initial appointment of directors under section 1 of this chapter shall designate the initial terms of the directors elected as follows:

(1) One-half (1/2) plus one (1) of the directors serve for two (2) year terms.
(2) The other directors serve for four (4) year terms.

After the first election, all directors serve for four (4) year terms. Area directors take office on June 1 after election.

(d) The initial appointments of directors under section 1 of this chapter shall be made so that the directors serve until the election in the first even-numbered year following the year of appointment.

(e) Nominations for director signed by at least five (5) freeholders shall be filed with the county election board during the period when filing for other county offices takes place, and the board shall publicly invite nominations at least five (5) days before this filing period begins.

(f) Each director must be a freeholder and a resident of the district from which elected. Only one (1) director may be elected from each district.

(g) When a vacancy occurs on the board:

(1) the chairman of the board; or
(2) five (5) freeholders from the district where the vacancy exists;

may petition the appointing authority to have the appointing authority

make an appointment to fill the vacancy for the remainder of the unexpired term.
As added by P.L.1-1995, SEC.26.

IC 14-33-5-11
Terms for initial directors

Sec. 11. (a) The board of commissioners of the county shall appoint the initial directors for the following terms:

(1) If there are three (3) or five (5) directors, the terms are as follows:
(A) One (1) term expires at the next annual meeting.
(B) One (1) term expires at the second annual meeting.
(C) One (1) term expires at the third annual meeting.
(D) Any other terms expire at the fourth annual meeting.

(2) If there are seven (7) or nine (9) directors, the terms are as follows:
(A) Two (2) terms expire at the next annual meeting.
(B) Two (2) terms expire at the second annual meeting.
(C) Two (2) terms expire at the third annual meeting.
(D) All other terms expire at the fourth annual meeting.

(b) As the terms expire, each new director shall be elected for a term of four (4) years.
As added by P.L.1-1995, SEC.26.

IC 14-33-5-11.5
Single nominee considered elected; no election required when only one nominee in each district

Sec. 11.5. (a) Notwithstanding the other provisions of this chapter, if there is only one (1) nominee for election to the board to represent an area, the nominee for election to the board to represent that area is considered elected.

(b) Notwithstanding the other provisions of this chapter, if there is only one (1) nominee for election to the board for each area for which a director is to be elected, the following apply:

(1) The election otherwise required to be held under this chapter is not required to be held.

(2) Each of the nominees for election to the board is considered elected as if the election had been held and each nominee was elected as provided in this chapter.

As added by P.L.16-2010, SEC.2.

IC 14-33-5-12
Vacancies

Sec. 12. (a) If a vacancy occurs on the board, the board shall vote to appoint a member to serve until the next annual meeting.

(b) If the vote held under subsection (a) results in a tie, a judge of the circuit court of the county in which the district was established shall designate a person to serve as a member until the next annual meeting.

(c) At the next annual meeting a director shall be elected to complete the term.
As added by P.L.1-1995, SEC.26. Amended by P.L.4-2004, SEC.2.

IC 14-33-5-13
Meetings
Sec. 13. The board shall by resolution fix the time for holding regular meetings, but the board shall meet at least quarterly each year.
As added by P.L.1-1995, SEC.26.

IC 14-33-5-14
Special meetings
Sec. 14. (a) Special meetings of the board may be called by the chairman or by two (2) members upon written request to the secretary. The secretary shall send to all members, at least three (3) days before a special meeting, a written notice fixing the time and place of the meeting.
(b) Written notice of a special meeting is not required if:
(1) the time of the special meeting has been fixed in a regular meeting; or
(2) all members were present at a meeting at which a special meeting was called.
As added by P.L.1-1995, SEC.26.

IC 14-33-5-15
Quorum
Sec. 15. A majority of the board constitutes a quorum. An action of the board is official, however, only if authorized by a majority of the board at a regular or properly called special meeting.
As added by P.L.1-1995, SEC.26.

IC 14-33-5-16
Compensation
Sec. 16. (a) Except as provided in subsection (b), upon approval of the initial district plan, the directors are entitled to compensation in an amount that the court orders, but not to exceed:
(1) one hundred dollars ($100) for not more than two (2) regular or specially called board meetings per month; and
(2) fifty dollars ($50) for not more than five (5) days per month devoted to the work of the district in addition to any day for which payment is received under subdivision (1). In addition, the directors shall be reimbursed for actual expenses, including traveling expense at a rate equal to the rate paid to state officers and employees. Claims for expense reimbursement must be accompanied by an itemized written statement approved by a recorded motion of the board.
(b) At any time after all directors have been elected to the board, the directors may receive an increase in compensation up to a reasonable amount that is:

(1) approved by a majority vote of the board of directors; and
(2) authorized by a court order.

(c) An increase in compensation authorized under subsection (b) may not be based upon an increase of any tax, assessment, rates, or charges by the district.

(d) In addition to any compensation the directors may receive under subsection (b), the directors shall be reimbursed for actual expenses, including traveling expenses, at a rate equal to the rate paid to state officers and employees. Claims for expense reimbursement must be accompanied by an itemized written statement approved by a recorded motion of the board of directors.

As added by P.L.1-1995, SEC.26. Amended by P.L.78-2007, SEC.2; P.L.113-2012, SEC.1.

IC 14-33-5-17
Chairman and vice chairman

Sec. 17. Immediately following appointment and immediately following each annual meeting of the district, the directors shall meet and elect a chairman and a vice chairman. The vice chairman may act as chairman during the absence or disability of the chairman. The chairman shall promptly notify the commission in writing of the names and addresses of the officers and directors of the district, and the same information, together with the executed oaths, shall be filed with the circuit court.

As added by P.L.1-1995, SEC.26.

IC 14-33-5-18
Employees; contracts and leases

Sec. 18. (a) The board may appoint, prescribe the duties, and fix the compensation of the following:

(1) A secretary.
(2) A financial clerk.
(3) An engineer.
(4) Employees that are necessary for the discharge of duties and responsibilities of the board.

(b) A financial clerk shall execute a surety bond in the manner prescribed by IC 5-4-1.

(c) The board may make contracts for the following:

(1) Special and temporary services, including professional counsel.
(2) Leases of land to a provider of commercial mobile service (as defined in 47 U.S.C. 332) that allows for the construction, use, and maintenance of a tower that is used for telecommunications purposes.

As added by P.L.1-1995, SEC.26. Amended by P.L.16-2010, SEC.3.

IC 14-33-5-19
Office; location

Sec. 19. (a) At the first meeting of the first board, the board shall

adopt by majority vote a resolution designating the location in or near the district where the district will maintain an office. The board may adopt a resolution by majority vote at any meeting of the board to change the location of the district's office. The board shall report the location of the office and a change in location to the court establishing the district.

(b) The board shall do the following:

(1) Arrange for office space.

(2) Keep a record of all transactions and minutes of all meetings in the office.

(3) Keep all records and minutes available for inspection by any interested person of the district during the hours that the district office is open for business.

As added by P.L.1-1995, SEC.26.

IC 14-33-5-20

Duties of board

Sec. 20. The board shall do the following:

(1) Exercise general supervision of and make regulations for the administration of the affairs of the district.

(2) Prescribe uniform rules pertaining to investigations and hearings.

(3) Supervise the fiscal affairs and responsibilities of the district.

(4) Prescribe the qualifications of, appoint, remove, and fix the compensation of the employees of the district. The compensation must be reasonable and similar in amount to the compensation allowed employees performing similar service for the state and political subdivisions of the state. The board may delegate to employees authority to perform ministerial acts in all cases except where final action of the board is necessary.

(5) Keep an accurate and complete record of all district proceedings and record and file all bonds and contracts, assuming responsibility for the custody and preservation of all papers and documents of the district.

(6) Make an annual report to the court of income and expenses. The report must be submitted not later than thirty (30) days after the annual meeting and may include any of the following:

(A) A statement of the progress in accomplishing each purpose for which the district is established.

(B) Recommendations for amendment to the district plan.

(C) Any matter that the board believes should be brought to the attention of the court for instructions or approval.

(7) Adopt a seal and certify all official acts.

(8) Sue and be sued collectively by the legal name "_____ Conservancy District", with service of process made on the chairman of the board. However, costs may not be taxed against the directors individually in an action.

(9) Invoke any legal, equitable, or special remedy for the enforcement of this article or of any proper action of the board

in a court.

(10) If advisable, establish an advisory committee.

(11) Exercise the powers granted under this article to accomplish each purpose for which the district is established.

(12) If a purpose of the district is the construction or maintenance of a levee in cooperation with the United States Secretary of the Army, divide, by resolution, the levee into maintenance sections and make assignment of each section to a director who must be a resident freeholder near the maintenance section. The director shall, upon assignment, supervise and assist in the maintenance of the assigned maintenance section.

(13) Protect against encroachment by a stream. The board may, alone or in cooperation with state or federal agencies, do whatever is necessary to provide bank stabilization for the protection of the works of improvement of the district.

(14) Insure property, personnel, and operations of the district against risks and in amounts that the board determines necessary to protect the district.

As added by P.L.1-1995, SEC.26.

IC 14-33-5-20.5

Prior approval of expenses; review of claims

Sec. 20.5. (a) A board may adopt a resolution allowing money to be disbursed for lawful district purposes under this section.

(b) Notwithstanding IC 5-11-10, with the prior written approval of the board, the financial clerk of the district may make claim payments in advance of board allowance for the following kinds of expenses if the board has adopted a resolution under subsection (a):

(1) Property or services purchased or leased from the United States government, its agencies, or its political subdivisions.

(2) License or permit fees.

(3) Insurance premiums.

(4) Utility payments or utility connection charges.

(5) General grant programs for which advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced.

(6) Grants of state funds authorized by statute.

(7) Maintenance or service agreements.

(8) Leases or rental agreements.

(9) Bond or coupon payments.

(10) Payroll.

(11) State or federal taxes.

(12) Expenses that must be paid because of emergency circumstances.

(13) Expenses described in a resolution.

(c) Each payment of expenses under this section must be supported by a fully itemized invoice or bill and certification by the financial clerk of the district.

(d) The board shall review and allow the claim at its next regular

or special meeting following the preapproved payment of the expense.
As added by P.L.129-2011, SEC.7.

IC 14-33-5-21
Powers relating to sewage and liquid waste

Sec. 21. (a) If the board issues revenue bonds for the collection, treatment, and disposal of sewage and liquid waste, the board may do the following:

(1) Subject to sections 21.1 and 21.2 of this chapter, establish just and equitable rates and charges and use the same basis for the rates as provided in IC 36-9-23-25 through IC 36-9-23-29.
(2) Collect and enforce the rates, beginning with the commencement of construction as provided in IC 36-9-23.
(3) Establish rules and regulations.
(4) Require connection to the board's sewer system of any property producing sewage or similar waste and require discontinuance of use of privies, cesspools, septic tanks, and similar structures. The board may enforce this requirement by civil action in circuit or superior court as provided in IC 36-9-23-30.
(5) Provide for and collect a connection charge to the board's sewer system as provided in IC 36-9-23-25 through IC 36-9-23-29.
(6) Contract for treatment of the board's sewage and pay a fair and reasonable connection fee or rate for treatment, or a combination of both, as provided in IC 36-9-23-16.
(7) Secure the bonds by a trust indenture as provided in IC 36-9-23-22.
(8) Create a sinking fund for the payment of principal and interest and accumulate reasonable reserves as provided in IC 36-9-23-21.
(9) Issue temporary revenue bonds to be exchanged for definite revenue bonds as provided in IC 36-9-23-17 through IC 36-9-23-20.
(10) Issue additional revenue bonds as part of the same issue if the issue does not meet the full cost of the project for which the bonds were issued as provided in IC 36-9-23-17 through IC 36-9-23-20.
(11) Issue additional revenue bonds for improvements, enlargements, and extensions as provided in IC 36-9-23-18.
(12) Covenant with the holders of the revenue bonds for the following:

(A) Protection of the holders concerning the use of money derived from the sale of bonds.
(B) The collection of necessary rates and charges and segregation of the rates and charges for payment of principal and interest.
(C) Remedy if a default occurs.

The covenants may extend to both repayment from revenues and other money available to the district by other statute as provided in IC 36-9-23.

(b) In the same manner as provided by IC 36-9-23, the rates or charges made, assessed, or established by the district are a lien on a lot, parcel of land, or building that is connected with or uses the works by or through any part of the sewage system of the district. The liens:

(1) attach;

(2) are recorded;

(3) are subject to the same penalties, interest, and reasonable attorney's fees on recovery; and

(4) shall be collected and enforced;

in substantially the same manner as provided in IC 36-9-23-31 through IC 36-9-23-32.

As added by P.L.1-1995, SEC.26. Amended by P.L.168-2009, SEC.1.

IC 14-33-5-21.1

Campgrounds; rates for sewage service

Sec. 21.1. (a) This section applies to a campground that:

(1) is connected with the sewage works of a district established for the purpose described in IC 14-33-1-1(a)(5); or

(2) uses or is served by the sewage works of a district established for the purpose described in IC 14-33-1-1(a)(5).

(b) Beginning September 1, 2009, if a campground is billed for sewage service at a flat rate under section 21(a)(1) of this chapter, the campground may instead elect to be billed for the sewage service under this subsection by installing, at the campground's expense, a meter to measure the actual amount of sewage discharged by the campground into the district's sewers. If a campground elects to be billed by use of a meter:

(1) the rate charged by the district's board for the metered sewage service may not exceed the rate charged to residential customers for equivalent usage; and

(2) the amount charged by the board for the campground's monthly sewage service for the period beginning September 1 and ending May 31 must be equal to the greater of:

(A) the actual amount that would be charged for the sewage discharged during the month by the campground as measured by the meter; or

(B) the lowest monthly charge paid by the campground for sewage service during the previous period beginning June 1 and ending August 31.

(c) If a campground does not install a meter under subsection (b) and is billed for sewage service at a flat rate under section 21(a)(1) of this chapter, for a calendar year beginning after December 31, 2009, each campsite at the campground may not equal more than one-third (1/3) of one (1) resident equivalent unit. The basic monthly charge for the campground's sewage service must be equal to the number of

the campground's resident equivalent units multiplied by the rate charged by the board for a resident unit.

(d) The board may impose additional charges on a campground under subsections (b) and (c) if the board incurs additional costs that are caused by any unique factors that apply to providing sewage service for the campground, including, but not limited to:

(1) the installation of:

(A) oversized pipe; or

(B) any other unique equipment;

necessary to provide sewage service for the campground; and

(2) concentrations of biochemical oxygen demand (BOD) that exceed federal pollutant standards.

As added by P.L.168-2009, SEC.2.

IC 14-33-5-21.2

Campgrounds; sewage service rate disputes; utility regulatory commission

Sec. 21.2. (a) As used in this section, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

(b) This section applies to an owner or operator of a campground described in section 21.1(b) or 21.1(c) of this chapter who disputes:

(1) that the campground is being billed at rates charged to residential customers for equivalent usage as required by section 21.1(b)(1) of this chapter;

(2) the number of resident equivalent units determined for the campground under section 21.1(c) of this chapter; or

(3) that any additional charges imposed on the campground under section 21.1(d) of this chapter are reasonable or nondiscriminatory.

(c) If an owner or operator:

(1) makes a good faith attempt to resolve a disputed matter described in subsection (b)(1) through (b)(3) through:

(A) any grievance or complaint procedure prescribed by the board; or

(B) other negotiations with the board; and

(2) is dissatisfied with the board's proposed disposition of the matter;

the owner or operator may file with the commission a written request for review of the disputed matter and the board's proposed disposition of the matter to be conducted by the commission's appeals division established under IC 8-1-2-34.5(b). The owner or operator must file a request under this section with the commission and the board not later than seven (7) days after receiving notice of the board's proposed disposition of the matter.

(d) The commission's appeals division shall provide an informal review of the disputed matter. The review must include a prompt and thorough investigation of the dispute. Upon request by either party, or on the division's own motion, the division shall require the parties to attend a conference on the matter at a date, time, and place

determined by the division.

(e) In any case in which the basic monthly charge for a campground's sewage service is in dispute, the owner or operator shall pay, on any disputed bill issued while a review under this section is pending, the basic monthly charge billed during the year immediately preceding the year in which the first disputed bill is issued. If the basic monthly charge paid while the review is pending exceeds any monthly charge determined by the commission in a decision issued under subsection (f), the board shall refund or credit the excess amount paid to the owner or operator. If the basic monthly charge paid while the review is pending is less than any monthly charge determined by the appeals division or commission in a decision issued under subsection (f), the owner or operator shall pay the board the difference owed.

(f) After conducting the review required under subsection (d), the appeals division shall issue a written decision resolving the disputed matter. The division shall send a copy of the decision to:

(1) the owner or operator of the campground; and

(2) the board;

by United States mail. Not later than seven (7) days after receiving the written decision of the appeals division, either party may make a written request for the dispute to be formally docketed as a proceeding before the commission. Subject to the right of either party to an appeal under IC 8-1-3, the decision of the commission is final.

(g) The commission shall maintain a record of all requests for a review made under this section. The record must include:

(1) a copy of the appeals division's and commission's decision under subsection (f) for each dispute filed; and

(2) any other documents filed with the appeals division or commission under this section.

The record must be made available for public inspection and copying in the office of the commission during regular business hours under IC 5-14-3.

(h) The commission may adopt rules under IC 4-22-2 to implement this section.

As added by P.L.168-2009, SEC.3.

IC 14-33-5-22

Agreements with people or entities; debt agreements

Sec. 22. (a) The board may do the following:

(1) Enter into agreement with and accept money from a federal or state agency or department.

(2) By the agreement provide the manner in which resulting debt is evidenced, with:

(A) the term;

(B) the interest rate; and

(C) the method and time of repayment;

subject to statutes governing the federal or state agency or department, without regard to other limitations of this article.

(b) The board may also enter into an agreement with a person, municipality, county, or special taxing district, whether or not the person, municipality, county, or special taxing district is in the district, for any purpose compatible with the purposes for which the district exists. The municipality, county, or special taxing district may enter into the agreement.
As added by P.L.1-1995, SEC.26.

IC 14-33-5-23
Gifts of money or property

Sec. 23. The board may accept gifts of money or other property to be used for certain aspects of a general purpose for which the district is established.
As added by P.L.1-1995, SEC.26.

IC 14-33-5-24
Petition to enjoin or mandate board

Sec. 24. An interested person adversely affected by an action committed or omitted by the board in violation of this chapter may petition the court having jurisdiction over the district to enjoin or mandate the board.
As added by P.L.1-1995, SEC.26.

IC 14-33-5.4

Chapter 5.4. Election of Board Members in Specific Conservancy Districts

IC 14-33-5.4-1

Application of chapter

Sec. 1. (a) This chapter applies only to conservancy districts located wholly within a county having a population of more than twenty-three thousand three hundred (23,300) but less than twenty-four thousand (24,000).

(b) This article governs conservancy districts located wholly within a county having a population of more than twenty-three thousand three hundred (23,300) but less than twenty-four thousand (24,000) generally except when this article conflicts with a section of this chapter.

As added by P.L.185-1995, SEC.2. Amended by P.L.170-2002, SEC.97; P.L.119-2012, SEC.123.

IC 14-33-5.4-2

"Relative" defined

Sec. 2. (a) As used in this chapter, "relative" of a candidate or trustee means an individual who is related to the candidate or trustee, or to the spouse of the candidate or trustee, as one (1) of the following:

(1) Son.
(2) Daughter.
(3) Grandson.
(4) Granddaughter.
(5) Great-grandson.
(6) Great-granddaughter.
(7) Father.
(8) Mother.
(9) Grandfather.
(10) Grandmother.
(11) Great-grandfather.
(12) Great-grandmother.
(13) Brother.
(14) Sister.
(15) Nephew.
(16) Niece.
(17) Uncle.
(18) Aunt.

(b) For the purposes of this section, relatives by adoption, half-blood, marriage, or remarriage are treated as relatives of whole kinship.

As added by P.L.185-1995, SEC.2.

IC 14-33-5.4-3

Appointment; vacancies; election procedures

Sec. 3. (a) Within twenty (20) days after the order establishing the district, the board of commissioners of the county shall appoint the initial board of directors. A director shall be appointed for each of the areas in the district as established by the court. A director must be a freeholder of the area of the district for which appointed or an officer or nominee of a corporate freeholder of the area of the district for which appointed and must be qualified by knowledge and experience in matters pertaining to the development of the district. A majority of the directors must be resident freeholders of the district if available and qualified. A majority of the initial directors must be petitioners for the establishment of the district, but for this purpose an officer or nominee of a corporate freeholder of the district, if the corporation is one (1) of the petitioners, is considered a petitioner.

(b) When vacancies on the board occur due to expiration of terms, resignation, or otherwise, directors shall be elected by a majority, written ballot vote of the freeholders of the district. Between April 24 and May 1, the board shall invite nominations to fill vacancies on the board by one (1) publication in a newspaper of general circulation in each of the counties in the district. Each publication must:

(1) contain the names of the directors whose terms are expiring and the area of the district involved;

(2) invite nominations to fill vacancies; and

(3) state the qualifications for the office, that are the same as prescribed by subsection (a), except a nominee need not have been a petitioner for the establishment of the district nor a resident of the area of the district for which nominations are invited.

(c) Nominations for director must be submitted to the office of the district in writing before June 1 following notice of vacancies and must be signed by at least five (5) freeholders from the areas designated by the secretary's notice. Nominations that are mailed are valid if delivered or postmarked before June 1 if the envelope has sufficient U.S. postage and is addressed to the district's office.

(d) The election of directors of a district shall be held the Saturday or Sunday immediately before or after July 4. The board of directors of a district shall establish the date for the election of directors.

(e) Notice of the annual election of directors of the district must be published in one (1) issue of a newspaper of general circulation in each county in the district. The notice must be published:

(1) not less than fourteen (14); and

(2) not more than thirty-one (31);

days before the election. The notice must contain the names of the nominees, the place where ballots can be cast in the election, and the date and time of the election.

(f) Before the election, the board shall prepare the ballots and a list of the freeholders of the district, that must be certified by the county auditor and placed in the district's files. No deficiency in this process or omission of the names of any freeholders voids action taken at an

annual meeting.

(g) A freeholder is entitled to only one (1) vote per freeholder.

(h) Before the election of directors, the chairman shall appoint three (3) or, if necessary, more freeholders of the district to act as clerks of the election and to conduct the election.

(i) If a district fails to conduct an election of directors as provided by this chapter, any interested person of the district may petition the board of commissioners of the county to appoint a director to fill vacancies. The board of commissioners of the county shall make its appointment within fifteen (15) days from the date the petition is filed.

As added by P.L.185-1995, SEC.2.

IC 14-33-5.4-3.5

Effect of dividing freehold to increase votes; secretary's determination; challenge of determination

Sec. 3.5. (a) If in the opinion of the secretary of the district a freehold has been divided into multiple freeholds for the sole purpose of increasing the number of freeholders eligible to cast a vote in an election under this chapter, the secretary of the district may determine to exclude the freeholders of those multiple freeholds from the list of freeholders referred to in section 3(f) of this chapter.

(b) The determination of the secretary of the district under subsection (a) may be challenged by petitioning the circuit court that created the district.

As added by P.L.16-2010, SEC.4.

IC 14-33-5.4-4

Requirements for voting eligibility

Sec. 4. (a) The auditor of each county shall, at least forty-five (45) days before the election of directors of the district, provide the district with a current list of freeholders that sets forth:

(1) each parcel of real property that is:

(A) located within the county and the district; and

(B) subject to property tax under IC 6-1.1; and

(2) the name of each individual who is identified in property tax records as the holder of a freeholder's interest in a parcel of property described in subdivision (1).

(b) To be eligible to vote in an election of directors of a district:

(1) an individual must have a freeholder's interest in real property listed on the current tax list provided under subsection (a); and

(2) the individual's name must appear on the list of freeholders provided under subsection (a).

(c) Before casting a vote at a polling place, a freeholder shall sign the list of freeholders in the presence of the secretary of the district or an election clerk appointed under section 3(h) of this chapter. The freeholder shall sign the list in the space opposite the name of the freeholder on the list.

(d) Notwithstanding subsection (b)(2), if:

(1) a freeholder's name does not appear on the list of freeholders; and

(2) the secretary of the district or an election clerk finds that the freeholder's name was erroneously omitted from the list;

the secretary or clerk shall place the freeholder's name on the list. After the freeholder's name is placed on the list, the freeholder is entitled to cast a ballot in the election.

(e) After placing a freeholder's name on the list under subsection (d), the secretary or clerk shall mark the list opposite the name of the freeholder who cast that vote to note the receipt of a valid written ballot vote from the freeholder.

As added by P.L.185-1995, SEC.2.

IC 14-33-5.4-5

Voting procedures; presence of candidate at polling place

Sec. 5. (a) Two (2) observers may monitor the voting at each polling place on behalf of each candidate for director. The district must provide each observer with a copy of the list of freeholders provided to the district under section 4(a) of this chapter.

(b) A candidate for director may not be present in a polling place during the day of the election of directors except to cast a ballot.

(c) The relative of a candidate for director may not be present in a polling place during the day of the election of directors except:

(1) to cast a ballot; or

(2) to act as an observer under subsection (a).

As added by P.L.185-1995, SEC.2.

IC 14-33-5.4-6

Absentee ballots

Sec. 6. (a) A district must adopt a form for applications for absentee ballots. The form adopted by the district must elicit the following information from the applicant:

(1) Name.

(2) Location within the district of the real estate that is held by the applicant, making the applicant a freeholder.

(b) An individual who:

(1) holds a freeholder's interest in real property located within a district; and

(2) wishes to cast an absentee ballot in an election of directors of the district;

must present an application for an absentee ballot to the trustee of the township in which the real property of the freeholder is located. The application must be made on the form adopted by the district under subsection (a).

(c) To be accepted, an application for an absentee ballot must reach the trustee at least thirty (30) days before the election.

(d) When the trustee receives an application for an absentee ballot under this section, the trustee shall verify that the name of the

applicant appears on the list of freeholders provided to the district under section 4(a) of this chapter. For the purposes of this subsection, the district shall provide a copy of the list of freeholders to the trustee of each township that is located in whole or in part within the district at least thirty (30) days before the election.

(e) If the name of an applicant appears on the list of freeholders, the trustee shall mail to the applicant:

(1) an absentee ballot; and

(2) instructions on the proper completion and mailing of the ballot.

(f) The instructions provided by the trustee under subsection (e)(2) must direct the applicant to return the absentee ballot by mail to the trustee.

(g) If the name of an applicant does not appear on the list of freeholders, the trustee shall:

(1) discard the application of the applicant; and

(2) mail to the applicant a letter or postcard informing the applicant that the applicant's application for an absentee ballot has been discarded because the applicant's name did not appear on the list of freeholders.

(h) A trustee shall:

(1) keep a record of each absentee ballot mailed to an applicant under subsection (e);

(2) retain absentee ballots that are returned to the office of the trustee before the date of the election; and

(3) on the day of the election, deliver all absentee ballots retained under subdivision (2) to an election polling place.

(i) The district shall:

(1) supply the trustee with:

(A) absentee ballots; and

(B) envelopes; and

(2) reimburse the expenses incurred by the trustee for postage; under this section.

(j) If a relative of a trustee is a candidate for director of a district, the duties of the trustee under this section with respect to the election of directors of the district shall be carried out by a member of the township board selected by the trustee.

As added by P.L.185-1995, SEC.2.

IC 14-33-5.4-7

Results of election

Sec. 7. (a) At the close of an election, the clerks appointed under section 3(h) of this chapter shall count the ballots cast and make a report of the results. The secretary of the district shall record the results reported by the clerks in the records of the district.

(b) After the results are reported and recorded under subsection (a), the chairman of the board of directors shall declare the successful nominees elected, and each elected director is entitled to and shall assume all duties of the office to which the nominee was elected at

midnight the night of the election or as soon as possible thereafter.
As added by P.L.185-1995, SEC.2.

IC 14-33-5.4-7.5
Single nominee considered elected; no election required when only one nominee in each district

Sec. 7.5. (a) Notwithstanding the other provisions of this chapter, if there is only one (1) nominee for election to the board to represent an area, the nominee for election to the board to represent that area is considered elected.

(b) Notwithstanding the other provisions of this chapter, if there is only one (1) nominee for election to the board for each area for which a director is to be elected, the following apply:

(1) The election otherwise required to be held under this chapter is not required to be held.

(2) Each of the nominees for election to the board is considered elected as if the election had been held and each nominee was elected as provided in this chapter.

As added by P.L.16-2010, SEC.5.

IC 14-33-5.4-8
Oath of office

Sec. 8. Promptly after being appointed or elected under this chapter, a director shall take the following oath: "I do solemnly swear that I shall, to the best of my ability, strive to accomplish the purposes for which the district is established and properly to operate and maintain its works of improvement.".
As added by P.L.185-1995, SEC.2.

IC 14-33-5.4-9
Annual meeting

Sec. 9. (a) The annual meeting of the district must be held at the time designated by the court under IC 14-33-2-27.

(b) The location of the annual meeting must be:

(1) the office of the district; or

(2) a place in or near the district as determined by resolution of the board adopted before December 1 of the year.

(c) Notice of the annual meeting of the district must be published in one (1) issue of a newspaper of general circulation in each county in the district. The notice must be published:

(1) not less than fourteen (14); and

(2) not more than thirty-one (31);

days before the annual meeting.

(d) The notice must set forth:

(1) the fact that the meeting is the annual meeting of the district; and

(2) the purposes of the meeting.

As added by P.L.185-1995, SEC.2.

IC 14-33-5.5
Repealed
(Repealed by P.L.95-2006, SEC.10.)

IC 14-33-6
Chapter 6. District Plan

IC 14-33-6-1
Preparation of district plan

Sec. 1. (a) Immediately after the organizational meeting of the board, the board must commence the preparation of the district plan to accomplish the purpose for which the district is established. The board may request and receive from a state agency information that:

(1) the agency has collected regarding conditions in and immediately surrounding the district; and

(2) is pertinent to planning the necessary structures or operations of the district.

(b) The board may:

(1) contract;

(2) enter into agreements with a state or federal agency; or

(3) hire necessary personnel;

to provide technical data or otherwise assist in the preparation of the district plan.

(c) The board may also conduct hearings that the board finds necessary.

As added by P.L.1-1995, SEC.26.

IC 14-33-6-2
Contents of district plan

Sec. 2. (a) A district plan consists of an engineering report that sets forth the general, comprehensive plan for the accomplishment of each purpose for which the district was established. A district plan must contain the following:

(1) Descriptions of the following:

(A) The physical nature of the district.

(B) The problems confronting the district.

(C) The works of improvement needed.

(D) The location of the works of improvement.

(E) The benefits to be derived from the improvements.

(2) Maps, preliminary drawings, and estimates of costs based upon preliminary engineering surveys and studies.

(3) Copies of agreements or other arrangements with other persons or governmental agencies with respect to the financing, construction, maintenance, and operation of any of the works of improvement proposed in the plan.

(b) A district plan may initially provide works of improvement for the accomplishment of less than all the purposes for which the district was established if:

(1) there is good reason for accomplishing less than all the purposes; and

(2) assurance is given that the program for the accomplishment of the other purposes will be set forth in an amendment to the

district plan.

(c) It is not necessary to prepare:

(1) detailed construction drawings and specifications; and

(2) refined cost estimates;

as a part of a district plan.

As added by P.L.1-1995, SEC.26.

IC 14-33-6-3

Time for presentation of plan

Sec. 3. The board shall present the district plan to the commission within one hundred twenty (120) days after the date of the appointment of the members of the board, unless the board requests and receives additional time from the commission.

As added by P.L.1-1995, SEC.26.

IC 14-33-6-4

Commission's treatment of plan

Sec. 4. (a) The commission shall do the following:

(1) Review each district plan.

(2) Request the technical assistance of any other state agency, including:

(A) the environmental rules board;

(B) the state department of health; and

(C) the department of environmental management;

having administrative jurisdiction over any of the purposes of the district.

(b) The commission may also request technical assistance of any federal agency.

(c) The commission shall approve a plan if the following conditions are met:

(1) Any other state agency having authority over certain purposes of the district has approved that part of the plan.

(2) The commission finds that the plan accomplishes in an economical manner the purpose for which the district is established.

(d) The commission may reject a plan or any part of a plan. The board may make the changes that are necessary to secure the approval of the commission.

As added by P.L.1-1995, SEC.26. Amended by P.L.113-2014, SEC.99.

IC 14-33-6-5

Plan filed with court; hearing; notice

Sec. 5. (a) After receiving the approval of the commission, the board shall file the district plan with the court.

(b) Upon receipt the court shall set a date for a hearing. The court shall give priority to the hearing in determining the date, but the court must allow at least twenty-one (21) days for interested persons to file exceptions.

(c) The court shall order notice for the hearing that the court considers necessary, but publication must at least be made in each county having land in the district in accordance with IC 5-3-1 as if the notice affected county business.
As added by P.L.1-1995, SEC.26.

IC 14-33-6-6
Findings by court; referral of plan back to board

Sec. 6. (a) At the hearing the court shall make findings on the following:

(1) Whether the district plan is necessary, proper, and feasible for the accomplishment of each purpose for which the district is established.

(2) If the purpose of the district is other than water supply or sewage disposal, whether the estimated benefits to be received in the district will exceed the estimated costs and damages of the plan.

(3) If the purpose of the district is water supply or sewage disposal, or both, whether the public health and convenience is served.

(4) Whether compatibility with water projects listed in IC 14-33-2-17 is reasonably assured.

(b) If the court finds a plan lacking under subsection (a), the court shall refer the plan back to the board for changes that are necessary. The board has:

(1) one hundred twenty (120) days; or

(2) another period that the court orders;

to prepare and submit a new plan. The procedure for approval and order for hearing, notice, and making findings is the same as for the original submissions.

(c) If the court finds that a plan meets all the criteria of subsection (a), the court shall approve the plan.
As added by P.L.1-1995, SEC.26.

IC 14-33-6-7
Appeals

Sec. 7. The board or an interested person adversely affected by the plan may appeal an order:

(1) referring the district plan back to the board; or

(2) approving the district plan;

to the supreme court within thirty (30) days.
As added by P.L.1-1995, SEC.26.

IC 14-33-6-8
Implementation of plan

Sec. 8. (a) To implement a district plan, the board shall order the preparation of the detailed construction drawings, specifications, and refined cost estimates as soon as practicable after the approval of the district plan by the court if the work has not been submitted as a part

of the district plan. The implementation may involve all or part of the works of improvement if the part constitutes a unit that:

(1) can be constructed and operated as a feasible unit alone; and

(2) can be operated economically in conjunction with other proposed works set forth in the district plan.

(b) When the drawings, specifications, and cost estimates have been prepared to the satisfaction of the board, the board shall by resolution tentatively adopt and submit the drawings, specifications, and cost estimates to the commission for approval.

As added by P.L.1-1995, SEC.26.

IC 14-33-6-9

Hearing on drawings, specifications, and cost estimates

Sec. 9. (a) Upon receipt of the written approval of the commission, the board shall schedule a hearing on the drawings, specifications, and cost estimates at which any interested person must be heard. The hearing shall be held:

(1) in the office of the district; or

(2) at another place designated in the notice of hearing that is generally convenient to the landowners of the district.

(b) The board shall give notice of the hearing as follows:

(1) By at least one (1) publication in one (1) newspaper of general circulation in each county having land in the district.

(2) By mail, first class postage prepaid, to the freeholder of each tract of real property that will be taken or damaged by the construction of the works of improvements.

(c) The notice must be published and mailed at least ten (10) days before the date of hearing.

As added by P.L.1-1995, SEC.26.

IC 14-33-6-10

Board confirming or revoking tentative resolution

Sec. 10. At the hearing the board shall by resolution:

(1) confirm, with or without modification; or

(2) revoke;

the board's tentative resolution adopting the drawings, specifications, and cost estimates.

As added by P.L.1-1995, SEC.26.

IC 14-33-6-11

Contracts and construction of improvements

Sec. 11. If the board confirms the drawings, specifications, and cost estimates, the board shall let contracts or otherwise construct the works of improvement provided in the drawings, specifications, and cost estimates. The board may not let a contract for an amount that exceeds the cost estimate. However, if all bids are greater than the cost estimate, the board may let a contract for an amount that does not exceed five percent (5%) over the cost estimate if the cost of rebidding, rising cost level, or other good reason necessitates this

course of action.
As added by P.L.1-1995, SEC.26.

IC 14-33-6-12
Amendment of plans

Sec. 12. (a) As the result of:

(1) experience gained in the construction or operation of the works of a district; or

(2) changed conditions;

the district plan may be amended in any way as long as the amended district plan conforms to the other requirements of this chapter.

(b) The board shall prepare an amended district plan only if ordered to do so by the court. The court shall order an amended district plan if the court finds there is need for amendment based upon a petition filed by any of the following:

(1) By the board on the board's own motion.

(2) By the commission on the commission's own motion.

(3) By twenty percent (20%) of the freeholders owning land in the district. IC 14-33-2-3 applies to this petition.

(c) The party that filed a petition under subsection (b) may appeal an order denying the petition to the supreme court within thirty (30) days.

(d) The same procedures provided for the initial submission of the district plan must be complied with for the submission of an amended district plan.
As added by P.L.1-1995, SEC.26.

IC 14-33-6-13
Powers and duties of board

Sec. 13. (a) The board shall place the district plan in operation by constructing all works and maintaining the works in accordance with the district plan.

(b) If necessary to discharge these responsibilities, the board may do the following:

(1) Levy taxes on the real property in the district.

(2) Make assessments on the real property in the district, except the property that is exempt under IC 14-33-7-4, for exceptional benefits to the property and further assessments pro rata for maintenance and operation of the works of improvement.

(3) Issue bonds and short and long term notes.

(4) Incur other debts and liabilities.

(5) Exercise the power of eminent domain, both inside and outside the boundaries of the district, in accordance with this article or another eminent domain statute. In the exercise of this power, due care shall be taken to minimize interference with other public interests involved.

(6) Make payments for the fair value of all property taken under eminent domain proceedings, and in cases that are appealed, make the payments into court and proceed promptly in placing

the district plan in operation.

(7) Institute any type of civil legal proceedings in a court having jurisdiction over the person or property in question.

(8) Purchase or rent property.

(9) Sell services or property that are produced incident to the district plan at a fair and reasonable price.

(10) Make contracts or otherwise enter into agreements with persons or federal, state, or local governmental agencies for construction, maintenance, operation, or security of any part of the district.

(11) Receive and disburse money.

(12) Lease land and other assets to municipalities, counties, and park boards of municipalities or counties, with the term and annual rental adequate to meet the district's repayment schedule for financing, if any, of the land and other assets leased. Municipalities, counties, and park boards of municipalities or counties may enter into leases without limitations of other statutes regarding the receipt of petitions, the duration of the term of the lease, or the distance of the land and other assets from the corporate boundaries. The municipalities, counties, and park boards may enter into leases:

(A) for terms as long as fifty (50) years;

(B) at locations that the municipalities, counties, and park boards determine would benefit the municipalities or counties; and

(C) upon terms, conditions, and covenants that are fair and reasonable.

The board may pledge the rental income from the lease as revenue for services or property produced incident to the operation of the district.

(13) Perform necessary construction and maintenance work as follows:

(A) Outside the district.

(B) Outside Indiana if:

(i) there is voluntary agreement on the part of persons outside Indiana; and

(ii) the work will confer benefits to the real property in the district in excess of costs and damages to be paid by the district.

As added by P.L.1-1995, SEC.26. Amended by P.L.52-2012, SEC.1.

IC 14-33-6-14

Association of conservancy district

Sec. 14. (a) A board may establish an association of Indiana conservancy districts and have the district become a member. The association must have as purposes the following:

(1) To assist in the assembly and dissemination of information in all aspects of the organization, financing, construction of improvements, operation, and maintenance of districts for the

benefit of districts and persons desiring to establish districts.

(2) To inform persons interested in the functions of districts.

(3) Because a district is a statutory entity, to assist in recommending legislation to keep abreast of developing needs.

(b) The commission shall make the initial call to establish the association and may thereafter, together with Purdue University, give the association the reasonable assistance that the association requires.

(c) The association shall determine and elect officers and committees.

(d) Each member district may do the following:

(1) Pay reasonable annual dues.

(2) For the purpose of attending and engaging in the association's functions and affairs:

(A) employ agents and employees; and

(B) pay the expenses of the district's directors.

As added by P.L.1-1995, SEC.26.

IC 14-33-7

Chapter 7. Payment of Expenses

IC 14-33-7-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 4 of this chapter by P.L.97-2004 apply only to property taxes first due and payable after December 31, 2002.

As added by P.L.220-2011, SEC.300.

IC 14-33-7-1

Special benefit taxes

Sec. 1. (a) All the real property in the district, except the property that is exempt under section 4 of this chapter, constitutes a taxing district for the purpose of levying special benefit taxes to pay for the following:

(1) The expenses of establishing the district.

(2) General preliminary and administrative expenses.

(3) The expenses of preparing the district plan.

(4) The expenses of putting the district plan into operation by constructing the necessary works.

(5) The expenses of operating and maintaining the district.

(b) The special tax:

(1) equals the amount of benefits received; and

(2) must be based on return for the benefits.

As added by P.L.1-1995, SEC.26.

IC 14-33-7-2

Water supply, treatment, and distribution; assessments; tap-in fees

Sec. 2. (a) This section applies if:

(1) a petition filed for the establishment of a district states that:

(A) the purpose for establishing the district is providing water supply, including treatment and distribution for domestic, industrial, and public use;

(B) it is the election of the petitioners to accomplish the purpose under IC 14-33-20;

(C) a special benefits tax will not be levied; and

(D) all costs will be paid for by sources other than the levy of a special benefits tax; and

(2) the statements contained in subdivision (1) are incorporated by the court into the order establishing the district.

(b) The board may not levy a special benefits tax for the purpose described in section 1(a)(1) of this chapter. All costs of accomplishing the purpose must be paid for by the following:

(1) Receipt of revenues from the sale of water.

(2) An assessment against each tract of real property served by the resulting water distribution system for the lesser of the following:

(A) Seventy-five dollars ($75).

(B) Five percent (5%) of the estimated average project cost according to the district plan of serving each tract of real property.

(c) In addition, the district may charge a fair and reasonable tap-in fee for water service.

(d) An assessment is due within sixty (60) days after notice of the assessment. The assessment is not considered an exceptional benefit, but the provisions of this article pertaining to exceptional benefits apply to the collection and enforcement of the assessment.

As added by P.L.1-1995, SEC.26.

IC 14-33-7-3

Special benefits tax rate

Sec. 3. In all districts described in IC 14-33-9-4, the special benefits tax rate may not exceed six and sixty-seven hundredths cents ($0.0667) on each one hundred dollars ($100) of assessed valuation of property in the taxing district.

As added by P.L.1-1995, SEC.26. Amended by P.L.6-1997, SEC.160.

IC 14-33-7-4

Property exempt from special benefits tax

Sec. 4. (a) This section applies to the following tangible property owned by or held in trust for the use of a church or religious society:

(1) A building that is used for religious worship.

(2) A building that is used as a parsonage.

(3) The pews and furniture contained within a building that is used for religious worship.

(4) The land upon which a building that is used for religious worship is situated.

(5) The land, not exceeding fifteen (15) acres, upon which a building that is used as a parsonage is situated.

(b) Property is exempt from the special benefits tax that may be imposed under:

(1) IC 14-33-6-13 and section 1 of this chapter; or

(2) IC 14-33-21-5;

to the extent that the special benefits tax revenue will be used for the construction or improvement of a water impoundment project, including a lake, pond, or dam.

(c) To obtain an exemption for a parsonage, a church or religious society must provide the county auditor with an affidavit at the time the church or religious society applies for the exemption. The affidavit must:

(1) state:

(A) that all parsonages are being used to house one (1) of the church's or religious society's rabbis, priests, preachers, ministers, or pastors; and

(B) that none of the parsonages are being used to make a profit; and

(2) be signed under oath or affirmation by the church's or religious society's head rabbi, priest, preacher, minister, pastor, or designee of the official church body.

As added by P.L.1-1995, SEC.26. Amended by P.L.264-2003, SEC.13.

IC 14-33-7-5

Additional revenue

Sec. 5. The expenses and obligations of the district may also be paid from any of the following:

(1) The receipt of gifts from any source.

(2) The receipt of money from the federal or state government.

(3) The receipt of revenue from the sale of services or property produced incident to the accomplishment of a purpose for which the district is established.

(4) The collection of assessments from land that receives exceptional benefits from the operation of the district plan.

(5) The collection of assessments for maintenance and operation of the works of improvement.

As added by P.L.1-1995, SEC.26.

IC 14-33-7-6

Notice costs and court costs

Sec. 6. (a) The:

(1) cost of notice, including publication and mailing; and

(2) other costs of the court in the proceedings to establish the district;

are payable out of the general money of the county in which the court is sitting, without an appropriation having been made. The court shall order the county auditor to issue a warrant for the payment.

(b) If the petition is dismissed, the costs shall be:

(1) collected from the petitioners or the sureties of the petitioners; and

(2) repaid to the county.

(c) If the district is established, the board shall repay the county from the first money collected from the levy of a tax or the collection of an assessment.

As added by P.L.1-1995, SEC.26.

IC 14-33-7-7

Costs of establishing district; loans and advances

Sec. 7. (a) To pay the costs of establishing a district, including general, legal, and administrative costs and costs incident to preparing the district plan, money may be obtained from one (1) or a combination of the following methods:

(1) Gifts, loans, or grants from a state or federal agency, or both.

(2) Gifts from any source.

(3) The collection of the special benefit tax.

(4) Borrowing from private or public sources in anticipation of

the collection of the tax.

(5) Advances from the general fund of the county under section 15 of this chapter.

(6) Borrowing from the economic development fund created by IC 5-28-8 for any of the purposes in IC 14-33-1-1.

(7) Borrowing from the flood control revolving fund created by IC 14-28-5 for any of the purposes in IC 14-33-1-1.

(b) All persons, agencies, and departments charged with the administration and supervision of funds such as those created by IC 5-28-8 and IC 14-28-5 may make loans and advances to a district. The procedures, terms, and conditions of the loans must be the same as provided in the statutes establishing the funds but shall be modified and supplemented to fit this article to facilitate the financing of districts.

(c) This section does not preclude the borrowing of money for the following:

(1) Establishing the district.

(2) General, legal, and administrative costs.

(3) Costs incident to preparing the district plan in conjunction with borrowing of money to pay construction costs.

As added by P.L.1-1995, SEC.26. Amended by P.L.4-2005, SEC.127.

IC 14-33-7-8

Fiscal year

Sec. 8. The fiscal year of a district is the calendar year.

As added by P.L.1-1995, SEC.26.

IC 14-33-7-9

Amended district plan; expenses

Sec. 9. If the board is ordered to prepare an amended district plan, the board may use any source of money provided in section 7 of this chapter to defray the expense, which is a proper operating expense. The board may use for this purpose a current operating surplus available in the year the board is ordered to amend the district plan. The board may include the estimated expense of preparing an amended district plan in the budget for operating expenses in the next year.

As added by P.L.1-1995, SEC.26.

IC 14-33-7-10

Loans from federal agencies for works of improvement

Sec. 10. (a) The board may apply to the federal Farmers Home Administration, the United States Department of Housing and Urban Development, or any other federal agency authorized to make loans for works of improvement for a long term or short term loan to cover the following:

(1) Expenses of establishing the district.

(2) General, legal, and administrative expenses.

(3) Costs of engineering or other costs of preparing the district

plan.

(4) Costs of putting the district plan into effect by the necessary construction, maintenance, and operation of the works of improvement that have been authorized by the approval of the district plan.

(5) Refinancing a loan whose proceeds have been used for any of the purposes described in this subsection.

(b) A loan under this section:

(1) may be evidenced by one (1) installment note or by a series of notes; and

(2) may be secured by:

(A) revenues; or

(B) the collection of the special benefits tax levied on the real property in the district.

If a loan is secured by a pledge of collection of the tax, the loan may be paid in whole or in part by revenues or the collection of assessments.

(c) If the board decides not to evidence the financing with a federal agency by an installment note or series of notes and instead prepares a bond issue, the bond issue may, in whole or in part, be offered for sale to the federal agency without:

(1) a public offering; or

(2) the securing of competitive bids on the bond offering.

(d) Repayment of a loan begins at the time upon which the board and the federal agency agree. The:

(1) amount of interest;

(2) time of making payments of interest; and

(3) interval at which interest must be paid;

are subject to the agreement of the parties.

As added by P.L.1-1995, SEC.26.

IC 14-33-7-11

Petition for approval of financial commitments

Sec. 11. (a) Before making firm financial commitments under section 10 of this chapter with a federal agency, the board must file a petition for approval of the proposed action in the court. The petition must state:

(1) the purpose;

(2) the amount; and

(3) the terms;

of the proposed loan.

(b) The court shall set a date for a hearing, giving priority to the hearing in determining the date. However, the court must allow at least twenty-one (21) days for interested persons to file exceptions. The court shall order notice for the hearing as the court considers necessary, but publication must at least be made in each county having land in the district in accordance with IC 5-3-1 as if the notice affected county business. The notice must state in summary form the contents of the petition.

(c) If at the hearing the court finds that:

(1) the loan as proposed in the petition is necessary for the accomplishment of the purpose of the district; and

(2) the terms and conditions are reasonable and probably are as beneficial to the district as would be obtainable in private, competitive financial markets;

the court shall approve the petition and authorize the board to make firm commitments for the loan.

(d) Upon approval by the court, the board may levy the special benefits taxes necessary for the repayment of the loan.

As added by P.L.1-1995, SEC.26.

IC 14-33-7-12

District plan to include federal agency agreements

Sec. 12. The board shall include agreements made with a federal agency under section 10 of this chapter in the district plan if agreements have been made at the time of submission of the plan to the commission.

As added by P.L.1-1995, SEC.26.

IC 14-33-7-13

Special benefits tax levied although district plan abandoned

Sec. 13. The levy of the tax for special benefits may be made although an attempt to formulate a district plan has been abandoned because of:

(1) changed conditions;

(2) impracticability; or

(3) other reasons;

if money is necessary to meet valid obligations of the district.

As added by P.L.1-1995, SEC.26.

IC 14-33-7-14

Note issuance

Sec. 14. (a) In anticipation of the money to be received from any source, a board may borrow money by issuing notes. The notes:

(1) must mature in not more than two (2) years; and

(2) may be renewed for periods of not more than two (2) years.

(b) The borrowing may be by direct negotiation with any of the following:

(1) A bank or savings association licensed to do business in Indiana.

(2) An agent of the state or federal government.

As added by P.L.1-1995, SEC.26.

IC 14-33-7-15

County auditor issuing warrants for money

Sec. 15. (a) To pay all:

(1) necessary expenses of establishing a district;

(2) general, legal, and administrative costs; and

(3) costs incident to preparing the district plan;

the court may order the auditor of the county in which the court is sitting to issue warrants to the district for money necessary to meet these expenses.

(b) If at least two (2) counties have land in the district, the court shall order the auditor of each other county to reimburse the paying county from the other county's general fund by issuing warrants in amounts that the court estimates will be reasonable in relation to the estimated benefits that the land in each county will receive from the operation of the district.

As added by P.L.1-1995, SEC.26.

IC 14-33-7-16

Necessary expenses

Sec. 16. (a) The necessary expenses of establishing a district include the following:

(1) Costs of printing, publication, mailing, surveying, and abstracting.

(2) Court costs.

(3) Reasonable attorney's fees for establishing the district.

(4) Reasonable engineering fees for preliminary studies.

(b) General, legal, and administrative costs and costs incident to preparing a district plan include the following:

(1) Payment of directors.

(2) Secretarial services.

(3) Transportation, administrative, engineering, and legal fees.

(4) Printing, mailing, basic supplies, office equipment, and rental of office space.

As added by P.L.1-1995, SEC.26.

IC 14-33-7-17

Repayment of money advanced to district

Sec. 17. A district shall promptly repay any money that is advanced to the district from:

(1) the general fund of a county; or

(2) the economic development fund created by IC 5-28-8;

from money received through the collection of an authorized tax or assessment.

As added by P.L.1-1995, SEC.26. Amended by P.L.4-2005, SEC.128.

IC 14-33-8
Chapter 8. Board of Appraisers

IC 14-33-8-1
Appointment; duties

Sec. 1. At the time of making the order approving the district plan but not later than thirty (30) days following the completion of construction of the works of improvement provided for in the district plan, and upon petition of the board or of a freeholder whose land is subject to the special benefits tax, the court shall appoint three (3) competent, disinterested persons to constitute the board of appraisers of the district. The board of appraisers has one (1) or both of the following functions as the court in the order appointing the appraisers directs:

(1) To determine the damages or limitation on special benefits to real property in the district resulting from the carrying out of the district plan, including the compensation to be paid the owners and others having an interest in land that is needed by the district, either in fee simple or by subjection to an easement. The land or easement is considered appropriated to the use of the district by the order of the court approving the district plan, which is implemented by construction drawings, specifications, and refined cost estimates on that part of the works of improvement that damage the land. If a district plan is implemented later, the land is considered appropriated to the use of the district by the resolution of the board of directors confirming the adoption of the construction drawings, specifications, and refined cost estimates as provided by IC 14-33-6-10. The board of appraisers shall base the appraisal of damages on the date the land is considered appropriated. Land or easements are considered appropriated by the order of the court or the resolution of the board of directors only if the owner of the land is notified in the manner provided by IC 14-33-2-12 stating that the district plan or construction drawings and specifications contemplate the appropriation of the owner's land or easement.

(2) To determine the existence and amount of exceptional benefits that accrue to real property in the district due to the execution of the district plan.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-2
Oath; quorum; vacancies; compensation

Sec. 2. (a) Before beginning the duties, each appraiser must take and subscribe to an oath that the appraiser will faithfully and impartially discharge the duties.

(b) A majority of the board of appraisers constitutes a quorum, and a quorum is sufficient for decisions.

(c) Each appraiser holds office until excused by the court, and the court shall fill all vacancies in the board of appraisers resulting from being excused, resignation, or inability to serve.

(d) The court shall determine and approve the compensation of each of the appraisers and shall base the compensation on the work performed and the professional qualifications of each appraiser. The compensation shall be paid out of district money.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-3

Necessary assistance furnished to appraisers

Sec. 3. The board of directors shall furnish necessary assistance to the appraisers, including the services of the attorney, engineer, secretary, and other agents and employees of the board of directors.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-4

Damages; eminent domain

Sec. 4. If the board of appraisers has the function of determining damages, the board of directors may continue to make settlement directly with the persons who own or have an interest in all or any real property needed by the district. The board of directors also may acquire any needed real property or easement by eminent domain proceedings according to statute.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-5

Appraisal of damages to property

Sec. 5. (a) In determining damages, the board of directors shall give the appraisers the description of land needed in fee simple and of land over which an easement is needed. If an easement is designated by the board of directors, the purpose and extent of the easement must be definitely stated.

(b) The appraisers shall do the following:

(1) Appraise the real property and the amount of damages.

(2) Make a report to the court of the findings.

(c) If the board of appraisers does not return an appraisal of damages to real property, that constitutes a finding that damages will not be sustained by that real property.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-6

Determination of exceptional benefits

Sec. 6. If the board of appraisers has the function of determining the existence and amount of exceptional benefits, the appraisers shall become familiar with the details of the district plan and the real property affected by the district plan. In making the determinations, the appraisers must give due consideration and credit to the following:

(1) Any other works of improvement already constructed or under construction.

(2) Contributions that form a useful part of the work of the district according to the district plan.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-7

Exceptional benefits from flood prevention and control or improved drainage

Sec. 7. (a) In determining the existence and amount of exceptional benefits resulting from the accomplishment of the purpose of:

(1) flood prevention and control;

(2) improving drainage; or

(3) both;

for a district having a district plan incorporating a watershed work plan prepared in cooperation with the United States Secretary of Agriculture under the federal Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001 et seq.), the appraisers shall be guided in their determination of what real property receives exceptional benefits by the studies of the United States Natural Resources Conservation Service regarding land to be benefited that have been incorporated onto a map of the watershed and made a part of the district plan.

(b) The only other real property that the appraisers may consider as exceptionally benefited is real property that has a higher and better use as an incidental result of the works of improvement.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-8

Exceptional benefits from sewage collection, treatment, and disposal

Sec. 8. (a) In determining the existence and amount of exceptional benefits resulting from the purpose of sewage collection, treatment, and disposal, the appraisers shall consider as exceptionally benefited the following:

(1) Real property that would not pay special benefits taxes for the support of the system.

(2) Real property that requires greater capacity of collecting or treating equipment because of intensive use.

(b) The determination of exceptional benefits from the accomplishment of this purpose is always subject to amendment or supplement as a result of changed land use.

(c) Exceptional benefits may be assessed on an annual basis as long as the exceptional conditions exist.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-9

Report of findings

Sec. 9. The board of appraisers shall make a report of the findings

to the court as the court orders. All the findings concerning both damages and exceptional benefits may be made in one (1) report or in separate reports at different times. In addition, the report may be made for damages or exceptional benefits, or both, periodically as the district plan is implemented.
As added by P.L.1-1995, SEC.26.

IC 14-33-8-10
Contents of report

Sec. 10. (a) The report of the board of appraisers must state the following:

(1) The name of the record owner of the real property appraised.
(2) If damages are assessed, the following:
(A) The names of other persons entitled to share in the award.
(B) The best known mailing address of the persons.
(C) A description of the property appraised.
(D) The amount of damages or exceptional benefits, or both.

(b) An error in:

(1) the names or addresses of the owners or other persons; or
(2) the descriptions;

does not invalidate the appraisal or the levy of assessments if a sufficient description is given to identify the land.

(c) A majority of the board of appraisers shall sign the report.

(d) One (1) copy of the report shall be filed in the office of the district.
As added by P.L.1-1995, SEC.26.

IC 14-33-8-11
Sewer main installation as exceptional benefit

Sec. 11. The board of appraisers may report, subject to the finding and approval of the court, that an increase in fair market value of real property caused by the installation of a sewer main through or adjacent to the property is an exceptional benefit to the property regardless of the use of the sewer main by the owners or occupiers of the property.
As added by P.L.1-1995, SEC.26.

IC 14-33-8-12
Hearing; notice

Sec. 12. (a) Upon the filing of each report of the board of appraisers with the court, the court shall set a date for hearing on the report.

(b) The court shall order notice of the hearing on the report of the board of appraisers as follows:

(1) By at least one (1) publication in one (1) newspaper of general circulation in each county having land in the district at least thirty (30) days before the date of the hearing on the report.
(2) To each freeholder owning land named in the report and to

each person who is named in the report by mail at least twenty (20) days before the date of the hearing, first class postage prepaid, according to the records of the county auditor.

(3) By mail to the office of the district at least twenty (20) days before the date of the hearing, first class postage prepaid.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-13

Acceptance of appraisal; acquiescence in failure to appraise damages; exceptions

Sec. 13. (a) A freeholder who owns land in the district or any person may accept the appraisal of the board of appraisers of exceptional benefits or damages to real property:

(1) to be taken or used; and

(2) in which the person is an interested person.

(b) The same owner or person may acquiesce in the failure of the board of appraisers to appraise damages in favor of the interested person. The owner or person is considered to have acquiesced in the failure to appraise damages unless, within the time limit prescribed by the notice of hearing on the report of the board of appraisers, the interested person files an exception to the appraisers' report specifying in the exceptions:

(1) the appraisal of exceptional benefits or damages; or

(2) the land or easement to be taken in which the owner or person is an interested person.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-14

Exceptions to board of appraisers' report

Sec. 14. The board of directors may, within the time limit prescribed by the notice of hearing on the report of the board of appraisers, file exceptions to the report of the board of appraisers specifying in the exceptions:

(1) the appraisal of exceptional benefits or damages; or

(2) the land or easement to be taken that the board of directors complains as being excessive.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-15

Board's determinations as prima facie correct

Sec. 15. The determinations of the board of appraisers is considered prima facie correct. A person excepting is entitled to open and close.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-16

Amendment of board's report; court order

Sec. 16. (a) At the hearing the court may order the report of the board of appraisers amended to conform with the evidence. The court

then shall enter an order:

(1) dismissing the report; or

(2) approving the report.

(b) An appeal of the order may be made to the supreme court within thirty (30) days.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-17

Approval of report; payment of appraisal; possession of appropriated property

Sec. 17. When the report of the board of appraisers regarding damages is approved by the court, the board of directors may do the following:

(1) Pay to the clerk of the court the amount of the appraisal.

(2) Take possession of and hold the interest in the real property appropriated.

As added by P.L.1-1995, SEC.26.

IC 14-33-9
Chapter 9. Budget and Tax Levy Procedures

IC 14-33-9-1
District budget

Sec. 1. (a) Except as provided in IC 6-1.1-17-20, the budget of a district:

(1) must be prepared and submitted:
(A) at the same time;
(B) in the same manner; and
(C) with notice;
as is required by statute for the preparation of budgets by municipalities; and

(2) is subject to the same review by:
(A) the county board of tax adjustment; and
(B) the department of local government finance;
as is required by statute for the budgets of municipalities.

(b) If a district is established in more than one (1) county:

(1) except as provided in subsection (c), the budget shall be certified to the auditor of the county in which is located the court that had exclusive jurisdiction over the establishment of the district; and

(2) notice must be published in each county having land in the district. Any taxpayer in the district is entitled to be heard before the county board of tax adjustment and, after December 31, 2008, the fiscal body of each county having jurisdiction.

(c) If one (1) of the counties in a district contains either a first or second class city located in whole or in part in the district, the budget:

(1) shall be certified to the auditor of that county; and

(2) is subject to review at the county level only by the county board of tax adjustment and, after December 31, 2008, the fiscal body of that county.

As added by P.L.1-1995, SEC.26. Amended by P.L.90-2002, SEC.374; P.L.224-2007, SEC.106; P.L.146-2008, SEC.428; P.L.182-2009(ss), SEC.301.

IC 14-33-9-2
Operation and maintenance expenses

Sec. 2. (a) The board shall budget annually the necessary money to meet the probable expenses of operation and maintenance of the district, including the following:

(1) Repairs.
(2) Fees.
(3) Salaries.
(4) Depreciation on all depreciable assets.
(5) Rents.
(6) Supplies.

(b) Subject to any budget review and approval required under this chapter, the board may add not more than ten percent (10%) of the

total for contingencies.
As added by P.L.1-1995, SEC.26. Amended by P.L.182-2009(ss), SEC.302.

IC 14-33-9-3
Deductions from operation and maintenance expenses

Sec. 3. (a) The board shall deduct from the operation and maintenance expenses estimated under section 2 of this chapter the following:

(1) Any revenue actually received during the current year.

(2) Other money not obligated to paying or protecting the bonds or notes of the district.

(b) The board shall carry forward the balance after making the deduction required by subsection (a).

(c) The board shall next determine the amount of interest due and the principal amount of bonds maturing the second year after the year in which the board is meeting. To this amount the board shall add five percent (5%) in the first year the board meets with bonds outstanding to provide for contingencies. After that time and until all bonds are retired, the board shall add the necessary amount to maintain a five percent (5%) contingency reserve.

(d) If the board has been forced to borrow money for a short term for a legitimate purpose, the board shall also determine the amount of principal and interest due on the loan.

(e) The board shall then total the balance.

(f) From the assessment roll, the board shall then determine the amount of unpaid installments due in the next year on assessments that have been made and deduct this from the total. The board shall then determine the necessary levy of the special benefits tax to provide money to meet the expenses thus calculated.

(g) After review by the department of local government finance as provided in section 1 of this chapter, the board of directors shall certify to the auditor of each county for collection the levy of the tax and the installment of any assessment.
As added by P.L.1-1995, SEC.26. Amended by P.L.90-2002, SEC.375.

IC 14-33-9-4
Hearing on budget for counties with a population of 300,000 to 400,000

Sec. 4. (a) This section applies to districts:

(1) established after July 1, 1983; and

(2) containing all or part of a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(b) Each year the board shall submit two (2) copies of the estimated budget formulated by the district for the next budget year to the fiscal body of the county described in subsection (a) at least ten (10) days before the board holds the public hearing on the estimated

budget under IC 6-1.1-17-3.

(c) The fiscal body:

(1) shall hold a public hearing on the budget; and

(2) may lower but may not increase any item in the estimated budget.

Notice of the hearing shall be published in accordance with IC 5-3-1, except that notice must be published at least five (5) days before the hearing date.

(d) The county fiscal body shall deliver two (2) copies of the budget approved under subsection (c) to the board at least two (2) days before the date fixed for the public hearing on the budget held by the board under IC 6-1.1-17-3. The board may not approve a total budget in excess of the amount approved by the county fiscal body.

As added by P.L.1-1995, SEC.26.

IC 14-33-9-5

Treatment of tax levy

Sec. 5. (a) Upon approval by the department of local government finance, the board of directors shall certify the tax levy to the auditor of each county having land in the district.

(b) The auditor of each county shall have the levy entered on the tax records of the county treasurer for collection.

(c) The county treasurer shall collect the tax at the same time as other property taxes are collected.

(d) After collection, in June and December, the auditor of each county shall issue a warrant on the county treasurer to transfer the money collected to the board of directors.

As added by P.L.1-1995, SEC.26. Amended by P.L.90-2002, SEC.376.

IC 14-33-9-6

Application of chapter

Sec. 6. Sections 1 and 5 of this chapter apply to:

(1) budgets;

(2) levy of taxes; and

(3) collection of taxes;

both before and after a district plan is approved.

As added by P.L.1-1995, SEC.26.

IC 14-33-9-7

Special benefits tax

Sec. 7. The special benefits tax levied by a district is a primary lien on real property in the district equal to other taxes imposed on real property. The same provisions of other taxes regarding collections, penalties, and sale of property for delinquencies apply to this tax.

As added by P.L.1-1995, SEC.26.

IC 14-33-9-8

District's property and income exempt

Sec. 8. A district's property and income are exempt from taxation by the state and political subdivisions of the state.

As added by P.L.1-1995, SEC.26.

IC 14-33-9-9

District not considered municipal corporation

Sec. 9. A district is not considered a municipal corporation with respect to limitations on the amount of the district's indebtedness irrespective of how that indebtedness is secured in a pledge of the district.

As added by P.L.1-1995, SEC.26.

IC 14-33-9-10

Special benefits tax; statement processing charge

Sec. 10. A conservancy district may require a statement processing charge on a special benefits tax statement. A special benefits tax liability assessed under this chapter of less than ten dollars ($10) on a parcel may be increased to not more than ten dollars ($10). The difference between the actual liability and the amount that appears on the statement is a statement processing charge. The statement processing charge is considered a part of the tax liability.

As added by P.L.6-1997, SEC.243.

IC 14-33-10
Chapter 10. Assessments

IC 14-33-10-1
Assessment roll

Sec. 1. (a) If the appraisers have determined that there are exceptional benefits to real property, the board of directors shall prepare an assessment roll from the appraisers' report as approved by the court. The assessment roll consists of the following:

(1) A description of each parcel of real property exceptionally benefited.

(2) The name of the owner as listed on the tax duplicate or described in the appraisers' report as approved by the court.

(3) The amount of the assessment.

(b) The assessment roll shall be distributed as follows:

(1) One (1) copy shall be recorded in the office of the recorder of each county in which real property exceptionally benefited is located.

(2) One (1) copy shall be filed with the auditor of each county in which land of a district exceptionally benefited is located.

(3) One (1) copy shall be kept on file in the office of the district.

(c) Assessments for exceptional benefits are a lien upon each parcel of real property against which the exceptional benefits are assessed from the date that the assessment is approved by the court.
As added by P.L.1-1995, SEC.26.

IC 14-33-10-2
Payment

Sec. 2. (a) The board shall give notice by publication at least two (2) times at weekly intervals:

(1) in two (2) newspapers of general circulation in each county having land in the district; or

(2) in one (1) newspaper in the county if there is only one (1) newspaper of general circulation;

that assessments are due and payable within sixty (60) days after the date of the last publication.

(b) Payment of assessments shall be made at:

(1) the office of the board; or

(2) if the court orders, the offices of the treasurers of the counties.

(c) The owners of real property assessed for exceptional benefits are entitled to make payment in full unless exceptional benefits are assessed annually and paid with special benefits taxes to the county treasurer. If payment is made in full, the board shall do the following:

(1) Note the payment in the assessment roll in the board's office.

(2) Give a receipt to the landowner paying the assessment.

(3) Enter satisfaction of the lien of the assessment in the appropriate record in the office of the recorder where the

assessment is recorded.

(d) The payment of the assessment does not relieve the real property from being subject to the following:

(1) A special benefits tax.

(2) An annual assessment for maintenance and operation based upon the original exceptional benefit assessment.

As added by P.L.1-1995, SEC.26.

IC 14-33-10-3

Installment payments

Sec. 3. (a) An assessment not paid in full shall be paid in annual installments over the time commensurate with the term of the bond issue or other financing determined by resolution adopted by the board. Interest shall be charged on the unpaid balance at the same rate per year as the interest charged on delinquent property tax payments under IC 6-1.1-37-9(b). All payments of installments, interest, and penalties shall be entered on the assessment roll in the office of the district.

(b) Upon payment in full of the assessment, including interest and penalties, the board shall have the lien released and satisfied on the records in the office of the recorder of the county in which the real property assessed is located.

(c) The procedure for collecting assessments for maintenance and operation is the same as for the original assessment, except that the assessments may not be paid in installments.

As added by P.L.1-1995, SEC.26. Amended by P.L.67-2006, SEC.13; P.L.113-2010, SEC.96.

IC 14-33-10-4

Delinquent tax or assessment

Sec. 4. (a) An assessment is a lien on the real property assessed equal to taxes levied on the property. If an installment of an assessment is not paid when due, the real property is subject to the same rate of interest and penalty as is provided by statute for delinquent taxes. If an installment or assessment is not paid in the amount and at the time when due, the board shall prepare, certify, and file with the auditor of the county in which the real property assessed is located the amount of the assessment against the real property with the default in payment.

(b) The county auditor shall place the amount, together with interest and penalty, upon the tax duplicate to be collected as state and county taxes are collected at the next date for the semiannual payment of taxes. If the assessment, interest, and penalty are not paid at that time, the real property is subject to sale as is provided by statute for the sale of real property on which there are delinquent taxes. Upon the sale the proceeds shall be prorated equally among the assessment and any delinquent taxes. A sale for a delinquent tax or delinquent assessment does not extinguish the assessment.

As added by P.L.1-1995, SEC.26.

IC 14-33-11
Chapter 11. Bonds

IC 14-33-11-1
Purpose of bonds

Sec. 1. The board may issue bonds to pay the following:

(1) The cost of the works that are provided in the district plan.

(2) Necessary engineering, legal, and administrative fees.

(3) The repayment or refinancing of a loan.

As added by P.L.1-1995, SEC.26.

IC 14-33-11-2
Total amount of bonds

Sec. 2. The total amount of bonds issued may not exceed the cost less the following:

(1) Money on hand from the collection of assessments.

(2) Money on hand or obligated to the district by the state or federal government.

As added by P.L.1-1995, SEC.26.

IC 14-33-11-3
Method of issuance

Sec. 3. Bonds may be issued by either of the following methods:

(1) Solely against the revenues expected to be produced by the operation of the district. The board may make proper contractual arrangements to pay the bonds from the net revenues produced.

(2) Against the real property of the district in anticipation of the collection of special benefits taxes. Bonds issued against the real property of the district may be paid in part:

(A) by revenues derived from reasonable charges for services or property produced incident to the operation of the district; or

(B) from the collection of assessments for exceptional benefits.

As added by P.L.1-1995, SEC.26.

IC 14-33-11-4
Payment of bonds

Sec. 4. (a) Revenue bonds issued for the payment of works of improvement for the collection, treatment, and disposal of sewage and other liquid wastes may provide that the principal and interest shall be paid:

(1) solely from the net revenue of the sewage works, which is gross revenues after deduction only for the reasonable expenses of operation and maintenance; or

(2) from a combination of net revenue and other money available to a district by:

(A) levy;

(B) special benefits taxes; or
(C) assessment of exceptional benefits.
(b) The board may covenant with the holders of the bonds to pay:
(1) a certain percentage of principal and interest from the revenue;
(2) a certain percentage from the other money to maintain a reasonable reserve from the other money that may be used for payment of principal and interest if the revenue is not sufficient; or
(3) both.
As added by P.L.1-1995, SEC.26.

IC 14-33-11-5
Restrictions in issuance
Sec. 5. (a) Bonds:
(1) may be issued in any denomination;
(2) may bear interest at any rate, with interest payable on January 1 and July 1;
(3) shall be issued in not less than ten (10) series and not more than fifty (50) series; and
(4) are payable, one (1) series each year, beginning on January 1 of the second year following the date of issue and subject to the following:
(A) If the bond issue is authorized in a year after the regular levymaking period, the first series matures on January 1 of the third succeeding year.
(B) The balance of the issue is payable at annual intervals.
(C) The annual maturities do not have to be in an equal amount.
(b) The bonds issued are exempt from taxation by the state.
As added by P.L.1-1995, SEC.26.

IC 14-33-11-6
Negotiability, registration, advertisement, and sale
Sec. 6. Bonds issued:
(1) must be negotiable;
(2) may be registered; and
(3) shall be advertised and sold in the manner provided by general statutes concerning the sale of bonds.
As added by P.L.1-1995, SEC.26.

IC 14-33-11-7
Interest of directors; disclosure
Sec. 7. (a) This section applies to a district:
(1) that has been established with a few freeholders or even only one (1) freeholder; and
(2) for which the accomplishment of the district's purposes is necessary and desirable primarily for persons purchasing and using the land after subdivision and development.

(b) Notwithstanding other statutes, the board may enter into a contract agreement, before the award of bonds, with a person directly or indirectly interested in bidding on or purchasing the bonds if approval is received from the Indiana utility regulatory commission after a petition is filed by the board containing disclosure of the interest that any of the directors have in the land involved and in the person who is interested in bidding on or purchasing the bonds.

(c) The Indiana utility regulatory commission shall give approval if the Indiana utility regulatory commission finds that:

(1) full disclosure has been made; and

(2) persons who are using or will be using the land will probably receive the benefits from the proposed works of improvement at a fair and reasonable cost comparable to the cost for benefits from the improvements in similar locations and situations.

Profits or loss to the person bidding on the bonds may not be the determining factor in approval.

As added by P.L.1-1995, SEC.26.

IC 14-33-11-8

Notice of sale; right to remonstrate against or vote against bonds

Sec. 8. (a) Before offering bonds for sale, the board shall give notice in the same manner as is required by IC 6-1.1-20 for the sale of bonds by municipal corporations.

(b) Persons affected are entitled to:

(1) remonstrate against issuance of the bonds (in the case of a preliminary determination made before July 1, 2008, to issue bonds); or

(2) vote on the proposed issuance of bonds in an election on a local public question (in the case of a preliminary determination made after June 30, 2008, to issue bonds).

(c) An action to question the validity of the bonds may not be instituted after the date fixed for sale, and the bonds are incontestable after that time.

As added by P.L.1-1995, SEC.26. Amended by P.L.146-2008, SEC.429.

IC 14-33-11-9

Denial of right to issue bonds

Sec. 9. If the board is denied the right to issue bonds as a result of remonstrance proceedings or an election on a local public question held under IC 6-1.1-20-3.6:

(1) all contracts let by the board for work to be paid from the sale of bonds are void; and

(2) no liability accrues to the district or to the board.

As added by P.L.1-1995, SEC.26. Amended by P.L.146-2008, SEC.430.

IC 14-33-12
Chapter 12. Improvements Benefiting Only Certain Property

IC 14-33-12-1
Application of chapter

Sec. 1. This chapter applies if the board determines at the time of the adoption of the district plan that the characteristics of the district are such that the district plan can best be implemented in certain parts by the development of works of improvement that are:

(1) of benefit solely to abutting or proximate properties in the district; and

(2) not of benefit to all the property in the district.

As added by P.L.1-1995, SEC.26.

IC 14-33-12-2
Districts subject to chapter

Sec. 2. (a) In a district subject to this chapter:

(1) the district plan must so state; and

(2) notice to this effect shall be made a part of all notices regarding the approval and implementation of the district plan.

(b) At the hearing on the district plan, the court shall make a finding on this question.

As added by P.L.1-1995, SEC.26.

IC 14-33-12-3
Appraisers

Sec. 3. (a) Concurrent with the preparation of detailed construction drawings, specifications, and refined cost estimates necessary to implement the district plan, the board shall employ competent appraisers to do the following:

(1) Appraise the real property that will be benefited by the implementation of the district plan.

(2) Assign to each property the property's proportional share of the estimated cost of the improvement, including necessary engineering and legal fees.

(b) The appraisers shall report the information determined under subsection (a) in written tabular form to the board.

(c) The board shall tentatively adopt the findings of the appraisers in the same resolution by which the detailed construction drawings, specifications, and refined cost estimates are adopted. Notice of the hearing shall be mailed to the owner of each tract of real property found to be benefited.

As added by P.L.1-1995, SEC.26.

IC 14-33-12-4
Filing resolution; notice

Sec. 4. (a) Upon confirmation of the resolution, the board shall file the resolution together with the detailed construction drawings,

specifications, refined cost estimates, and appraisers' findings in court.

(b) The court shall set a date for a hearing and order notice that the court considers necessary, but publication must at least be made in each county having land in the district in accordance with IC 5-3-1 as if the notice affected county business.

(c) At the hearing the court shall order the resolution approved, rescinded, or modified.

As added by P.L.1-1995, SEC.26.

IC 14-33-12-5

Powers and duties

Sec. 5. (a) After approval by the court, the board shall let contracts or otherwise construct the works of improvement as implemented. The board shall exercise the same powers and discharge the same duties concerning the works of improvement as prescribed by statute for the board of public works, the board of finance, and other officers of a municipality concerning the following:

(1) Liens for street improvements.

(2) The payment of street improvement assessments by installments.

(3) The issuance of Barrett Law bonds and coupons to anticipate the collection of assessments.

(b) The duties of the treasurer of a county in which there is real property affected also apply to the following:

(1) The lien.

(2) The collection and enforcement of the lien.

(3) The payment of assessments for the construction of works of improvement under:

(A) this chapter; and

(B) IC 13-3-3-86 (before its repeal).

(c) Statutes concerning:

(1) the enforcement of assessment liens for street improvements in actions of a municipality enforcing the liens and attorney's fees in those actions;

(2) the procedure;

(3) the conduct of sales by the sheriff under decrees of foreclosure;

(4) the execution of certificates and deeds; and

(5) all matters of a similar nature regarding street improvements and collection of assessments in a municipality, including the rights of contractors, assignees, and bondholders;

apply to the enforcement of assessments made for the construction of works of improvement under this chapter or under IC 13-3-3-86 (before its repeal) as well as the collection of bonds or coupons issued under this chapter or under IC 13-3-3-86 (before its repeal).

(d) The board may do the following:

(1) Issue the bonds in anticipation of the collection of assessments and coupons evidencing interest at any rate directly

to the contractor at the completion of the work.

(2) Issue directly to engineers and attorneys bonds and coupons in payment of fees incident to the work of improvement.

(e) Notwithstanding other statutes incorporated into this chapter, a person who agrees to pay the person's assessment in installments after the bonds are issued:

(1) must pay interest for the full term of ten (10) years; and

(2) may prepay the principal and remaining interest due.

As added by P.L.1-1995, SEC.26.

IC 14-33-12-6

Mutually exclusive provisions

Sec. 6. (a) The provisions of this chapter concerning:

(1) assessments;

(2) the nature of the resulting lien;

(3) collection; and

(4) issuing bonds and coupons in anticipation of the collection of the assessment;

are mutually exclusive from other sections of this article that relate to the same subject matter.

(b) The construction and incidental engineering and legal fees of that part of works of improvement contained in the district plan shall be paid for and financed according to this chapter and other statutes incorporated into this chapter and not according to other provisions of this article only if all the following conditions are met:

(1) The board determines and states as a part of the district plan that certain parts of the works of improvement will be of benefit solely to abutting or proximate properties and not of benefit to all the property in the district.

(2) Notice of the determination is given as is provided in this chapter.

(3) The court makes an affirmative finding to this effect at the hearing on the district plan.

(c) If the conditions described in subsection (b) are not met, the costs and financing of the construction of the works of improvement shall be done according to other provisions of this article.

As added by P.L.1-1995, SEC.26.

IC 14-33-12-7

Inapplicable provisions

Sec. 7. Other provisions of this article concerning assessments and bond issues do not apply to this chapter. In addition, provisions of this chapter concerning assessments and bond issues do not apply to other chapters of this article.

As added by P.L.1-1995, SEC.26.

IC 14-33-13
Chapter 13. Damages

IC 14-33-13-1
Damaging or removing reference marks

Sec. 1. A person shall not willfully damage or remove bench marks, witness marks, stakes, or other reference marks placed by:

(1) the surveyors or engineers of the district; or

(2) contractors in constructing the work of the district.

As added by P.L.1-1995, SEC.26.

IC 14-33-13-2
Liability for damages to district works

Sec. 2. (a) A person is liable for damages done to works of a district by:

(1) the person;

(2) agents of the person;

(3) employees of the person; or

(4) livestock owned by the person.

(b) A person shall not damage the works, improvements, or property of a district. A person who violates this subsection is liable for all damages and costs.

(c) The board may repair damages at the expense of the person committing the damage.

As added by P.L.1-1995, SEC.26.

IC 14-33-14

Chapter 14. Cumulative Maintenance Fund

IC 14-33-14-1

Applicability of chapter

Sec. 1. This chapter applies to a district having channel improvements, levees, and water retarding or impoundment structures.

As added by P.L.1-1995, SEC.26.

IC 14-33-14-2

Exemptions

Sec. 2. This chapter does not apply to the following:

(1) A water supply structure or the water supply part of a multiple purpose structure if provision has been made for maintenance from revenues of a water system.

(2) Sewage works.

As added by P.L.1-1995, SEC.26.

IC 14-33-14-3

"Fund" defined

Sec. 3. As used in this chapter, "fund" refers to a cumulative maintenance fund established under this chapter.

As added by P.L.1-1995, SEC.26.

IC 14-33-14-4

Establishment of fund

Sec. 4. A district shall establish a cumulative maintenance fund in the year following commencement of construction or assumption or maintenance of the channel improvements, levees, and water retarding or impoundment structures so that the works of improvement are adequately maintained.

As added by P.L.1-1995, SEC.26.

IC 14-33-14-5

Budget and appropriations to fund

Sec. 5. (a) The board shall budget and appropriate annually to the fund an amount equivalent to ten percent (10%) of the annual cost of maintenance for the works of improvement as the cost is:

(1) stated in the district plan; or

(2) adjusted under section 8 of this chapter.

(b) Money accumulated in the fund may be used for emergency or unusually expensive maintenance of the works of improvement.

As added by P.L.1-1995, SEC.26. Amended by P.L.228-2003, SEC.1.

IC 14-33-14-6

Suspension of appropriations

Sec. 6. (a) If an amount equivalent to two (2) times the annual cost

of maintenance of the works of improvement, as stated in the district plan or as the cost is adjusted under section 8 of this chapter, has accumulated in the fund, appropriations to the fund shall be suspended until the year that the amount in the fund is not more than equal to the annual cost of maintenance of the works of improvement as stated in the plan or the adjusted annual cost.

(b) The money in the fund may be invested and reinvested in whole or in part in accordance with IC 5-13-9.

As added by P.L.1-1995, SEC.26. Amended by P.L.228-2003, SEC.2.

IC 14-33-14-7

Normal maintenance work budgeted

Sec. 7. The appropriation to the fund does not relieve the board of the duty to budget annually the normal maintenance work anticipated during the next fiscal year.

As added by P.L.1-1995, SEC.26.

IC 14-33-14-8

Adjusted annual cost of maintenance

Sec. 8. (a) As used in this section, "cost index source" refers to the Engineering News Record Construction Cost Index, as published by McGraw Hill Construction or its successor.

(b) Before January 1, 2006, the board of a district may elect to adjust the annual cost of maintenance of the works of improvement as stated in the plan, as calculated in subsection (d), if the following conditions are met:

(1) The board has at a meeting adopted a resolution that sets forth:

(A) the annual cost of maintenance of the works of improvement as stated in the plan, and the year when the annual cost was stated in the plan; and

(B) the new, adjusted annual cost of maintenance of the works of improvement.

(2) The calculation under subsection (d) has been verified by either the state conservation engineer for the Natural Resources Conservation Service of the United States Department of Agriculture or a professional engineer licensed under IC 25-31-1.

(3) The board has provided a copy of the resolution to the department of local government finance (established by IC 6-1.1-30-1.1) within sixty (60) days of adoption.

(c) If the board of a district adopts a resolution under section (b)(1), a copy of the resolution must be included in the district's annual report, and a copy of the annual report must be provided to the local circuit court and the department of natural resources.

(d) The annual cost of maintenance of the works of improvement as stated in the plan of a district may be adjusted to an amount not to exceed the amount determined as follows:

STEP ONE: Determine the cost index from the cost index

source for the most recent year.

STEP TWO: Determine the cost index from the cost index source for the year that the annual cost of maintenance of the works of improvement was stated in the plan.

STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.

STEP FOUR: Multiply the result of STEP THREE by the annual cost of maintenance of the works of improvement that is stated in the plan.

As added by P.L.228-2003, SEC.3.

IC 14-33-15
Chapter 15. Dissolution Due to Loss of Benefit

IC 14-33-15-1
Petition

Sec. 1. A district may be dissolved by the same procedure used to establish the district. The petition must set forth the change of circumstances that causes the district to lose the district's benefit.
As added by P.L.1-1995, SEC.26.

IC 14-33-15-2
Prima facie evidence that district should be dissolved

Sec. 2. If:

(1) the board fails to produce within two (2) years satisfactory evidence of progress in the preparation of the district plan; or

(2) federal or state money, or both, contemplated in the petition for the establishment of the district appears to be unavailable;

it is prima facie evidence that the district should be dissolved.
As added by P.L.1-1995, SEC.26.

IC 14-33-15-3
Court ordering dissolution

Sec. 3. If the court finds that a district is no longer of benefit, the court shall do the following:

(1) Order the district dissolved.

(2) Order the board to take necessary steps to terminate all activities of the district.

As added by P.L.1-1995, SEC.26.

IC 14-33-15-4
Final accounting and records filing

Sec. 4. As the final action the board shall make an accounting to the court and file all records of the district with the court. The court shall then discharge the board.
As added by P.L.1-1995, SEC.26.

IC 14-33-15-5
District with bonds or notes outstanding

Sec. 5. The court may not dissolve a district if the district has bonds or notes outstanding. If the court finds that the activities of the district should cease, the court shall order the district to function only for the purpose of:

(1) certifying necessary assessments or taxes; and

(2) collecting the assessments and taxes;

to pay off the financial obligations of the district. When all financial obligations are paid, the court may order the district dissolved.
As added by P.L.1-1995, SEC.26.

IC 14-33-16
Chapter 16. Dissolution Due to Lack of Construction

IC 14-33-16-1
Applicability of chapter

Sec. 1. (a) Except as provided in subsection (b), this chapter applies to a district if construction of works of improvement has not begun within six (6) years after the district plan is approved by the circuit court.

(b) Even if the construction of works of improvement has not begun within six (6) years after the district plan of a district was approved, this chapter does not apply to the district if the circuit court having jurisdiction over the district under IC 14-33-2-9 determines that the board of directors of the district has, since the approval of the district plan, worked diligently and in good faith to resolve the matters that must be resolved before construction can begin.

As added by P.L.1-1995, SEC.26. Amended by P.L.143-1997, SEC.1.

IC 14-33-16-2
Dissolution by election

Sec. 2. A district may be dissolved by an election under this chapter.

As added by P.L.1-1995, SEC.26.

IC 14-33-16-3
Petition

Sec. 3. The freeholders of a district must present a petition to the board. The petition may be circulated and presented in separate parts, although all of the parts constitute a single petition. The petitioning freeholders must sign the petition, and the person who presents the petition must verify and certify the signatures upon oath. The petition must do the following:

(1) Show the name and residence of each petitioner and the date of signature.

(2) State that the petitioning freeholders desire an election on the question of whether to dissolve the district.

As added by P.L.1-1995, SEC.26.

IC 14-33-16-4
Determination that petition bears proportion of signatures required

Sec. 4. The board shall determine, in compliance with IC 14-33-2-2 and IC 14-33-2-3, whether the petition bears the same proportion of signatures of freeholders of the district as that section requires to initiate the proceedings to establish a district. If the board finds in the affirmative, the board shall without delay certify that fact to the court.

As added by P.L.1-1995, SEC.26.

IC 14-33-16-5
Election requirements

Sec. 5. (a) Within ten (10) days after the board certifies to the court, the board shall fix the following:

(1) A convenient and suitable place for the election.

(2) The date for the election not less than fifteen (15) and not more than thirty (30) days after the last publication of notice.

(b) The voting place must open at 9 a.m. local time and remain open for balloting continuously until 9 p.m. local time. However, if the district contains freeholds too numerous for freeholder balloting at a single voting place while allowing each freeholder a reasonable time but not exceeding two (2) minutes to cast a ballot, the board shall fix and arrange for multiple voting places as appears necessary to accommodate the freeholders eligible to vote.

(c) Notice of the time, place, and purpose for the election must be given on the same day of each week for two (2) consecutive weeks in an English language newspaper of general circulation published in each county having land in the district.

As added by P.L.1-1995, SEC.26.

IC 14-33-16-6
List of freeholders

Sec. 6. (a) The board shall do the following:

(1) Prepare a list of the freeholders of the district.

(2) Have the county auditor certify the list.

(3) Make the list available for the inspection of any freeholder of the district.

(4) Place the list in the permanent files of the district at the conclusion of the election.

(b) A deficiency in the list or omission of the name of a freeholder does not void the election or the election's outcome.

As added by P.L.1-1995, SEC.26.

IC 14-33-16-7
Ballots

Sec. 7. The board shall prepare and furnish ballots in sufficient number in the following form:

"Shall the _____ Conservancy District be dissolved?"

[ ] Yes [ ] No

As added by P.L.1-1995, SEC.26.

IC 14-33-16-8
Assistant secretary and voting list

Sec. 8. The board shall do the following:

(1) Appoint an assistant secretary.

(2) Provide a voting list at each voting place.

As added by P.L.1-1995, SEC.26.

IC 14-33-16-9

Voting procedures

Sec. 9. (a) Before the voting begins, the chairman of the board shall appoint three (3) freeholders of the district as clerks to conduct the election.

(b) Before casting a vote, each freeholder must sign the list of freeholders opposite the freeholder's name in the presence of the district secretary.

(c) If:

(1) a clerk finds a freeholder's name is omitted from the list; and

(2) all three (3) clerks determine that the freeholder's name should be added to the list;

the clerks shall place the freeholder's name on the list and the freeholder may vote.

As added by P.L.1-1995, SEC.26.

IC 14-33-16-10

Absentee ballot

Sec. 10. A freeholder of the district may vote absentee by written ballot. A written ballot vote must be signed and mailed or delivered to the district office. Ballots voted by absentees are valid if delivered or received before the scheduled date of the election.

As added by P.L.1-1995, SEC.26.

IC 14-33-16-11

Election duties of secretary and clerks

Sec. 11. (a) The secretary of the district shall do the following:

(1) Keep the ballots safe and secure until the end of the voting period.

(2) At the end of the voting period present all ballots cast to the three (3) clerks.

(b) The clerks shall do the following:

(1) Count the ballots.

(2) Report the results of the election to the secretary in writing over the signature of each clerk.

(c) The secretary shall do the following:

(1) Record the results in the records of the district.

(2) Certify the results to the court as promptly as possible.

As added by P.L.1-1995, SEC.26.

IC 14-33-16-12

Majority of votes

Sec. 12. A majority of all votes cast determines the issue of dissolution of the district, as long as the total votes cast at least equals the number of freeholders petitioning for the election.

As added by P.L.1-1995, SEC.26.

IC 14-33-16-13

Court ordering board to take steps to terminate district activities

Sec. 13. If a majority favors dissolution of a district, the court

shall, upon receiving the certification of the results, order the board to take the necessary steps to terminate all activities of the district other than those activities required to certify and collect assessments or taxes to pay the following:

(1) The remaining financial obligations of the district.

(2) The expenses of liquidating the district's property and winding up the district's affairs.

As added by P.L.1-1995, SEC.26.

IC 14-33-16-14

Election costs

Sec. 14. Costs of the election, including legal fees approved by the court, shall be paid from district money.

As added by P.L.1-1995, SEC.26.

IC 14-33-16-15

Court ordering final accounting and filing of records; discharging board

Sec. 15. (a) When a district's financial obligations and the expenses of winding up the district's affairs are paid, the court shall order the board to do the following:

(1) Make a final accounting to the court.

(2) File all records of the district with the court.

(b) The court shall then discharge the board and decree that the district is dissolved.

As added by P.L.1-1995, SEC.26.

IC 14-33-16.5

Chapter 16.5. Dissolution of Smaller District and Assumption of Operations, Obligations, and Assets by Larger District

IC 14-33-16.5-1

Application

Sec. 1. This chapter applies to any two (2) conservancy districts that:

(1) are contiguous; and

(2) share at least one (1) common purpose set forth in IC 14-33-1-1.

As added by P.L.189-2005, SEC.7.

IC 14-33-16.5-2

Definitions

Sec. 2. As used in this chapter:

(1) "freeholder" means an owner of real property, as reflected in the real property tax records of the county auditor;

(2) "larger district" means, of the two (2) districts referred to in section 1 of this chapter, the one (1) that has the larger number of freeholders; and

(3) "smaller district" means, of the two (2) districts referred to in section 1 of this chapter, the one (1) that has the smaller number of freeholders.

As added by P.L.189-2005, SEC.7.

IC 14-33-16.5-3

Initiation of dissolution proceedings; petition

Sec. 3. (a) The freeholders of a smaller district may initiate dissolution proceedings under this chapter by filing a petition with the county auditor of the county in which most of the smaller district's area is located. The petition must be signed by at least the lesser of:

(1) fifty (50); or

(2) five percent (5%);

of the smaller district's freeholders.

(b) A petition under subsection (a) may be circulated and presented in separate parts. All the parts of the petition constitute a single petition.

(c) The petitioning freeholders must sign the petition, showing:

(1) the name and address of each petitioner; and

(2) the date of the signature.

(d) A petition must state that the petitioners desire an election on the question of whether:

(1) the smaller district will dissolve and become part of the larger district; and

(2) the larger district will assume the smaller district's operation, obligations, and assets.

(e) A person who presents a petition from the smaller district's freeholders under this section to the county auditor must verify and certify the signatures on the petition upon oath.
As added by P.L.189-2005, SEC.7.

IC 14-33-16.5-4
County auditor; certification of petition; board resolution

Sec. 4. (a) Not later than thirty (30) days after a petition is filed with the county auditor under section 3 of this chapter, the county auditor shall:

(1) prepare and certify a list of freeholders of the smaller district;
(2) make the list available for inspection by any person; and
(3) determine and certify whether the petition:
(A) was signed by the number of freeholders required under section 3(a) of this chapter; and
(B) otherwise meets the requirements of this chapter.

(b) A deficiency in the list of the smaller district's freeholders or an omission of the name of a freeholder does not void the election or the election's outcome.

(c) If the county auditor determines that a petition filed under section 3 of this chapter meets the requirements of this chapter, the auditor shall, not later than forty (40) days after receiving the petition, forward a notice to the board of directors of the larger district by personal delivery or by certified mail. The notice must:

(1) inform the larger district that a petition was filed under section 3 of this chapter by the freeholders of the smaller district; and
(2) ask if the larger district is willing and able to assume the smaller district's operation, obligations, and assets if the smaller district's freeholders vote to dissolve the smaller district.

(d) Not later than thirty (30) days after receiving the notice from the county auditor under subsection (c), the board of directors of the larger district may pass a resolution stating that:

(1) the larger district is willing and able to assume the smaller district's operation, obligations, and assets; and
(2) upon becoming part of the larger district, the freeholders of the smaller district will:
(A) become full and equal freeholders of the larger district; and
(B) pay the same special benefits taxes and user charges generally charged by the larger district.

(e) If the board of directors of the larger district passes a timely resolution under subsection (d):

(1) the board of directors of the larger district must forward a true and accurate copy of the resolution to the county auditor by personal delivery or by certified mail not later than ten (10) business days after the board passes the resolution; and
(2) the board of directors of the smaller district must hold a

dissolution and assumption election of the smaller district's freeholders under this chapter.

(f) If the board of directors of the larger district:

(1) does not pass a timely resolution under subsection (d); or

(2) passes a timely resolution under subsection (d), but does not timely forward a copy of the resolution under subsection (e)(1);

the dissolution proceedings that began with the filing of a petition under section 3 of this chapter are ended.

As added by P.L.189-2005, SEC.7.

IC 14-33-16.5-5

County auditor; notification of election

Sec. 5. Not later than ten (10) days after the county auditor receives a resolution from the board of directors of the larger district under section 4 of this chapter, the county auditor shall, by personal delivery or by certified mail, notify the board of directors of the smaller district that the board of directors of the smaller district must hold the election referred to in section 4(e)(2) of this chapter.

As added by P.L.189-2005, SEC.7.

IC 14-33-16.5-6

Election procedures

Sec. 6. (a) Not later than ten (10) days after receipt of a notice under section 5 of this chapter, the board of directors of the smaller district shall fix the following:

(1) A convenient and suitable place for the smaller district's election.

(2) The date for the election that is at least sixty (60) days after the date on which the county auditor notifies the smaller district's board under section 5 of this chapter.

(b) The voting place must open at 9 a.m. local time and remain open for balloting continuously until 9 p.m. local time. If the number of freeholders in the smaller district is too great for balloting at a single voting place while allowing each freeholder a reasonable time to cast a ballot, the board shall arrange for the number of voting places necessary to accommodate the freeholders eligible to vote.

(c) Notice of the date, time, place, and purpose of the election must be given for two (2) consecutive weeks in an English language newspaper of general circulation published in each county having land in the smaller district, with the last publication:

(1) not less than fifteen (15) days; and

(2) not more than thirty (30) days;

before the date of the election.

(d) The board of directors of the smaller district shall also cause individual notice of the election to be given to all the smaller district's freeholders by first class mail.

(e) The notice published under subsection (c) and the individual freeholder notice mailed under subsection (d) must be in the following form:

Notice of a Dissolution and Assumption Election
to the Freeholders of the _____
(insert smaller district) Conservancy District

1. You are a freeholder (i.e. a real property owner) of the _____ (insert smaller district) Conservancy District. As a freeholder, you are one of the owners of the _____ (insert smaller district) Conservancy District.

2. A legally required number of the freeholders of the _____ (insert smaller district) Conservancy District has filed a petition with the _____ (insert county name) County Auditor requesting that the _____ (insert smaller district) Conservancy District be dissolved, and that the operation, obligations, and assets of the _____ (insert smaller district) Conservancy District be assumed by the _____ (insert larger district) Conservancy District.

3. The _____ (insert larger district) Conservancy District is contiguous to, has the same purpose as, and has a greater number of freeholders than the _____ (insert smaller district) Conservancy District.

4. The Board of Directors of the _____ (insert larger district) Conservancy District has passed a resolution stating:

A. That the _____ (insert larger district) Conservancy District is willing to assume the operation, obligations, and assets of the _____ (insert smaller district) Conservancy District; and

B. That upon becoming part of the _____ (insert larger district) Conservancy District, the freeholders of the _____ (insert smaller district) Conservancy District will become full and equal freeholders of the _____ (insert larger district) Conservancy District and be subject to and pay the same special benefits taxes and user charges generally charged by the (insert larger district) Conservancy District.

5. An election of the freeholders of the _____ (insert smaller district) Conservancy District is set for the day of _____, ____, from 9:00 a.m. to 9:00 p.m., at the following location(s): _____.

6. The question presented for the election is whether the _____ (insert smaller district) Conservancy District should be dissolved, and whether the _____ (insert larger district) Conservancy District should assume the operations, obligations, and assets of the _____ (insert smaller district) Conservancy District.

7. A majority of the votes cast at the election will determine the question of whether the _____ (insert smaller district) Conservancy District should be dissolved, and whether the _____ (insert larger district) Conservancy District should assume the operations, obligations, and assets of the _____ (insert smaller district) Conservancy District.

8. As a freeholder of the _____ (insert smaller district) Conservancy District, you are entitled to and encouraged to vote at the election.

/ss/ Board of Directors, _____
(insert smaller district) Conservancy District

(f) If the board of directors of the smaller district fails to hold the election as required by this chapter, the county auditor of the county in which the smaller district's petition was filed shall:

(1) conduct the election as required by this chapter; and

(2) bill the board of directors of the smaller district for the county auditor's costs incurred for the election.

(g) The board of directors of the smaller district shall promptly pay a bill submitted to the smaller district under subsection (f).

As added by P.L.189-2005, SEC.7.

IC 14-33-16.5-7
Ballot requirements

Sec. 7. After receiving a notice under section 5 of this chapter, the board of directors of the smaller district shall prepare and furnish ballots in sufficient number in the following form:

"Shall the _____ (insert smaller district) Conservancy District be dissolved and its operations, obligations, and assets be assumed by the _____ (insert larger district) Conservancy District?

[ ] Yes [ ] No"

As added by P.L.189-2005, SEC.7.

IC 14-33-16.5-8
Assistant secretary; voting list

Sec. 8. After receiving a notice under section 5 of this chapter, the board of directors of the smaller district shall do the following:

(1) Appoint an assistant secretary.

(2) Provide a voting list at each voting place.

As added by P.L.189-2005, SEC.7.

IC 14-33-16.5-9
Clerks; list of freeholders

Sec. 9. (a) Before the voting begins under this chapter, the board of directors of the smaller district shall appoint three (3) freeholders of the district as clerks to conduct the dissolution and assumption election.

(b) Before casting a vote, each freeholder must sign the list of freeholders opposite the freeholder's name in the presence of the district secretary.

(c) If:

(1) a clerk finds a freeholder's name is omitted from the list; and

(2) all three (3) clerks determine that the freeholder's name should be added to the list;

the clerks shall place the freeholder's name on the list and the

freeholder may vote.
As added by P.L.189-2005, SEC.7.

IC 14-33-16.5-10
Assistant secretary and clerks of smaller district; duties

Sec. 10. (a) After an election is held under this chapter, the assistant secretary of the smaller district shall do the following:

(1) Keep the ballots safe and secure until the end of the voting period.

(2) At the end of the voting period, present all ballots cast to the three (3) clerks.

(3) Record the election results in the records of the smaller district.

(4) Certify the results of the election to the county auditor and the circuit court having supervisory jurisdiction over the smaller district as promptly as possible.

(b) The clerks of the smaller district shall do the following:

(1) Count the ballots.

(2) Report the results of the election to the secretary in writing over the signature of each clerk.

As added by P.L.189-2005, SEC.7.

IC 14-33-16.5-11
Determination of election by majority vote

Sec. 11. In an election held under this chapter, a majority of all votes cast by the freeholders of the smaller district determines the question of the dissolution of the smaller district and the larger district's assumption of the smaller district's operations, obligations, and assets.
As added by P.L.189-2005, SEC.7. Amended by P.L.1-2006, SEC.232.

IC 14-33-16.5-12
Election costs paid by smaller district

Sec. 12. The costs of a smaller district's election held under this chapter shall be paid by the smaller district.
As added by P.L.189-2005, SEC.7.

IC 14-33-16.5-13
Board of smaller district; duties after election

Sec. 13. (a) In an election held under this chapter, if a majority of the freeholders of the smaller district votes to dissolve the smaller district, not later than sixty (60) days after the election, as the final action of the board of directors of the smaller district, the board shall:

(1) make a full and final accounting to the circuit court having supervisory jurisdiction over the smaller district; and

(2) file all records of the smaller district with the court.

(b) If the smaller district's board of directors fails to timely comply with subsection (a), the circuit court having supervisory jurisdiction

over the smaller district shall order the board to comply or suffer a finding of contempt of court.

(c) The larger district shall take custody and control of the smaller district's operations, obligations, and assets on the earlier of:

(1) the date the smaller district's board of directors complies with subsection (a)(1); or

(2) the sixtieth day after the election.

(d) The larger district is directly responsible for payment of the smaller district's bonds or notes outstanding upon the larger district taking custody and control of the smaller district's operations, obligations, and assets.

(e) When the smaller district's board of directors complies with subsection (a), the circuit court shall issue an order:

(1) dissolving the smaller district; and

(2) discharging the board of directors of the smaller district.

As added by P.L.189-2005, SEC.7.

IC 14-33-17
Chapter 17. Merger of Districts

IC 14-33-17-1
Application of chapter

Sec. 1. This chapter applies to two (2) districts:

(1) where at least part of the external boundaries of the two (2) districts coincide;

(2) that are located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and

(3) where the territory of each district contains part of the same town.

As added by P.L.1-1995, SEC.26.

IC 14-33-17-2
Filing petition

Sec. 2. Freeholders residing in the two (2) districts who desire the merger of the districts must initiate proceedings by filing a petition in the office of the clerk of the circuit court for the county containing the most land in the proposed merged district.

As added by P.L.1-1995, SEC.26.

IC 14-33-17-3
Necessary signatures

Sec. 3. (a) A petition must be signed by not less than five percent (5%) of the freeholders owning land in each of the existing districts.

(b) The court shall, before conducting an election under section 6 of this chapter, determine whether the petition bears the necessary signatures. If the petition does not bear the necessary signatures, the court shall dismiss the petition. The court may not dismiss a petition with the requisite signatures because of alleged defects without permitting amendments to correct errors in form or content.

(c) IC 14-33-2-16(c) and IC 14-33-2-16(d) apply to the petition.

As added by P.L.1-1995, SEC.26.

IC 14-33-17-4
Required bond

Sec. 4. (a) The petitioners must post a bond sufficient to pay the cost of notice and all costs of the court connected with the petition and election.

(b) If:

(1) the court dismisses the petition; or

(2) the majority of freeholders vote against merger;

the petitioners shall pay all costs associated with the proceedings and the election.

(c) If a merger does take place under this chapter, the costs associated with the proceedings and the election shall be paid out of

the general money of the county where the court is located. The district shall repay the county from the first money collected from the levy of a tax or the collection of an assessment.
As added by P.L.1-1995, SEC.26.

IC 14-33-17-5
Petition requirements

Sec. 5. (a) Except as provided in section 17 of this chapter:
(1) IC 14-33-2-3(1);
(2) IC 14-33-2-3(2);
(3) IC 14-33-2-3(3);
(4) IC 14-33-2-3(5);
(5) IC 14-33-2-4; and
(6) IC 14-33-2-6;
apply to the petition filed under section 2 of this chapter.

(b) The petition must also state that the petitioners desire an election in the districts on the question of merger.
As added by P.L.1-1995, SEC.26.

IC 14-33-17-6
Fixing time, place, and date of election

Sec. 6. Within ten (10) days after receiving a petition that has met the requirements of sections 3 through 5 of this chapter, the court shall fix a convenient place and time for the election within each district to determine if the districts should merge. The election must be held not less than thirty (30) days after the date the election is set.
As added by P.L.1-1995, SEC.26.

IC 14-33-17-7
Notice

Sec. 7. The petitioners shall give notice of the time, place, and purpose for the election as follows:
(1) By publication on the same day of each week for two (2) consecutive weeks in an English language newspaper of general circulation published in the county.
(2) By mail at least twenty (20) days before the date of the election, first class postage prepaid, to each freeholder who has not signed the petition and who owns land in the proposed district according to the records of the county auditor.
As added by P.L.1-1995, SEC.26.

IC 14-33-17-8
List of freeholders

Sec. 8. (a) The petitioners shall do the following:
(1) Prepare a list of the freeholders of the district.
(2) Have the county auditor do the following:
(A) Certify the list.
(B) Make the list available for the inspection of a freeholder of the district.

(C) Place the list in the permanent files of the district at the conclusion of the election.

(b) A deficiency in the list or omission of the name of the freeholder does not void the election or the election's outcome.

As added by P.L.1-1995, SEC.26.

IC 14-33-17-9

Ballots

Sec. 9. The court shall prepare and furnish ballots in sufficient number, in the following form:

"Shall _____ Conservancy District and _____ Conservancy District be merged to form a single district?"

[ ] Yes [ ] No

As added by P.L.1-1995, SEC.26.

IC 14-33-17-10

Clerks, assistant secretary, and voting list

Sec. 10. Before the voting begins, the court shall do the following:

(1) Appoint three (3) freeholders of the districts as clerks to conduct the election.

(2) Appoint an assistant secretary.

(3) Provide a voting list at each voting place.

As added by P.L.1-1995, SEC.26.

IC 14-33-17-11

Hours of election; balloting places

Sec. 11. The voting place must open at 9 a.m. local time and remain open for balloting continuously until 9 p.m. local time. However, if the district contains freeholds too numerous for freeholder balloting at a single voting place while allowing each freeholder a reasonable time but not exceeding two (2) minutes to cast a ballot, the court shall fix and arrange for multiple voting places as necessary to accommodate the freeholders eligible to vote.

As added by P.L.1-1995, SEC.26.

IC 14-33-17-12

Voting procedures

Sec. 12. (a) Before casting a vote, each freeholder must sign the list of freeholders opposite the freeholder's name in the presence of:

(1) the district secretary;

(2) the financial clerk; or

(3) a person designated by the district secretary or financial clerk.

(b) If:

(1) a clerk finds a freeholder's name is omitted from the list; and

(2) all three (3) clerks determine that the freeholder's name should be added to the list;

the clerks shall place the freeholder's name on the list and the freeholder may vote.

As added by P.L.1-1995, SEC.26.

IC 14-33-17-13
Absentee ballot

Sec. 13. A freeholder of the district may vote an absentee ballot. An absentee ballot:

(1) must be signed;
(2) must be mailed or delivered to the court; and
(3) is valid if delivered or received before the scheduled date of the election.

As added by P.L.1-1995, SEC.26.

IC 14-33-17-14
Election duties of secretary and clerks

Sec. 14. (a) The secretary of each district shall do the following:

(1) Keep the ballots safe and secure until the end of the voting period.
(2) Present all ballots cast to the three (3) clerks.

(b) The clerks shall do the following:

(1) Count the ballots.
(2) Report the results of the election to the secretary in writing over the signature of the clerks.

(c) The secretary shall do the following:

(1) Record the results in the records of the district.
(2) Certify the results to the court as promptly as possible.

As added by P.L.1-1995, SEC.26.

IC 14-33-17-15
Majority of votes

Sec. 15. A majority of total votes cast in both districts determines the issue of merger of the districts.

As added by P.L.1-1995, SEC.26.

IC 14-33-17-16
Appointment of initial board; requirements

Sec. 16. (a) Notwithstanding IC 14-33-5-1 and IC 14-33-5-11, if a majority of those voting favors merger of the districts, the court shall, upon receiving certification of the results, appoint an initial board. The initial board consists of seven (7) members, with one (1) member from each of the areas of the new district established as provided in section 17 of this chapter.

(b) A director on the initial board:

(1) must be:
    (A) a freeholder of the area the director represents; or
    (B) an officer or a nominee of a corporate freeholder of the area the director represents; and
(2) does not have to be a petitioner to qualify for appointment.

(c) In selecting the initial board, the court shall appoint four (4) of the initial directors as follows:

(1) Two (2) directors who have had prior experience as a director on the board of one (1) of the two (2) districts that were merged.

(2) Two (2) directors who have had prior experience as a director on the board of the other district that was merged.

(d) The terms of the initial directors are as provided in IC 14-33-5-11.

As added by P.L.1-1995, SEC.26.

IC 14-33-17-17

District areas; election of subsequent directors

Sec. 17. (a) Notwithstanding:

(1) section 5 of this chapter; and

(2) IC 14-33-2-4;

the new district shall be composed of seven (7) areas established by the court. Each area must contain approximately the same number of freeholders.

(b) The board consists of seven (7) members, one (1) member from each of the areas of the new district.

(c) After the appointment of the initial directors, the subsequent directors shall be elected as provided in IC 14-33-5-2 through IC 14-33-5-9, except that freeholders may vote only for the nominees representing the area of the freeholder. In addition:

(1) a director must be:

(A) a freeholder of the area the director represents; or

(B) an officer or a nominee of a corporate freeholder of the area the director represents; and

(2) nominations for a director may only be made by the freeholders of the director's area.

As added by P.L.1-1995, SEC.26.

IC 14-33-17-18

New district plan

Sec. 18. The initial board of the merged district shall upon appointment prepare and submit a new district plan as provided in the initial formation of a single district. The same procedures provided for the initial submission of a district plan must be complied with for the submission of a district plan for a merged district.

As added by P.L.1-1995, SEC.26.

IC 14-33-17-19

Court orders following approval of new district plan

Sec. 19. Effective upon approval of a new district plan, the court shall do the following:

(1) Order the board of each of the merged districts dissolved.

(2) Order the two (2) districts to merge into one (1) single district.

(3) Order the transfer of all of the assets and obligations, including bonded indebtedness, of the merged districts to the

new districts.

(4) Designate the time of the annual meeting of the merged district, which must be before March 1 each year.

As added by P.L.1-1995, SEC.26.

IC 14-33-17-20

Jurisdiction

Sec. 20. The circuit court of the county in the merged district having the most land has exclusive jurisdiction over the merger and over all further hearings in connection with the district.

As added by P.L.1-1995, SEC.26.

IC 14-33-17-21

Districts formed from merger

Sec. 21. A district formed from the merger of two (2) districts as provided under:

(1) this chapter; or

(2) IC 13-3-3-96.5 (before its repeal);

is considered a district for purposes of this article.

As added by P.L.1-1995, SEC.26.

IC 14-33-18
Chapter 18. Subdistricts

IC 14-33-18-1
Establishment

Sec. 1. A subdistrict of land in the district may be established by the same procedure by which the original district was established. The petition shall be addressed to the court having jurisdiction over the district. A subdistrict may be established for any purpose for which a district may be established, but a subdistrict may not be established for any of the same purposes for which the district has been established.

As added by P.L.1-1995, SEC.26.

IC 14-33-18-2
Director

Sec. 2. A director of the district may not also be a director of the subdistrict.

As added by P.L.1-1995, SEC.26.

IC 14-33-18-3
Interference with district purpose

Sec. 3. (a) The district plan under which the subdistrict operates may not interfere with the accomplishment of a purpose for which the district was established.

(b) If the board of the district determines that operations of the subdistrict interfere with the accomplishment of a purpose of the district, the board may petition the court to make necessary findings and issue necessary orders to the board of the subdistrict to stop the interference.

As added by P.L.1-1995, SEC.26.

IC 14-33-18-4
Operation, powers, and duties

Sec. 4. A subdistrict operates in the same manner as a district, and the board of a subdistrict has the same powers and duties.

As added by P.L.1-1995, SEC.26.

IC 14-33-18-5
Resolution establishing subdistrict; procedures

Sec. 5. (a) A subdistrict also may be established under this chapter for a purpose for which the district has been established if the board passes a resolution to that effect defining the territory of the subdistrict and each purpose. The resolution must be filed in the court having jurisdiction of the district.

(b) The court shall hold a hearing after ordering notice to be given as follows:

(1) By publication at least thirty (30) days before the hearing at

least one (1) time in one (1) newspaper of general circulation in each county having land in the district.

(2) By mail to each freeholder in the proposed subdistrict.

(c) If at the hearing a remonstrance against the establishment of the subdistrict is filed with the court signed by:

(1) thirty percent (30%) of the freeholders in the proposed subdistrict; or

(2) thirty percent (30%) of all freeholders in the district;

the court shall dismiss the resolution. IC 14-33-2-3 applies to the remonstrance.

(d) If the court at the hearing finds that the proposed subdistrict has a particular need for the accomplishment of the purpose proposed, the court shall establish the subdistrict for the purpose. After the court establishes the purpose, the purpose is not a purpose of the district.

As added by P.L.1-1995, SEC.26.

IC 14-33-19
Chapter 19. Levee Districts and Associations

IC 14-33-19-1
Applicability of chapter

Sec. 1. This chapter applies to a levee district or levee association existing under:

(1) Acts 1911, c.127;
(2) Acts 1911, c.280;
(3) Acts 1911, c.103;
(4) Acts 1913, c.165;
(5) Acts 1917, c.105;
(6) Acts 1919, c.26;
(7) Acts 1927, c.38;
(8) Acts 1933, c.42;
(9) Acts 1937, c.42;
(10) Acts 1937, c.186;
(11) Acts 1937, c.233;
(12) Acts 1941, c.159;
(13) Acts 1947, c.284;
(14) Acts 1947, c.187;
(15) Acts 1947, c.249;
(16) Acts 1959, c.52; or
(17) Acts 1959, c.374;

all of which were repealed by IC 19-3-2-106 (recodified as IC 13-2-19.5-9 before its repeal, and later recodified as IC 14-27-3-19).

As added by P.L.1-1995, SEC.26.

IC 14-33-19-2
Levee district or association becoming district

Sec. 2. A levee district or levee association may become a district under this article in accord with this chapter.

As added by P.L.1-1995, SEC.26.

IC 14-33-19-3
Procedures to become district

Sec. 3. The elected levee committee of a levee district or board of directors of a levee association must do the following to become a district under this article:

(1) Adopt a resolution to accept this article.
(2) File a petition in court.

As added by P.L.1-1995, SEC.26.

IC 14-33-19-4
Filing petition

Sec. 4. A petition filed under section 3 of this chapter must be filed as follows:

(1) For a levee district, in the court establishing the levee district.

(2) For an incorporated levee association formed under Acts 1913, c.165, in the circuit court of the county in which the principal offices of the incorporated levee association are located.

As added by P.L.1-1995, SEC.26.

IC 14-33-19-5

Contents of petition

Sec. 5. A petition filed under section 3 of this chapter must state the following:

(1) Acceptance of this article.

(2) The division of the district into areas, with the areas corresponding to the number of levee committee members or directors.

(3) The number of and names of the elected levee committee members or directors.

(4) The expiration dates of the terms of the committee members or directors.

As added by P.L.1-1995, SEC.26.

IC 14-33-19-6

Court's duties upon receipt of petition; notice

Sec. 6. (a) Upon receipt of a petition, the court shall do the following:

(1) Set a date for a hearing.

(2) Have a copy of the petition and notice of the time and place of the hearing given at least twenty (20) days before the hearing date as follows:

(A) By publication at least one (1) time in one (1) newspaper of general circulation in each county in which lies land affected by the levee district, levee association, or pending proceedings.

(B) By United States mail to each freeholder affected, postage prepaid, using the residence address shown on the record of transfer of the auditor of the counties involved.

(b) Proof of publication of the notice, verified by the publisher of each newspaper involved, shall be filed with the court on or before the date of hearing.

(c) The person mailing the notice to freeholders shall file an affidavit on or before the date of hearing showing the following:

(1) The names of the persons to whom notice was sent.

(2) The address to which the notice was sent.

(3) The date on which the notice was mailed.

As added by P.L.1-1995, SEC.26.

IC 14-33-19-7

Court's duties at hearing

Sec. 7. At the hearing the court shall do the following:

(1) Determine the areas into which the district will be divided.

(2) Determine the date of the annual meeting of the district.

(3) Extend the terms of the levee committee members or board of directors to the annual meeting date set by the court.

As added by P.L.1-1995, SEC.26.

IC 14-33-19-8

Annual revenue for maintenance and operation

Sec. 8. Notwithstanding other provisions of this article, a levee district or levee association that constructed a levee before March 10, 1967, shall raise the annual revenue for maintenance and operation by either of the following:

(1) A combination of the following:

(A) A special benefits tax.

(B) A percentage assessment of the original assessments made and confirmed by the court in the original proceedings establishing and constructing the levee.

(2) A percentage assessment of the original assessments.

As added by P.L.1-1995, SEC.26.

IC 14-33-20
Chapter 20. Water Supply Systems

IC 14-33-20-1
Applicability of chapter

Sec. 1. (a) This chapter applies only to furnishing water supply for domestic, industrial, and public use.

(b) This chapter does not apply to the accomplishment of any other purpose:

(1) for which a district has been established; or

(2) that is added to the purposes of the district after establishment.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-2
"Commission" defined

Sec. 2. As used in this chapter, "commission" refers to the Indiana utility regulatory commission.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-3
"Water facilities" and "water supply" defined

Sec. 3. As used in this chapter, "water facilities" and "water supply" include the following:

(1) Source of supply.

(2) Treatment facilities.

(3) Purifying and storage facilities.

(4) Distribution systems.

(5) Appurtenant equipment.

(6) Materials and supplies.

(7) Land, easements, and rights-of-way.

(8) Buildings.

(9) All other facilities for the administration, operation, and maintenance of the items described in subdivisions (1) through (8).

As added by P.L.1-1995, SEC.26.

IC 14-33-20-4
District electing to furnish water supply for domestic, industrial, and public use

Sec. 4. (a) A district established for the purpose of furnishing water supply for domestic, industrial, and public use may elect to furnish water supply under this chapter if:

(1) the district plan; or

(2) a part of or an amendment to the district plan;

so states.

(b) A district that adds the purpose of furnishing water supply for domestic, industrial, and public use may elect in the manner provided by subsection (a) to furnish water supply under this chapter.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-5
District as legal entity

Sec. 5. (a) A district electing to come under this chapter is considered, with regard to activities relating to furnishing water supply for domestic, industrial, and public use, to be a legal entity for the following purposes:

(1) Contracting with individuals, associations, corporations, municipal corporations, conservancy districts, the state, and the United States for the acquisition of property.

(2) The borrowing of money, including security for indebtedness so incurred.

(3) The purchase and sale of water.

(b) A district:

(1) may sue and be sued for the purposes described in subsection (a); and

(2) has the rights and powers granted by this article to the extent consistent with this chapter.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-6
Territorial authority

Sec. 6. An order of the court:

(1) establishing a district; or

(2) adding the purpose of furnishing water supply for domestic, industrial, and public use;

grants to the district territorial authority to provide the service of water supply within the district. Territorial authority includes the power to acquire, maintain, and operate a source of water outside the district.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-7
Supplying water outside territorial authority

Sec. 7. If a district proposes in:

(1) the district plan;

(2) a part of or an amendment to the district plan; or

(3) implementation of the district plan;

to provide water supply to users outside of the territory to which the district has been granted territorial authority, the district must petition the commission for territorial authority to serve the additional users.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-8
Commission setting hearing; notice

Sec. 8. Upon the filing of a petition with the commission under section 7 of this chapter, the commission shall do the following:

(1) Set the petition for public hearing.

(2) Give notice of the time and place of the hearing by publication one (1) time in at least one (1) newspaper printed and published in each county in which the district proposes to carry on operations relating to furnishing water supply. The publication must be at least ten (10) days before the date set for hearing. The district shall pay the cost of the publication at the time of filing the petition.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-9
Opposing petition

Sec. 9. Any interested person may:

(1) appear at the hearing under section 8 of this chapter either in person or by attorney; and

(2) oppose the petition.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-10
Commission's findings after hearing

Sec. 10. (a) The commission shall, after hearing the evidence introduced at the hearing under section 8 of this chapter, enter a finding that the convenience and necessity of the public proposed to be served in the area in which the additional users are located:

(1) will; or

(2) will not;

be served by the district.

(b) If the finding is in the affirmative, the commission shall enter an order granting territorial authority for the area. The district shall attach a copy of the order to:

(1) the district plan; or

(2) a part of, an amendment to, or the implementation of the district plan;

before the district plan is submitted for approval.

(c) If the finding is in the negative, the commission shall enter an order denying the approval to serve the additional users in the area.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-11
Municipality or public utility supplying water

Sec. 11. If:

(1) a district is established for the purpose of furnishing water supply for domestic, industrial, and public use or that purpose is added to a district; and

(2) there is within the boundaries of the district a municipality or public utility providing water supply to part of the territory within the boundaries;

the order of the court establishing the district or adding that purpose is territorial authority only for that territory within the boundaries not served by the municipality or public utility.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-12
Supplying water to additional users outside territorial boundaries; jurisdiction; expenses

Sec. 12. (a) IC 14-33-4-2 does not apply to the addition of territory to a district in any county for the purpose of supplying water to additional users outside the territorial boundaries of the district. The commission has exclusive jurisdiction over the granting to a district of territorial authority to serve additional water users.

(b) For the purposes of:

(1) granting territorial authority to a district to serve additional water users under subsection (a); and

(2) exercising the commission's jurisdiction for changes in the rates and charges of a district under section 14 of this chapter;

the commission shall recoup its expenses under IC 8-1-2-70. For purposes of this subsection, a district that has the purpose of water supply and that operates under this chapter is considered a municipal utility.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-13
Reasonable and just charges for services; rates

Sec. 13. (a) A district coming under this chapter shall furnish reasonably adequate services and facilities. The charge made by the district for a service provided or to be provided, either directly or indirectly, must be nondiscriminatory, reasonable, and just. Every discriminatory, unjust, or unreasonable charge for service is unlawful. A reasonable and just charge for services is a charge that produces sufficient revenue to pay all the legal and other necessary expenses incident to the operation of the water facilities:

(1) including maintenance costs, operating charges, upkeep, repairs, and interest charges on bonds, notes, or other evidences of indebtedness;

(2) providing a sinking fund for the liquidation of bonds, notes, or other evidence of indebtedness;

(3) providing adequate money to be used as working capital, as well as money for making extensions and replacements; and

(4) paying taxes, if any, that are assessed against the water facilities.

(b) The rates may include a reasonable profit on the investment, so that the charges produce an income sufficient to maintain the water facilities in a sound physical and financial condition to provide adequate and efficient service. A rate too low to meet these requirements is unlawful.

(c) A district and the district's board, officers, and employees:

(1) shall enforce the collection of the rates and charges; and

(2) if necessary, may discontinue water service to a water user for the nonpayment of rates and charges.

(d) A district shall make a charge against the property in the district for fire protection furnished by the water facilities, separate from rates and charges for water supplied to users. The receipts from fire protection charges are considered revenues of the water facilities.
As added by P.L.1-1995, SEC.26.

IC 14-33-20-14
Schedule of rates and charges; regulation

Sec. 14. A district coming under this chapter shall file the initial schedule of rates and charges to patrons of the district with the commission. If changes in rates and charges are necessary, the district is subject to the jurisdiction of the commission in the same manner as provided by statute for the regulation of rates and charges of municipal water utilities.
As added by P.L.1-1995, SEC.26.

IC 14-33-20-15
"Net revenues" defined

Sec. 15. (a) As used in this section, "net revenues" means gross revenues less the reasonable cost of operation and maintenance.

(b) A district coming under this chapter may pay the costs, including incidental expenses, of constructing or otherwise acquiring all the works of improvement necessary to furnish water supply for domestic, industrial, and public use by issuing bonds, notes, or other evidences of indebtedness to be payable from revenues in the manner provided by this article. The bonds, notes, or other evidences of indebtedness of the district for water purposes are payable solely from the net revenues of the water facilities. All bonds, notes, contracts, warrants, debentures, and pledges entered into by a district for the purposes of:

(1) this chapter; or
(2) IC 13-3-4 (before its repeal);

do not constitute an obligation payable from the collection of a special benefits tax.
As added by P.L.1-1995, SEC.26.

IC 14-33-20-16
Resolution authorizing bonds, notes, or other evidences of indebtedness

Sec. 16. All bonds, notes, or other evidences of indebtedness payable from revenues may be authorized only by resolution of the board. The resolution, as well as the bonds, notes, or other evidences of indebtedness issued under the resolution, is a contract with all holders of the bonds, notes, or other evidences of indebtedness.
As added by P.L.1-1995, SEC.26.

IC 14-33-20-17
Requirements for bonds, notes, or other evidences of indebtedness

Sec. 17. (a) All bonds, notes, or other evidences of indebtedness

that are authorized by the resolution must be in one (1) or more series and may:

(1) bear the date;

(2) mature at a time not exceeding fifty (50) years from the date of issuance;

(3) bear interest at any rate;

(4) be in a denomination;

(5) be in a form, either coupon or registered;

(6) carry registration and conversion privileges;

(7) be executed in the manner;

(8) be payable in the medium of payment, at the place;

(9) be subject to terms of redemption, with or without a premium;

(10) be declared or become due before the maturity date;

(11) provide for the replacement of mutilated, destroyed, stolen, or lost bonds, notes, or other evidences of indebtedness;

(12) be authenticated in a manner and upon compliance with conditions; and

(13) contain other terms and covenants;

that are provided by resolution of the board.

(b) Notwithstanding the form or tenor, and in the absence of an express recital on the face that the bond, note, or other evidence of indebtedness is nonnegotiable, the bonds, notes, or other evidences of indebtedness are negotiable instruments for all purposes.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-18

Execution of bonds, notes, or other evidences of indebtedness; valid and binding obligations

Sec. 18. (a) The bonds, notes, or other evidences of indebtedness shall be executed in the name of the district by the chairman of the board and attested by the secretary. Interest coupons may be executed by placing the facsimile signature of the chairman on the coupons.

(b) The bonds, notes, or other evidences of indebtedness are valid and binding obligations of the district for all purposes provided by this chapter and in the resolution, even if before delivery any of the persons whose signatures appear on the bonds, notes, or other evidences of indebtedness have ceased to be officers of the district.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-19

Validity of authorization and issuance of bonds, notes, or other evidences of indebtedness

Sec. 19. The validity of the authorization and issuance of the bonds, notes, or other evidences of indebtedness is not dependent on or affected in any way by the following:

(1) Proceedings taken for the improvement for which the bonds, notes, or other evidences of indebtedness are to be issued.

(2) Contracts made in connection with the improvement.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-20
Recital of authority of bond, note, or other evidence of indebtedness

Sec. 20. A resolution authorizing bonds, notes, or other evidences of indebtedness payable from revenues must provide that a bond, note, or other evidence of indebtedness payable from revenues contain a recital that the bond, note, or other evidence of indebtedness is issued under this article or under IC 13-3-3 (before its repeal). A bond, note, or other evidence of indebtedness containing the recital under authority of such a resolution is conclusively considered:

(1) to be valid; and

(2) to have been issued in conformity with this article or IC 13-3 (before its repeal).

As added by P.L.1-1995, SEC.26.

IC 14-33-20-21
Sale of bonds, notes, or other evidences of indebtedness

Sec. 21. The bonds, notes, or other evidences of indebtedness payable from revenues:

(1) shall, except as provided in subdivision (4), be sold at public sale as provided by general statutes concerning the sale of bonds;

(2) may be sold at different times or an entire issue or series may be sold at one (1) time;

(3) may be sold:

(A) in part; or

(B) in part in installments at different times or at one (1) time; and

(4) may be sold or issued to the United States or the state without a public offering.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-22
Bonds, notes, or other evidences of indebtedness equally and ratably secured by lien

Sec. 22. All bonds, notes, or other evidences of indebtedness of the same issue shall be equally and ratably secured, without priority because of:

(1) number or date of issue;

(2) sale;

(3) execution; or

(4) delivery;

by a lien upon the revenues in accordance with this chapter and the resolution authorizing issuance.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-23
Constitutionally restricted bonds or debts not authorized

Sec. 23. This chapter does not authorize the board to do anything that would result in the creation of an instrument that constitutes a bond or debt within the meaning of the constitutional restriction relating to:

(1) the creation or incurring of a debt or indebtedness; or

(2) the issuance of an instrument constituting a bond or debt.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-24
Restrictions on bonds, notes, or other evidences of indebtedness

Sec. 24. (a) The bonds, notes, or other evidences of indebtedness, including interest, are not any of the following:

(1) A debt of the district or the board.

(2) A charge, lien, or encumbrance, legal or equitable, upon:

(A) property of the district; or

(B) income, receipts, or revenues of the district other than the revenues of the water facilities that have been pledged to payment.

(b) Every bond, note, or other evidence of indebtedness must recite in substance the following:

(1) That the bond, note, or other evidence of indebtedness, including interest, is payable solely from the revenues pledged to payment.

(2) That the board is not under an obligation to pay the bond, note, or other evidence of indebtedness except from those revenues.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-25
Bonds, notes, or other evidences of indebtedness issued for refunding other indebtedness

Sec. 25. Bonds, notes, or other evidences of indebtedness may be issued for refunding outstanding bonds, notes, or other evidences of indebtedness of the district in the discretion of the board. However, refunding may not contradict the terms of a resolution that the board has passed authorizing the issuance of bonds, notes, or other evidence of indebtedness sought to be refunded.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-26
District borrowing money

Sec. 26. (a) A district coming under this chapter may borrow money for a term not to exceed two (2) years, which may be renewed for a term of two (2) years, from a bank organized under state or federal statutes or from a state or federal agency in anticipation of the receipt of money from any source, including the following:

(1) Grants and loans from state or federal agencies.

(2) Money from the sale of bonds, notes, or other evidences of indebtedness proposed to be issued under this chapter.

(b) The district may pledge the money to be received to the repayment of the principal and interest of the borrowing.

(c) The interim financing may also be repaid from the sale of bonds, notes, or other evidences of indebtedness without designating the bonds, notes, or other evidences of indebtedness as refunding obligations. The proceeds of interim financing may be used in whole or part for the following:

(1) The acquisition of real, personal, or mixed property, or options on real, personal, or mixed property.

(2) Services reasonably necessary to provide water supply for domestic, industrial, and public use.

(d) Interim financing may be negotiated and consummated directly between the district and the state or federal bank or state or federal agency without public offering. The district may make covenants to the lender and the lender has the rights and remedies that are authorized by this article.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-27

Tax exemptions

Sec. 27. The:

(1) bonds, notes, or other evidences of indebtedness;

(2) proceeds from and the interest on the bonds, notes, or other evidences of indebtedness;

(3) water property and facilities of the district; and

(4) revenues received from the furnishing of water and providing fire protection;

are exempt from taxation by the state.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-28

Security of bonds, notes, or other evidences of indebtedness

Sec. 28. (a) To adequately secure the payment of the bonds, notes, or other evidences of indebtedness, including interest, payable from revenues, the board and the board's officers, agents, and employees shall do the following:

(1) Pay punctually the principal of every bond, note, or other evidence of indebtedness, including interest:

(A) on the date;

(B) at the place;

(C) in the manner; and

(D) out of the money mentioned in the bonds, notes, other evidences of indebtedness, and coupons;

in accordance with the resolution authorizing issuance.

(2) Preserve and protect the security of the bonds, notes, or other evidence of indebtedness and the rights of the holders, and warrant and defend those rights against all claims and demands

of all persons.

(3) Hold in trust the revenues pledged to the payment of the bonds, notes, or other evidence of indebtedness for the benefit of the holders and apply those revenues:

(A) only as provided by the resolution authorizing issuance; or

(B) if the resolution is modified in the manner provided in:

(i) the bonds, notes, or other evidence of indebtedness; or

(ii) this chapter;

only as provided in the resolution as modified.

(4) Keep proper books of record and accounts of the water facilities, separate from all other records and accounts:

(A) in which complete and correct entries shall be made of all transactions relating to the water facilities and any part of the water facilities for which the revenues are pledged; and

(B) that, together with all other books and papers of the board, are at all times subject to the inspection of the holder of the bonds, notes, or other evidences of indebtedness then outstanding or a representative of the holder authorized in writing.

(b) This section does not require the board to expend money other than revenues received or receivable from the water facilities.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-29

Provisions compromising parts of bonds, notes, or evidences of indebtedness

Sec. 29. (a) The board may insert, in a resolution authorizing the issuance of bonds, notes, or other evidences of indebtedness payable from revenues, provisions that then comprise a part of the contract with the holders of the bonds, notes, or other evidences of indebtedness concerning the following:

(1) Limitations on the purpose to which the proceeds of sale of an issue of bonds, notes, or other evidences of indebtedness payable from revenues issued to finance the improving of the water facilities may be applied.

(2) Limitations on the issuance of additional bonds, notes, or other obligations to finance the improving of the water facilities and on the lien of the water facilities.

(3) Limitations on the right of the board to restrict and regulate the use of the water facilities.

(4) The amount and kind of insurance to be maintained on the water facilities and the use and disposition of insurance money.

(5) Pledging all or a part of the revenues of the water facilities to which the board's right exists.

(6) Covenanting against pledging all or a part of revenues of the water facilities to which the board's right exists.

(7) Events of default and terms and conditions upon which any of the bonds, notes, or other evidences of indebtedness become

or may be declared due before maturity, including the terms and conditions upon which the declaration and the consequences of the declaration may be waived.

(8) The rights, liabilities, powers, and duties arising if the board breaches any covenants, conditions, or obligations.

(9) A procedure by which the terms of:

(A) a resolution authorizing bonds, notes, or other evidences of indebtedness payable from revenues; or

(B) any other contract with the holders;

may be amended or abrogated, including the amount of bonds, notes, or other evidences of indebtedness to which the holders must consent and the manner in which the consent may be given.

(10) The execution of all instruments necessary or convenient in the following:

(A) The exercise of the powers granted by this chapter.

(B) The performance of the duties of the board and the board's officers, agents, and employees.

(11) Refraining from pledging or in any manner claiming or taking the benefit or advantage of a stay or extension statute that affects the duties or covenants of the board in relation to the following:

(A) The bonds, notes, or other evidences of indebtedness.

(B) The performance of or the lien of the bonds, notes, or other evidences of indebtedness.

(12) The:

(A) purchase out of any money available for the purchase, including the proceeds of bonds, notes, or other evidences of indebtedness payable from revenues, of outstanding bonds, notes, or other evidences of indebtedness; and

(B) price at which and the manner in which the purchases may be made.

(13) Other acts that:

(A) are desirable to secure the bonds, notes, or other evidences of indebtedness; or

(B) may tend to make the bonds, notes, or other evidences of indebtedness more marketable.

(b) This section does not authorize the board to:

(1) make any covenants; or

(2) perform any act;

requiring the expenditure of money other than revenues received or receivable from the water facilities.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-30

Application for appointment of receiver of water facilities

Sec. 30. If:

(1) the:

(A) board defaults in the payment of the principal or interest

on any of the bonds, notes, or other evidences of indebtedness payable from revenues after the bonds, notes, or other evidences of indebtedness have become due, whether at maturity or upon call for redemption; and

(B) default continues for a period of thirty (30) days; or

(2) the board or the board's officers, agents, or employees:

(A) fail or refuse to comply with this chapter; or

(B) default in an agreement made with the holders of the bonds, notes, or other evidences of indebtedness;

any holder or a trustee of a holder may apply to the circuit court with jurisdiction in the county in which the district is primarily situated for the appointment of a receiver of the water facilities, whether or not the holder or trustee is seeking or has sought to enforce any other right or remedy in connection with the bonds, notes, or other evidences of indebtedness.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-31

Appointment of receiver of water facilities

Sec. 31. Upon an application the circuit court:

(1) may appoint; and

(2) shall appoint, if the application is made by the holders or a trustee of the holders of twenty-five percent (25%) in principal amount of the bonds, notes, or other evidences of indebtedness then outstanding;

a receiver of the water facilities.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-32

Receiver taking possession of water facilities

Sec. 32. A receiver appointed under this chapter:

(1) shall directly or by the receiver's agents and attorneys enter upon and take possession of the water facilities for which the revenues are pledged; and

(2) may exclude:

(A) the board;

(B) the board's officers, agents, and employees; and

(C) all persons claiming under the board or the board's officers, agents, or employees.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-33

Duties of receiver

Sec. 33. A receiver appointed under this chapter shall do the following:

(1) Have, hold, use, operate, manage, and control the facilities.

(2) In the name of the board or otherwise, exercise all rights and powers of the board with respect to the water facilities as the board might do.

(3) Maintain, restore, and insure the water facilities and periodically make all proper repairs to the facilities.
(4) Subject to the jurisdiction of the commission, establish, levy, maintain, and collect fees, tolls, rentals, and other charges in connection with the water facilities as are proper and reasonable.
(5) Collect and receive all revenues, deposit the revenues in a separate account, and apply the revenues collected and received in the manner that the court directs.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-34
Surrender of possession of water facilities by receiver

Sec. 34. (a) Whenever:
(1) all that is due:
(A) upon the bonds, notes, or other evidences of indebtedness payable from revenues, including interest; and
(B) upon other notes, bonds, or other obligations, including interest, having a charge, lien, or encumbrance on the revenues of the water facilities;
under the terms of covenants or agreements with the holders have been paid or deposited as provided; and
(2) all defaults have been cured;
the court may, after notice and hearing that the court considers reasonable and proper, direct the receiver to surrender possession of the facilities to the board.

(b) The same right of the holders of the bonds, notes, or other evidences of indebtedness to secure the appointment of a receiver exists upon a subsequent default as provided in this chapter.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-35
Court supervision of receiver

Sec. 35. (a) A receiver appointed under this chapter:
(1) shall, in the performance of the powers conferred upon the receiver, act under the supervision of the court making the appointment;
(2) is at all times subject to the orders of the court; and
(3) may be removed by the court.

(b) The court may enter other orders that the court considers appropriate for the exercise by the receiver of functions specifically set forth in this chapter.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-36
Protection of holders or trustees

Sec. 36. Subject to contractual limitations binding upon the holders or trustees for the holders of an issue of bonds, notes, or other evidences of indebtedness payable from revenues, including

restrictions on the exercise of a remedy to a specified proportion of holders, a holder or trustee of bonds, notes, or other evidences of indebtedness may, for the equal benefit and protection of all holders similarly situated, do the following:

(1) By mandamus or other action:

(A) enforce the rights of the holder or trustee against the board and the board's officers, agents, and employees; and

(B) require the board or officers, agents, or employees to perform:

(i) duties and obligations under this chapter; and

(ii) contracts with the holders.

(2) By action require the board to account as if the board was the trustee of an express trust.

(3) By action enjoin any acts or things that:

(A) are unlawful; or

(B) in violation of the rights of the holders.

(4) Bring suit upon the bonds, notes, or other evidences of indebtedness.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-37

Remedies

Sec. 37. (a) A remedy conferred by this chapter upon a holder or trustee for a holder of bonds, notes, or other evidences of indebtedness payable from revenues:

(1) is in addition to every other remedy; and

(2) may be exercised without exhausting and without regard to any other remedy conferred by:

(A) this chapter; or

(B) any other statute.

(b) A waiver of a default or breach of duty or contract, whether by a holder or a trustee for a holder of bonds, notes, or other evidences of indebtedness payable from revenues, does not do any of the following:

(1) Extend to or affect a subsequent default or breach of duty or contract.

(2) Impair any rights or remedies.

(c) A delay or an omission of a holder or a trustee for a holder of bonds, notes, or other evidences of indebtedness does not do any of the following:

(1) Extend to or affect a subsequent default or breach of duty or contract.

(2) Impair any rights or remedies.

(d) A delay or an omission of a holder or a trustee for a holder of bonds, notes, or other evidences of indebtedness in exercising a right or power accruing upon default:

(1) does not impair a right or power; and

(2) may not be construed to be a waiver of the default or acquiescence in the default.

(e) Every substantive right and every remedy conferred upon the holders of bonds, notes, or other evidences of indebtedness payable from revenues may be enforced and exercised periodically and as often as is expedient. If action to enforce a right or exercise a remedy:

(1) is brought and then discontinued; or

(2) is determined adversely to the holder or trustee;

the board and the holder or trustee shall be restored to their former positions as if an action had not been brought.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-38

Discharge of indebtedness

Sec. 38. (a) Notwithstanding any other provision of this chapter, a district may do the following:

(1) Borrow money from the state in accordance with other statutes.

(2) Evidence the indebtedness upon terms and conditions that are provided in the statutes or that the state requires.

(b) A district may:

(1) pay and discharge the indebtedness from the proceeds of bonds, notes, or other evidences of indebtedness issued under:

(A) this chapter; or

(B) IC 13-3-4 (before its repeal); or

(2) refund the indebtedness to the state;

in accordance with this chapter.

As added by P.L.1-1995, SEC.26.

IC 14-33-20-39

Liberal construction of chapter

Sec. 39. This chapter shall be liberally construed to facilitate the financing of water supply systems of districts.

As added by P.L.1-1995, SEC.26.

IC 14-33-21

Chapter 21. Cumulative Improvement Fund

IC 14-33-21-1

"Fund" defined

Sec. 1. As used in this chapter, "fund" refers to a cumulative improvement fund established under this chapter.

As added by P.L.1-1995, SEC.26.

IC 14-33-21-2

Purpose of fund

Sec. 2. A district may establish a cumulative improvement fund under IC 6-1.1-41 to provide money for the construction, additional construction, or repair of the works of improvement the district:

(1) is authorized to construct; and

(2) states in the district plan, or part of or amendment to the plan, is a purpose of the fund.

As added by P.L.1-1995, SEC.26. Amended by P.L.17-1995, SEC.14.

IC 14-33-21-3

Establishment of fund

Sec. 3. (a) The board of a district that determines to establish a fund shall state this determination in the district plan or in any part or amendment to the plan. Notice to this effect shall be made a part of all notices concerning approval of the district plan or a part of or amendment to the plan, including implementation of the plan. The plan must specify the:

(1) works of improvement;

(2) additions to the works of improvement; or

(3) repair of the works of improvement;

that are to be financed by the fund.

(b) When:

(1) the district plan;

(2) part of the district plan; or

(3) an amendment to the district plan;

is approved by the court having jurisdiction of the district, the fund is established.

As added by P.L.1-1995, SEC.26.

IC 14-33-21-4

Financing the fund

Sec. 4. (a) To provide money for the fund, the board may place in the fund the following:

(1) Gifts or grants from a person or state or federal agency.

(2) Receipts of revenue from the sale of services or property produced incident to the accomplishment of the purpose for which the district is organized.

(3) Any other form of miscellaneous receipt, including tap-in

fees and connection fees.

(4) Levy of a special benefits tax in accordance with sections 5 through 10 of this chapter.

(5) Collection of the exceptional benefits assessments or installments of the assessments, but only in accordance with section 11 of this chapter.

(b) The board shall state in the district plan or part of or amendment to the plan the source or combination of sources that will finance the fund.

As added by P.L.1-1995, SEC.26.

IC 14-33-21-5
Special benefits tax

Sec. 5. The board may levy a special benefits tax in compliance with IC 6-1.1-41 in an amount not to exceed three and thirty-three hundredths cents ($0.0333) on each one hundred dollars ($100) of real property in the district, except the property that is exempt under IC 14-33-7-4. The board shall file with the district plan or part of or amendment to the plan:

(1) the approval of the department of local government finance; and

(2) any action taken to reduce or rescind the tax levy.

As added by P.L.1-1995, SEC.26. Amended by P.L.17-1995, SEC.15; P.L.6-1997, SEC.161; P.L.90-2002, SEC.377.

IC 14-33-21-6
Repealed

(Repealed by P.L.17-1995, SEC.45.)

IC 14-33-21-7
Repealed

(Repealed by P.L.17-1995, SEC.45.)

IC 14-33-21-8
Repealed

(Repealed by P.L.17-1995, SEC.45.)

IC 14-33-21-9
Approval of proposal

Sec. 9. The approval of the department of local government finance:

(1) does not have to be filed with the district plan or part of or amendment to the plan at the time of the submission to the commission; and

(2) only has to be filed with the court having jurisdiction of the district.

As added by P.L.1-1995, SEC.26. Amended by P.L.17-1995, SEC.16; P.L.90-2002, SEC.378.

IC 14-33-21-10
Reduction or rescission of tax levy by amendment

Sec. 10. A tax levy under section 5 of this chapter may be reduced or rescinded by an approved amendment to the district plan.

As added by P.L.1-1995, SEC.26. Amended by P.L.17-1995, SEC.17.

IC 14-33-21-11
Exceptional benefits assessments

Sec. 11. (a) If the board determines to collect exceptional benefit assessments or installments of the assessments to provide for the fund in whole or in part, the board shall file with the district plan or part of or amendment to the plan the description of the land that the board has determined to be exceptionally benefited by the:

(1) works of improvement;
(2) addition to the works of improvement; or
(3) repair of the works of improvement.

(b) The board shall have written notice mailed first class postage prepaid to the owners of record of the land to the effect that the financing of the fund has been determined. The notice must state the time and place of the court hearing on the determination.

(c) Notwithstanding this section:

(1) the determination by the board of the land to be exceptionally benefited; and
(2) the notice on the determination;

does not bind the determination with regard to the existence and amount of exceptional benefits of appraisers appointed under IC 14-33-8.

As added by P.L.1-1995, SEC.26.

IC 14-33-21-12
Excess money

Sec. 12. If:

(1) there is a savings resulting from the cost of the works of improvement that are provided in the district plan, including the necessary engineering, legal, and administrative fees, being less than the proceeds of a bond issue or other borrowing to pay the costs;
(2) the district plan is amended to provide that the excess money may be placed in the fund for further necessary works of improvement or additions to those works constructed with those proceeds; and
(3) the use of the excess money is not restricted by the terms of the bond issue or other borrowing;

the excess money may be placed in the fund for the purposes described in subdivision (2).

As added by P.L.1-1995, SEC.26.

IC 14-33-21-13
Repealed

(Repealed by P.L.17-1995, SEC.45.)

IC 14-33-21-14
Discharge of obligation

Sec. 14. If a federal or state agency, according to statute or contractual obligation, demands immediate or prompt action by the district in construction of, adding to, or repairing works of improvement, the district:

(1) may not defend that not enough money for the work has accumulated in the fund; and

(2) shall use the accumulation of money in the fund, including the proceeds of:

(A) borrowing;

(B) the collection of tax or assessments; or

(C) both borrowing and the collection of tax or assessments;

to discharge the obligation.

As added by P.L.1-1995, SEC.26.

IC 14-33-22

Chapter 22. Rates or Charges for Sewerage System Service in Marion County

IC 14-33-22-1

Application of chapter

Sec. 1. This chapter applies only to a district located in whole or in part in a county having a consolidated city.

As added by P.L.1-1995, SEC.26.

IC 14-33-22-2

"Sewage" defined

Sec. 2. As used in this chapter, "sewage" means the water carried wastes:

(1) created in; and

(2) carried or to be carried away from;

residences, hotels, schools, hospitals, industrial establishments, and other private or public buildings.

As added by P.L.1-1995, SEC.26.

IC 14-33-22-3

"Sewerage system" defined

Sec. 3. (a) As used in this chapter, "sewerage system" means plants, works, systems, facilities, or properties used or having the capacity for use in connection with the:

(1) collection;

(2) carrying away;

(3) treating;

(4) neutralizing;

(5) stabilizing; or

(6) disposing;

of sewage, industrial waste, or other wastes and any integral part of the wastes.

(b) The term includes the following:

(1) Disposal fields, lagoons, pumping stations, drainage ditches, surface water intercepting sewers, lateral sewers, force mains, pipes, pipelines, conduits, equipments, and appurtenances.

(2) All properties, rights, easements, and franchises relating to the system considered necessary or convenient by the board.

As added by P.L.1-1995, SEC.26.

IC 14-33-22-4

"User" defined

Sec. 4. As used in this chapter, "user" means a person or governmental entity that is the owner or occupant of real property, a part of which is connected to a sewerage system operated by a district.

As added by P.L.1-1995, SEC.26.

IC 14-33-22-5
"Works" defined

Sec. 5. As used in this chapter, "works" means a sewage treatment plant, intercepting sewers, main sewers, submain sewers, local and lateral sewers, outfall sewers, force mains, pumping stations, ejector stations, and other appurtenances that are:

(1) necessary or useful and convenient for the collection, treatment, purification, and disposal in a sanitary manner of the liquid and solid waste, sewage, sludge, night soil, and industrial waste; and

(2) owned, operated, and maintained under the control of a board.

As added by P.L.1-1995, SEC.26.

IC 14-33-22-6 Version a
Request for assessment

Note: This version of section effective until 1-1-2016. See also following version of this section, effective 1-1-2016.

Sec. 6. A user, all or a part of whose real property is subject to no tax other than the special benefits tax imposed under this article, may file with the county assessor and the board a request for assessment of the user's real property under this chapter. A request for a change in assessment must be filed before November 2 of the year preceding the March 1 assessment date for which the change in assessment is requested. Every request applies only to the following:

(1) Real property specified in the request and subject to no tax other than the special benefits tax imposed under this article.

(2) The past year specified in the request for which assessment is requested under this chapter and all future years until further notice.

As added by P.L.1-1995, SEC.26.

IC 14-33-22-6 Version b
Request for assessment

Note: This version of section effective 1-1-2016. See also preceding version of this section, effective until 1-1-2016.

Sec. 6. A user, all or a part of whose real property is subject to no tax other than the special benefits tax imposed under this article, may file with the county assessor and the board a request for assessment of the user's real property under this chapter. A request for a change in assessment must be filed before November 2 of the year preceding the assessment date for which the change in assessment is requested. Every request applies only to the following:

(1) Real property specified in the request and subject to no tax other than the special benefits tax imposed under this article.

(2) The past year specified in the request for which assessment is requested under this chapter and all future years until further notice.

As added by P.L.1-1995, SEC.26. Amended by P.L.245-2015,

SEC.25.

IC 14-33-22-7
Assessment of property; calculation of tax rate

Sec. 7. For each assessment date to which a request filed under section 6 of this chapter applies, the county assessor shall assess the real property specified in the request at an amount that, when multiplied by the tax rate for the district for the taxes due and payable in the year of the assessment date, equals the just and equitable rate to the user as determined by the board as of the most recent December 1 under section 11 of this chapter.
As added by P.L.1-1995, SEC.26.

IC 14-33-22-8
Schedule of just and equitable rates; applicability

Sec. 8. (a) The board shall establish a schedule of just and equitable rates or charges for the use of and the service provided by the works to be paid by a user who:

(1) owns or occupies real property that is partially or entirely exempt from general taxation and:

(A) is connected with and uses the works by or through any part of the sewerage system; or

(B) that in any way uses or is served by the works; and

(2) files a request for determination as provided in section 6 of this chapter.

(b) The board may change the schedule periodically.
As added by P.L.1-1995, SEC.26.

IC 14-33-22-9
Hearing to establish or change schedule

Sec. 9. (a) A schedule may be established or changed only after a public hearing at which:

(1) all persons using the works or owning real property served or to be served by the works; and

(2) other interested persons;

have an opportunity to be heard concerning the proposed schedule.

(b) After adoption of a resolution fixing the schedule and before the resolution is put into effect, notice of the hearing shall be given by one (1) publication in a newspaper having general circulation in the district at least ten (10) days before the date fixed in the notice for the hearing. The hearing may be adjourned as needed.
As added by P.L.1-1995, SEC.26.

IC 14-33-22-10
Resolution establishing schedule; changes

Sec. 10. After a hearing held under section 9 of this chapter, the resolution establishing the schedule, either as originally passed or as modified and amended, shall be passed and put into effect. A copy of the schedule must be kept on file in the office of the board and must

be open to inspection to all interested parties. A change or readjustment of the schedule may be made at any time in the same manner as the schedule was originally established.
As added by P.L.1-1995, SEC.26.

IC 14-33-22-11
Fixing or changing just and equitable rate

Sec. 11. (a) The board:

(1) shall, before December 2 of the year in which a request is filed, fix the just and equitable rate for each user filing a request under section 6 of this chapter according to the schedule adopted; and

(2) may change the rate prospectively before December 2 of a future year to reflect changes in the user's use of the sewerage system.

(b) The board shall promptly notify:

(1) the county assessor; and

(2) the affected user;

of the rate as originally fixed and as changed periodically.
As added by P.L.1-1995, SEC.26.

IC 14-33-22-12
Basis of rate schedule

Sec. 12. The schedule of rates or charges for the treatment and disposal of sewage may be fixed and determined by the board on the basis of any of the following:

(1) A flat charge for each sewer connection.

(2) The amount of water used on the premises and discharged into the sewerage system.

(3) The number and size of water outlets on the premises.

(4) The amount, strength, and character of sewage discharged into the sewers.

(5) The size of sewer connections.

(6) Any combination of these factors or other factors.

As added by P.L.1-1995, SEC.26.

IC 14-33-22-13
Fraction of property exempt

Sec. 13. (a) If only a part of:

(1) a tract or lot of land; or

(2) a building;

connected to the sewerage system is exempt from general taxation, the rates and charges established under this chapter shall be reduced by a fraction.

(b) The fraction to be used under subsection (a) is established by using:

(1) the assessed valuation of the part subject to tax as the numerator; and

(2) the total assessed value as the denominator.

As added by P.L.1-1995, SEC.26.

IC 14-33-23

Chapter 23. General Provisions

IC 14-33-23-1

Entry onto land

Sec. 1. (a) The following persons may enter land in the district and other land near the district as is necessary for district purposes:

(1) The board of directors.

(2) The board of appraisers.

(3) The staffs of both boards.

(4) All other persons employed or contracted with.

(b) In exercising the right granted by subsection (a), all reasonable effort must be made to notify the freeholder or tenant before entry.

As added by P.L.1-1995, SEC.26.

IC 14-33-23-2

County officers performing duties to carry out article

Sec. 2. The county auditor, county treasurer, and other officers of the county shall take all proper steps to:

(1) collect and transmit money; and

(2) perform other duties;

necessary to carry out this article.

As added by P.L.1-1995, SEC.26.

IC 14-33-23-3

Public utility providing water service

Sec. 3. (a) This section applies to a district established for the purpose of providing water supply, including treatment and distribution for domestic, industrial, and public use.

(b) A public utility engaged in the production, transmission, or distribution of water may:

(1) initiate water service; or

(2) expand the public utility's water service area;

within the boundaries of a district described in subsection (a) if the public utility has received an order from the Indiana utility regulatory commission, after notice and hearing, that public convenience and necessity requires the additional service.

(c) For the purposes of this section, the area of a district includes the additional area in which the district may serve users under IC 14-33-20.

As added by P.L.1-1995, SEC.26.

IC 14-33-23-4

Purchase of sewage disposal works or storm drainage system by municipality

Sec. 4. (a) This section applies to:

(1) a sewer;

(2) a sewage disposal plant or installation; or

(3) a storm water drain;

that is installed by a district in and serves an area that subsequently comes within the corporate limits of a municipality that is not a part of the district.

(b) The municipality may purchase that part of the sewage disposal works or storm drainage system with approval of the court and agreement with the district. The district shall protect the district's own operations and obligations.

As added by P.L.1-1995, SEC.26.

IC 14-33-23-5

Water line or water supply installation becoming property of municipality

Sec. 5. (a) This section applies to a water line or water supply installation installed by a district serving an area that subsequently comes within the corporate limits of a municipality that:

(1) is not a part of the district; and

(2) owns and operates a waterworks serving the municipality.

(b) The water line or water supply installation may become the property of the municipality at the option of the municipality, with agreement of the district and approval of the court.

(c) The municipality must reimburse the district at a figure equaling the district's verified cost. If the municipality and the district fail to agree upon the compensation, the municipality and district shall submit the matter to the Indiana utility regulatory commission for determination. The district shall protect the district's own operations and obligations.

As added by P.L.1-1995, SEC.26.

IC 14-33-23-6

Liberal construction of article

Sec. 6. (a) This article shall be liberally construed to accomplish the purpose of creating districts by which local water management problems can best be solved.

(b) Failure of notice, duly ordered, does not void a proceeding provided for in this article that is otherwise valid.

As added by P.L.1-1995, SEC.26.

IC 14-34

ARTICLE 34. SURFACE COAL MINING AND RECLAMATION

IC 14-34-1

Chapter 1. General Provisions

IC 14-34-1-1

Application of article

Sec. 1. This article applies to the following:

(1) A person who engages in surface coal mining operations, whether or not the person has a permit.

(2) An agency, a unit, or an instrumentality of federal, state, or local government, including a publicly owned utility or publicly owned corporation of federal, state, or local government, that proposes to engage in surface coal mining operations.

As added by P.L.1-1995, SEC.27.

IC 14-34-1-2

Exemptions from article

Sec. 2. This article does not apply to any of the following activities:

(1) The extraction of coal by a landowner for the landowner's own noncommercial use from land owned or leased by the landowner.

(2) The extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under rules established by the commission.

As added by P.L.1-1995, SEC.27.

IC 14-34-1-3

Purpose of article

Sec. 3. It is the purpose of this article to do the following:

(1) Implement and enforce the federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 through 1328).

(2) Establish a statewide program to protect society and the environment from the adverse effects of surface coal mining operations.

(3) Assure that the rights of surface landowners and other persons with a legal interest in the land or appurtenances to the land are fully protected from surface coal mining operations.

(4) Assure that surface mining operations are not conducted where reclamation as required by this article is not feasible.

(5) Assure that surface coal mining operations are conducted so as to protect the environment.

(6) Assure that adequate procedures are undertaken to reclaim surface areas as contemporaneously as possible with the surface coal mining operations.

(7) Assure that the coal supply essential to the nation's energy requirements and economic and social well-being is provided and strike a balance between protection of the environment and agricultural productivity and the nation's need for coal as an essential source of energy.

(8) Promote the reclamation of mined areas left without adequate reclamation before August 3, 1977, and that continue, in their unreclaimed condition, to substantially degrade the quality of the environment, prevent or damage the beneficial use of land or water resources, or endanger the health or safety of the public.

(9) Assure that appropriate procedures are provided for the public participation in the development, revision, and enforcement of regulations, standards, reclamation plans, or programs established by the state.

(10) Wherever necessary, exercise the full reach of state constitutional powers to ensure the protection of the public interest through effective control of surface coal mining operations.

As added by P.L.1-1995, SEC.27.

IC 14-34-1-4

Requirements less stringent than federal requirements

Sec. 4. (a) It is the purpose of this article to establish requirements that are not more stringent than the requirements required to meet the Federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 through 1328).

(b) The director and the commission may not adopt a rule under this article that is more stringent than corresponding provisions under the Federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 through 1328).

As added by P.L.1-1995, SEC.27.

IC 14-34-1-5

Limitations on administrative law judge

Sec. 5. Notwithstanding IC 4-21.5-3-25(d), under this article an administrative law judge may not impose conditions upon the participation or testimony of a party or limit discovery, cross-examination, or argument that would cause implementation of this article to be inconsistent with or not in accordance with the federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 through 1328).

As added by P.L.1-1995, SEC.27.

IC 14-34-2
Chapter 2. Regulatory Authority

IC 14-34-2-1
Adoption of rules and performance of duties

Sec. 1. The commission shall do the following:
(1) Adopt rules under IC 4-22-2 that do the following:
(A) Effectuate the purposes of this article.
(B) Take into account the following:
(i) The terrain, climate, biologic, chemical, and other physical conditions in those areas of Indiana where surface coal mining operations may occur.
(ii) Land use considerations of the state and the state's political subdivisions.
(2) Perform all other duties required under this article.
As added by P.L.1-1995, SEC.27.

IC 14-34-2-2
Administrative law judges; hearing officer

Sec. 2. (a) The commission shall appoint the following:
(1) An administrative law judge to conduct proceedings under IC 4-21.5. An administrative law judge is subject to IC 14-10-2-2.
(2) A hearing officer to conduct proceedings under IC 4-22-2.
(b) An administrative law judge is the ultimate authority for the department for any administrative review proceeding under this article, except for the following:
(1) Proceedings concerning the approval or disapproval of a permit application or permit renewal under IC 14-34-4-13.
(2) Proceedings for suspension or revocation of a permit under IC 14-34-15-7.
(3) Proceedings consolidated with the office of environmental adjudication under IC 14-10-2-2.5.
(c) An order made by an administrative law judge granting or denying temporary relief from a decision of the director is a final order of the department.
(d) Judicial review of a final order made by an administrative law judge under subsection (b) or (c) or under IC 13-4.1-2-1(c) or IC 13-4.1-2-1(d) (before their repeal) may be taken under IC 4-21.5-5.
As added by P.L.1-1995, SEC.27. Amended by P.L.84-2008, SEC.5.

IC 14-34-2-3
Duties of director

Sec. 3. The director shall do the following:
(1) Supervise the administration and enforcement of the following:
(A) This article.

(B) The rules adopted under this article.

(2) Conduct the necessary investigations and inspections for the proper administration of this article.

(3) Order a person who does not hold a valid permit to conduct operations governed by this article to cease those operations and reclaim the area affected to the standards required by this article.

(4) Order compliance with the following:

(A) The terms of a permit issued under this article.

(B) This article.

(5) Have access to all areas under application for a permit or under a permit issued under this article and without liability to the operator or the property owner.

(6) Submit to a federal or state agency each report required to be submitted to that agency by law, rule, or regulation and include the information in the report that the agency requires.

(7) Develop a policy and procedures manual to standardize the implementation of this article. The manual shall be distributed to all individuals who implement or enforce this article.

(8) Do all things necessary to implement this article.

As added by P.L.1-1995, SEC.27.

IC 14-34-2-4

Powers of director

Sec. 4. (a) The director may do the following:

(1) Apply for, accept, and use money from any legal source to aid in carrying out the purposes of this article.

(2) Conduct research related to coal mining activities.

(3) Collect and distribute information relating to mining activities.

(4) Engage in cooperative projects with an agency of the United States or of a state to carry out the purposes of this article.

(5) Request the attorney general to maintain an action in the name of the state in the appropriate court to restrain interference with the exercise of the right to enter or conduct work on any premises as provided by this article.

(6) With the approval of the governor, acquire and transfer land or transfer jurisdiction of the land to a state agency that can best use the land for public purposes.

(7) Submit to the federal Office of Surface Mining a formal state program amendment, subject to subsection (b).

(b) The director may submit a formal amendment to the state program for the regulation of surface coal mining and reclamation to the federal Office of Surface Mining only after the provisions of the amendment:

(1) have been approved by the governor; or

(2) have become law.

As added by P.L.1-1995, SEC.27. Amended by P.L.179-1995, SEC.3.

IC 14-34-2-5

Delegation of powers and duties

Sec. 5. The director may delegate any powers and duties assigned to the director in this article to other employees of the department.

As added by P.L.1-1995, SEC.27.

IC 14-34-2-6

Financial interest

Sec. 6. (a) An employee of the department who has a duty under this article may not have a direct or an indirect financial interest in a surface coal mining operation.

(b) In addition to the filings required under IC 35-44.1, each member of the commission shall file annually with the director a statement of employment and financial interest on a form prescribed by the department.

(c) A member of the commission may not participate in a proceeding that may affect the member's direct or indirect financial interests.

(d) A person who knowingly violates this section commits a Class A misdemeanor.

As added by P.L.1-1995, SEC.27. Amended by P.L.126-2012, SEC.35.

IC 14-34-2-7

Petition for adoption, amendment, or repeal of a rule

Sec. 7. (a) After the commission has adopted rules as required by section 1 of this chapter, any person may petition the commission to initiate a proceeding for the adoption, amendment, or repeal of a rule adopted to enforce this article.

(b) The petition must set forth facts that the petitioner claims necessitate the adoption, amendment, or repeal of the rule described in subsection (a).

(c) The petition must specify the petitioner's proposed adoption, amendment, or repeal of a rule.

(d) Upon receipt of the petition, the commission may conduct any necessary investigations and hold a public hearing that is not subject to IC 4-21.5 to determine whether the petition should be granted. The commission may not hold a public hearing if the petition is incomplete.

(e) Within ninety (90) days of receipt of the petition, the commission shall either grant or deny the petition. If the petition is granted, the commission shall adopt, amend, or repeal the rule under IC 4-22-2. The commission shall send written notice to the petitioner setting forth the reasons for granting or denying the petition.

As added by P.L.1-1995, SEC.27.

IC 14-34-3

Chapter 3. Permit Requirements

IC 14-34-3-1

Mining without permit

Sec. 1. A person may not open, develop, or operate a new or previously mined or abandoned site for surface coal mining operations in Indiana without holding a valid surface coal mining and reclamation permit.

As added by P.L.1-1995, SEC.27.

IC 14-34-3-2

Form prescribed by director

Sec. 2. A person must make application for a surface coal mining and reclamation permit to the director on a form prescribed by the director.

As added by P.L.1-1995, SEC.27.

IC 14-34-3-3

Application requirements; contents

Sec. 3. An application for a surface coal mining and reclamation permit must include the following:

(1) The names and addresses of the following:

(A) The permit applicant.

(B) Every legal owner of record of the property (surface and mineral) to be mined.

(C) The holders of record of any leasehold interest in the property.

(D) Any purchaser of record of the property under a real estate contract.

(E) The operator if the operator is a person different from the applicant.

(F) If a person in clauses (A) through (E) is a business entity other than a single proprietor, the names and addresses of the principals, officers, and resident agent.

(2) The names and addresses of the owners of record of all surface and subsurface areas adjacent to any part of the permit area.

(3) A statement of each current or previous surface coal mining permit in the United States held by the applicant, including each pending application, the permit identification, and the state that issued that permit or holds the pending application.

(4) If the applicant is a partnership, a corporation, an association, or other business entity, the following where applicable:

(A) The names and addresses of every officer, partner, or director or person performing a function similar to a director of the applicant.

(B) The name and address of each person owning, of record, at least ten percent (10%) of any class of voting stock of the applicant.

(C) A list of all names under which the applicant, partner, or principal shareholder previously operated a surface coal mining operation within the United States within:

(i) the five (5) years preceding the date of submission of the application; or

(ii) any additional period that the director establishes.

(5) A statement of whether the applicant or a subsidiary, an affiliate, or a person controlled by or under common control with the applicant has:

(A) ever held a federal or state coal mining permit that in:

(i) the five (5) years preceding the date of submission of the application; or

(ii) any additional period that the director establishes;

was suspended or revoked or is in the process of revocation; or

(B) had a mining bond or similar security deposited in lieu of bond forfeited;

and if so, a brief explanation of the facts involved and identification of the state in which this action occurred.

(6) A copy of the applicant's advertisement to be published under IC 14-34-4-1. The advertisement must include the following:

(A) The names of the property owners involved.

(B) A description of the exact location and boundaries of the proposed site sufficient so that the proposed surface coal mining operation is readily locatable by local residents.

(C) The location where the application is available for public inspection.

(7) A description of the following:

(A) The type and method of surface coal mining operation that exists or is proposed.

(B) The engineering techniques proposed or used.

(C) The equipment used or proposed to be used.

(8) The anticipated or actual starting and termination dates of each phase of the surface coal mining operation and the number of acres of land to be affected.

(9) An accurate map or plan, to an appropriate scale, clearly showing the following:

(A) The land to be affected as of the date of the application.

(B) The area of land within the permit area upon which the applicant has the legal right to enter and commence surface coal mining operations, including the following:

(i) A statement of those documents upon which the applicant bases the applicant's legal right to enter and commence surface coal mining operations on the area affected.

(ii) Whether that right is the subject of pending court litigation.

(10) The name of the watershed and location of the surface stream or tributary into which surface and pit drainage will be discharged.

(11) A determination of the probable hydrologic consequences of surface coal mining and reclamation operations, both on and off the mine site, with respect to the following:

(A) The hydrologic regime.

(B) The quantity and quality of water in surface and ground water systems, including the dissolved and suspended solids under seasonal flow conditions.

(C) The collection of sufficient data for the mine site and surrounding areas so that an assessment can be made of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability.

However, this determination is not required until the time that hydrologic information on the general area before mining is made available from an appropriate federal or state agency. The permit may not be approved until the information is available and is incorporated into the application.

(12) When requested by the director, the climatological factors that are peculiar to the locality of the land to be affected, including the following:

(A) The average seasonal precipitation.

(B) The average direction and velocity of prevailing winds.

(C) The seasonal temperature ranges.

(13) Accurate maps to an appropriate scale clearly showing the land affected on the date of application and the same information that is set forth on topographical maps of the United States Geological Survey of a scale of 1:24,000 or 1:25,000 or larger, including all manmade features and archeological and historical sites known by the division of historic preservation and archeology. The map or plan must show the following:

(A) All boundaries of the land to be affected.

(B) The boundary lines and names of present owners of record of all surface areas abutting the permit area.

(C) The location of all buildings within one thousand (1,000) feet of the permit area.

(14) Cross section maps or plans of the land to be affected, including the actual area to be mined, prepared by or under the direction of and certified by an engineer licensed under IC 25-31 or a geologist licensed under IC 25-17.6 with assistance from experts in related fields such as land surveying and landscape architecture. The maps or plans must show pertinent elevation and location of test borings or core samplings and depict the following:

(A) The nature and depth of the various strata of overburden

as required by the commission in the commission's rules.

(B) The location and quality of subsurface water if encountered.

(C) The nature and thickness of each coal or rider seam above the coal seam to be mined.

(D) The nature of the stratum immediately beneath the coal seam to be mined.

(E) All mineral crop lines and the strike and dip of the coal to be mined within the area of land to be affected.

(F) Existing or previous surface coal mining limits.

(G) The location and extent of known workings of each underground coal mine, including mine openings to the surface.

(H) The location of aquifers as required by the commission in the commission's rules.

(I) The estimated elevation of the water table.

(J) The location of spoil, waste, or refuse areas and topsoil preservation areas.

(K) The location of all impoundments for waste or erosion control.

(L) Each settling or water treatment facility.

(M) Constructed or natural drainageways and the location of each discharge to a surface body of water on the area of land to be affected or adjacent to the land to be affected.

(N) Profiles at appropriate cross sections of the anticipated final surface configuration that will be achieved under the operator's proposed reclamation plan.

(15) A statement of the result of test borings or core samplings from the permit area, including the following:

(A) Logs of the drill holes.

(B) The thickness of the coal seam found and an analysis of the chemical properties of that coal.

(C) The sulfur content of each coal seam.

(D) Chemical analysis of potentially acid or toxic forming sections of the overburden.

(E) A chemical analysis down to and including the deeper of the following:

(i) The stratum lying immediately underneath the lowest coal seam to be mined.

(ii) An aquifer below the lowest coal seam to be mined that may be adversely impacted by mining.

The director may waive the requirement as to the specific application of this clause if the director determines in writing the requirements are unnecessary.

(16) For the land in the permit application that a reconnaissance inspection suggests may be prime farmland and to confirm the exact location of the prime farmland, a soil survey in accordance with the standards established by the United States Secretary of Agriculture.

(17) A reclamation plan that meets the requirements of section 12 of this chapter.
(18) Proof that the applicant is self-insured or has a public liability insurance policy issued by an insurance company authorized to do business in Indiana in force for the surface coal mining and reclamation operations for which the permit is sought. The policy must provide for personal injury and property damage protection in an amount adequate to compensate each person injured as a result of the surface coal mining and reclamation operation. If a permit is granted, the permittee shall maintain the policy in full force and effect for the duration of the permit or a renewal.
(19) A blasting plan that outlines the procedures the operator will use to comply with IC 14-34-12.
(20) A listing of all notices of violations, and their final resolution, of:
(A) IC 13-4.1 (before its repeal);
(B) this article; and
(C) a:
(i) federal statute or regulation; or
(ii) state statute or rule enacted or adopted in response to a federal statute or regulation;
pertaining to air or water environmental protection;
incurred by the applicant or a subsidiary, an affiliate, or a person controlled by or under common control with the applicant in connection with any surface coal mining operation during the three (3) year period before the date of application.
As added by P.L.1-1995, SEC.27. Amended by P.L.2-1997, SEC.54; P.L.17-1999, SEC.1.

IC 14-34-3-4
Confidential or public information pertaining to coal seams, test borings, core samplings, or soil samples
Sec. 4. The information required by section 3 of this chapter pertaining to coal seams, test borings, core samplings, or soil samples is available for inspection by any person with an interest that is or may be adversely affected by the surface coal mining and reclamation operation. However, the information that pertains only to the analysis of the chemical and physical properties of the coal, except information concerning a mineral or elemental content that is potentially toxic in the environment and the nature and location of archeological resources on public land and Indian land as required under the federal Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), is confidential.
As added by P.L.1-1995, SEC.27.

IC 14-34-3-5
Probable hydrologic consequences of test borings or core samplings
Sec. 5. Upon the written request of the operator and if the director

finds that the probable total annual production at all locations of a surface coal mining operator will not exceed three hundred thousand (300,000) tons, a qualified public or private laboratory designated by the director shall determine the probable hydrologic consequences and the results of test borings or core samplings required by section 3 of this chapter. The department shall assume the cost of preparation of the determination made under this section.
As added by P.L.1-1995, SEC.27.

IC 14-34-3-6
Application available for public inspection

Sec. 6. Each applicant for a surface coal mining and reclamation permit, amendment, transfer, or renewal shall file an entire copy of the application, except for the information pertaining to the coal seam, for public inspection in the main public library in the county in which the proposed mining operation is located or in an appropriate public office in that county, as approved by the director. The documents may not be recorded.
As added by P.L.1-1995, SEC.27.

IC 14-34-3-7
Filing fee

Sec. 7. An applicant must pay a filing fee of fifty dollars ($50).
As added by P.L.1-1995, SEC.27.

IC 14-34-3-8
Application on file for 30 days

Sec. 8. An application remains on file until thirty (30) days after the director's final decision on the application, at which time the applicant may remove the application.
As added by P.L.1-1995, SEC.27.

IC 14-34-3-9
Application on file and available for inspection

Sec. 9. An accurate and complete copy of an application, except as provided in section 4 of this chapter, must:

(1) remain on file at the office of the division of reclamation nearest the mining operation; and

(2) be available for public inspection and copying at reasonable charge during normal business hours.

As added by P.L.1-1995, SEC.27.

IC 14-34-3-10
Information concerning archeological and historic sites; limitation on enforcement of section and rules

Sec. 10. (a) The director may require a permit applicant to submit additional information concerning the identity, location, and nature of archeological and historic sites in or within one thousand (1,000) feet of the permit area in accordance with rules adopted by the

commission to implement this section.

(b) In the rules implementing this section, the commission shall provide that the director may require a permit applicant to identify and evaluate important archeological and historic sites through the following:

(1) Searches of the records of the following:

(A) Research institutions.

(B) The state historical preservation office.

(2) Field investigations.

(3) Other appropriate investigations according to standards incorporated in the rules.

(c) The commission's rules must be consistent with the principles set forth in IC 14-34-4-10(c).

(d) This section and the rules adopted under this section may not be enforced if and to the extent that any federal court holds that the federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201-1328) does not authorize the requirements of records searches, field investigations, or other studies in connection with application for surface coal mining operations.

As added by P.L.1-1995, SEC.27. Amended by P.L.16-2009, SEC.24.

IC 14-34-3-11

Reimbursement of costs to department

Sec. 11. (a) Whenever the department has assumed the cost of a test or determination required by section 5 of this chapter, the operator for whom the costs were assumed shall reimburse the department for the costs if any of the following conditions exist:

(1) The actual and attributed annual coal production of the operator at all locations exceeds three hundred thousand (300,000) tons during any consecutive twelve (12) month period either during:

(A) the term of the permit for which assistance was provided; or

(B) the first five (5) years after issuance of the permit;

whichever is shorter.

(2) False information was given the department in the application for the permit or in reports required by the department.

(3) A permit application was not submitted to the department within one (1) year after the date the permittee received the report for which the cost was assumed.

(4) The applicant does not begin mining within six (6) months after obtaining the permit.

(5) The:

(A) permit is sold, transferred, or assigned to another person; and

(B) transferee's total actual and attributed production exceeds the three hundred thousand (300,000) ton annual production limit during any consecutive twelve (12) month period of the

remaining term of the permit.

Under this subdivision the applicant and the applicant's successor are jointly and severally obligated to reimburse the department.

(b) The department may waive the reimbursement obligation if the department finds that the applicant at all times acted in good faith.

As added by P.L.1-1995, SEC.27.

IC 14-34-3-12

Reclamation plan

Sec. 12. (a) Each reclamation plan submitted as part of a permit application as required by section 3 of this chapter must include the following, in the degree of detail necessary to demonstrate that reclamation required by this article can be accomplished:

(1) The:

(A) identification of land subject to surface coal mining operations over the estimated life of those operations; and

(B) size, sequence, and timing of the sub areas for which it is anticipated that individual permits for mining will be sought.

(2) A statement of the condition of the land to be covered by the permit before mining, including the following:

(A) The uses existing at the time of the application.

(B) If the land has a history of previous mining, the uses that preceded mining.

(C) The capability of the land before mining to support a variety of uses giving consideration to the following:

(i) Soil and foundation characteristics.

(ii) Topography.

(iii) Vegetative cover.

(iv) If applicable, a soil survey prepared under section 3(16) of this chapter.

(D) The productivity of the land, including the following:

(i) Appropriate classification as prime farmland.

(ii) The average yield of food, fiber, forage, or wood products from the land obtained under high levels of management.

(3) The proposed use of the land following reclamation, including the following:

(A) A discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses.

(B) A discussion of the relationship of that use to existing land use policies and plans.

(C) The comments of any owner of the surface and state and local governments or agencies of state and local governments that would have to initiate, implement, approve, or authorize the proposed use of the land following reclamation.

(4) A detailed description of:

(A) how the proposed postmining land use is to be achieved;

and

(B) the necessary support activities that may be needed to achieve the proposed land use.

(5) A description of the engineering techniques and the major equipment proposed to be used in the surface coal mining and reclamation operation.

(6) Plans for the following:

(A) The control of surface water drainage and of water accumulation.

(B) Where appropriate, backfilling, soil stabilization, and compacting, grading, and appropriate revegetation.

(C) Soil reconstruction, replacement, and stabilization under the performance standards in IC 14-34-10-2(b)(10) for the food, forage, and forest land identified in IC 14-34-10-2(b)(10).

(7) An estimate of the cost of the reclamation, including a statement as to how the permittee plans to comply with each of the requirements set out in IC 14-34-10-2.

(8) The consideration given to maximize the use and conservation of the solid fuel resource recovered so that reaffecting the land in the future is minimized.

(9) A detailed estimated timetable for the accomplishment of each major step in the reclamation plan.

(10) The consideration given to making the surface coal mining and reclamation operation consistent with the following:

(A) Surface owner plans.

(B) Applicable state and local land use plans and programs.

(11) The steps to be taken to comply with the following:

(A) Applicable air and water quality laws and rules.

(B) Applicable health and safety standards.

(12) The consideration given to developing the reclamation plan in a manner consistent with local physical environmental and climatological conditions.

(13) With respect to land contiguous to the area to be covered by the permit, a description of the following:

(A) The land.

(B) Interests in the land.

(C) Options on interests in the land held by the applicant.

(D) Pending bids on interests in the land by the applicant.

This information is confidential and not a matter of public record.

(14) The results of test borings that the applicant has made to the permit area or other equivalent information and data in a form satisfactory to the director, including the location of subsurface water and an analysis of the chemical properties. The analysis must include an analysis of the acid-forming properties of the mineral and overburden. The information that pertains only to the analysis of the chemical and physical properties of the coal, except information regarding mineral or elemental

contents that are potentially toxic in the environment, is confidential.

(15) A detailed description of the measures to be taken during the surface coal mining and reclamation process to assure the protection of the following:

(A) The quality of surface and ground water systems, both onsite and offsite, from adverse effects of the mining and reclamation process.

(B) The rights of present users to that water.

(C) The quantity of surface and ground water systems, both onsite and offsite, from adverse effects of the mining and reclamation process or to provide alternative sources of water where the protection of quantity cannot be assured.

(16) Other information that the commission requires by rule.

(b) Unless otherwise provided, information required by this section that is not on public file under Indiana law is confidential.

As added by P.L.1-1995, SEC.27.

IC 14-34-3-13

Departures from standards

Sec. 13. To encourage advances in coal mining and reclamation practices or to allow postmining land use for industrial, commercial, residential, recreational, or public use, the director may, with the approval of the United States Secretary of the Interior, permit departures in individual cases from the standards established in IC 14-34-10 and IC 14-34-11. The director may permit these departures only if the following conditions exist:

(1) The experimental practices are:

(A) potentially more; or

(B) at least as;

environmentally protective during and after the coal mining operations as those required under commission rules governing this section.

(2) The coal mining operations approved for particular land use or other purposes are not larger or more numerous than necessary to determine the effectiveness and economic feasibility of the experimental practices.

(3) The experimental practices do not reduce the protection afforded public health and safety below that provided by commission rules governing this section.

As added by P.L.1-1995, SEC.27.

IC 14-34-3-14

Coordination with other federal act requirements

Sec. 14. The director shall, to avoid duplication, provide for the coordination of review and issuance of permits for surface coal mining and reclamation operations with applicable requirements of the following:

(1) The federal Endangered Species Act of 1973 (16 U.S.C.

1531 et seq.).

(2) The federal Fish and Wildlife Coordination Act (16 U.S.C. 661 through 666c).

(3) The federal Migratory Bird Treaty Act of 1918 (16 U.S.C. 703 through 711).

(4) The National Historic Preservation Act (16 U.S.C. 470 et seq.).

(5) The federal Bald Eagle Protection Act (16 U.S.C. 668a).

As added by P.L.1-1995, SEC.27.

IC 14-34-4
Chapter 4. Permit Approval or Denial

IC 14-34-4-1
Applicant's required notice of application

Sec. 1. At the time of submission of an application for a permit or revision or renewal of a permit under this article, the applicant shall do the following:

(1) Place the advertisement submitted as part of the application under IC 14-34-3-3(6) in a local newspaper of general circulation in the county in which the proposed surface coal mining operation is located at least one (1) time a week for four (4) consecutive weeks.

(2) Mail a copy of the advertisement to each person identified in the application under IC 14-34-3-3(2).

(3) Mail a copy to every person who has requested notice of such applications.

As added by P.L.1-1995, SEC.27.

IC 14-34-4-2
Director's required notice of application

Sec. 2. (a) The director shall give notice to the following:

(1) Various local governmental bodies, planning agencies, sewage and water treatment authorities, or water companies in the county in which the proposed surface coal mining operation will take place.

(2) All federal or state governmental agencies with authority to issue permits and licenses applicable to the proposed surface coal mining and reclamation operation that are part of the permit coordinating process developed in accordance with IC 14-34-3-14.

(3) Those agencies with an interest in the proposed operations, including the following:

(A) The United States Department of Agriculture Natural Resources Conservation Service district office.

(B) The local United States Army Corps of Engineers district engineer.

(C) The National Park Service.

(D) State and federal fish and wildlife agencies.

(E) The historic preservation officer.

(b) The notice required by subsection (a) must consist of the following:

(1) The operator's intention to mine a particularly described tract of land.

(2) The application's permit number.

(3) Where a copy of the proposed surface coal mining and reclamation plan may be inspected.

As added by P.L.1-1995, SEC.27.

IC 14-34-4-3
Comments concerning applications

Sec. 3. (a) The local bodies, agencies, authorities, or companies notified under section 2 of this chapter may, within thirty (30) days of notification, submit written comments concerning the permit applications with respect to the effect of the proposed surface coal mining operation on the environment in their area of responsibility.

(b) The director shall immediately do the following:

(1) Transmit the comments to the applicant.

(2) Make the comments available to the public at the same locations that the permit applications are available.

As added by P.L.1-1995, SEC.27.

IC 14-34-4-4
Objections; request for informal conference or public hearing

Sec. 4. (a) A person with an interest that is or may be adversely affected by a proposed surface coal mining operation or the officer or head of a federal, state, or local governmental agency or authority may:

(1) file written objections to the proposed initial or revised application for a permit for surface coal mining and reclamation operation with the director; and

(2) request an informal conference or a public hearing under section 6 of this chapter;

within thirty (30) days after the last publication of the notice required by sections 1 and 2 of this chapter.

(b) The request for an informal conference or public hearing must do the following:

(1) State specifically the objections of the person requesting the conference.

(2) If the person requesting the conference or public hearing is not the officer or head of a federal, state, or local governmental agency or authority, identify the interest of the person who is or may be affected by the proposed surface coal mining operation.

(c) Upon receipt of an objection under subsection (a), the director shall immediately do the following:

(1) Transmit the objections to the applicant.

(2) Make the objections available to the public.

As added by P.L.1-1995, SEC.27.

IC 14-34-4-5
Informal conference or public hearing; access to mining area; record of proceedings

Sec. 5. (a) If written objections are filed and an informal conference or a public hearing is requested, the director shall hold the conference or public hearing in the locality of the proposed surface coal mining operation within a reasonable time of receipt of the objections or request. The director shall advertise in a newspaper of general circulation in the county in which the proposed surface coal

mining operation is located at least two (2) weeks before the scheduled conference or public hearing the date, time, and location of the conference or public hearing.

(b) The director may arrange with the applicant, upon request by any party to the administrative proceeding, access to the proposed mining area for the purpose of gathering information relevant to the proceeding.

(c) An electronic or a stenographic record shall be made of the conference or public hearing, unless waived by all parties. The director shall maintain the record and have the record accessible to the parties until final release of the applicant's performance bond.

(d) The director may not hold the conference or public hearing if any of the following conditions exist:

(1) All parties requesting the conference or public hearing stipulate agreement before the conference or public hearing and withdraw their request.

(2) The request fails to comply with the requirements of section 4 of this chapter.

(3) The objections do not concern a matter within the scope of this article or the commission's rules.

As added by P.L.1-1995, SEC.27.

IC 14-34-4-6

Conditions requiring public hearing

Sec. 6. A public hearing shall be held on the proposed initial or revised application for a permit if any of the following conditions exist:

(1) The applicant requests a public hearing under section 4 of this chapter.

(2) A petition is filed with the director requesting a public hearing that is signed by at least twenty-five (25) individuals who are at least eighteen (18) years of age and who:

(A) reside in the county where the permitted activity would take place; or

(B) own real property within one (1) mile of the site of the proposed or existing permitted activity.

(3) The director orders a public hearing.

As added by P.L.1-1995, SEC.27.

IC 14-34-4-7

Approval of application; requirements

Sec. 7. (a) The applicant has the burden of establishing that the application complies with all the requirements of this article. The director may not approve a permit or revision application unless the application affirmatively demonstrates and the director finds the following:

(1) The permit application is accurate and complete and in compliance with all the requirements of this article.

(2) The applicant has demonstrated that reclamation as required

by this article can be accomplished under the reclamation plan contained in the permit application.

(3) The:

(A) assessment of the probable cumulative impact of all anticipated mining in the area on the hydrologic balance specified in IC 14-34-3-3 has been made by the director; and

(B) proposed mining operation is designed to prevent material damage to the hydrologic balance outside the permit area.

(4) The proposed mining area is not:

(A) included within an area designated unsuitable for surface coal mining under IC 14-34-18-4; or

(B) within an area under study for that designation in an administrative proceeding;

unless the applicant demonstrates that before January 1, 1977, the applicant has made substantial legal and financial commitments in the operation for which the applicant is applying for a permit and is in an area where an administrative proceeding has commenced under IC 14-34-18-4.

(5) If the private mineral estate is severed from the private surface estate, the applicant has submitted to the director one (1) of the following:

(A) The written consent of the surface owner to the extraction of coal by surface mining methods.

(B) A conveyance that expressly grants or reserves the right to extract the coal by surface mining methods. If the conveyance does not expressly grant the right to extract coal by surface mining methods, the surface-subsurface legal relationship shall be determined in accordance with Indiana law.

(6) A surface coal mining operation owned or controlled by the applicant or a person who owns or controls the applicant is not in violation of:

(A) this article;

(B) IC 14-36-1;

(C) the federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 through 1328);

(D) any federal statute or regulation; or

(E) any state statute or rule enacted or adopted under federal statute or regulation pertaining to air or water environmental protection;

unless the applicant submits proof that an existing violation has been appealed or corrected or is in the process of being corrected to the satisfaction of the regulatory authority that has jurisdiction over the violation.

(7) The applicant has, if applicable, satisfied the requirements for approval of a long term, intensive agricultural postmining land use.

(8) The applicant has paid all reclamation fees from previous

and existing operations as required by 30 CFR Part 870.

(9) The operation would not affect the continued existence of endangered or threatened species or result in destruction or adverse modification of their critical habitats, as determined under the federal Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(10) If any part of the operation would take place in a floodway, the operation will not:

(A) result in unreasonably detrimental effects upon the fish, wildlife, or botanical resources;

(B) adversely affect the efficiency; or

(C) unduly restrict the capacity;

of the floodway.

(b) The director shall make the findings required by subsection (a) in writing and available to the applicant. The director may base the findings on information set forth in the application or from information otherwise available. The director shall set forth in the written approval or denial the basis of the director's findings.

As added by P.L.1-1995, SEC.27.

IC 14-34-4-8

Nonissuance of permit for violations of certain federal and state statutes

Sec. 8. (a) As used in this section, "applicant" or "operator" includes the following:

(1) The officers, partners, or directors of the applicant or operator.

(2) The officers, partners, or directors of applicants or operators under IC 14-36-1.

(b) The director may not issue a permit to an applicant if the director finds after a hearing conducted in accordance with IC 4-21.5-3 that the applicant or the operator specified in the application controls or has controlled surface coal mining operations with a demonstrated pattern of willful violations of:

(1) the federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 through 1328);

(2) this article or IC 13-4.1 (before its repeal);

(3) IC 14-36-1 or IC 13-4-6 (before its repeal); or

(4) any state statute enacted in response to P.L.95-87, the federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 through 1328);

of a nature and duration and with the resulting irreparable damage to the environment that indicates an intent not to comply with this article, IC 13-4.1 (before its repeal), IC 14-36-1, or IC 13-4-6 (before its repeal).

As added by P.L.1-1995, SEC.27.

IC 14-34-4-8.5

Exemptions for unanticipated events or conditions

Sec. 8.5. The:

(1) finding required by section 7(a)(6) of this chapter; and

(2) prohibition on the issuance of a permit in section 8 of this chapter;

do not apply to a violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for remining under a permit held by the applicant.

As added by P.L.179-1995, SEC.4.

IC 14-34-4-9

Mining of prime farmland

Sec. 9. (a) This section does not apply to an existing surface coal mining operation that held a valid permit on August 3, 1977, with continuous permits since that date.

(b) In addition to finding the application in compliance with section 7 of this chapter, if the proposed mining area contains prime farmland under IC 14-34-3-3(16), the director shall, after consultation with the United States Secretary of Agriculture and under rules adopted by the commission, grant a permit to mine on prime farmland if the director finds in writing that the operator has the technological capability to restore the mined area, within a reasonable time, to equivalent or higher levels of yield as nonmined prime farmland in the surrounding area under equivalent levels of management and can meet the soil reconstruction standards in IC 14-34-10-2(b)(10).

As added by P.L.1-1995, SEC.27.

IC 14-34-4-10

Considerations regarding historic sites and structures; limitation on enforcement of section and rules

Sec. 10. (a) The director may not approve a permit application unless, in addition to the findings required by section 7 of this chapter, the director states in writing that the director has considered the effects of the proposed mining operation on a place listed on or eligible for listing on the National Register of Historic Places or the Indiana state register of historic sites and structures.

(b) If the director considers it appropriate in accordance with rules adopted by the commission under this section, the director may impose conditions on a permit for the protection of properties or sites listed on or eligible for listing on the National Register of Historic Places or the Indiana state register of historic sites and structures requiring that:

(1) mining operations not occur in the areas occupied by the properties or sites; or

(2) measures be implemented to mitigate the effects of the operation upon those properties or sites before mining.

(c) The commission shall adopt rules under IC 4-22-2 to implement this section consistent with the following general principles:

(1) The commission's rules may not prohibit the use of information from any source and shall recognize the responsibilities of the state historic preservation officer under IC 14-21-1-12 and IC 14-21-1-15.

(2) The commission's rules must provide for participation by professional and amateur archeologists, anthropologists, historians, or related experts in any:

(A) field investigations;

(B) studies; or

(C) records searches;

required by the director under this section.

(3) The commission's rules must strive to ensure that field investigations and studies are required only where a substantial likelihood exists that important and significant archeological or historic sites are present.

(4) In considering the effect of proposed surface coal mining and reclamation operations on a property or site eligible for listing on the National Register of Historic Places, the director shall consider the following:

(A) Based on information available from the division of historic preservation and archeology, the relative importance of the property or site compared to other properties or sites in Indiana listed on or eligible for listing on the National Register of Historic Places.

(B) The cost of an investigation of the permit area or site as estimated by the applicant. A decision that an investigation is not required may not be based on cost alone.

(5) This section does not authorize rules that impair the ownership of artifacts or other material found on private land.

(d) The director may do the following:

(1) Investigate the possibility of obtaining available federal or private:

(A) grants;

(B) subsidies; or

(C) aid;

to defer the cost to private individuals of measures required by the director under this section.

(2) Apply for any:

(A) grants;

(B) aid; or

(C) subsidies;

that the director determines are available.

(e) In making the finding required by this section, the director shall take into account the general principles set forth in subsection (c).

(f) This section and the rules adopted under this section may not be enforced if and to the extent that any federal court holds that the federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201-1328) does not authorize the requirements of records

searches, field investigations, or other studies in connection with application for surface coal mining operations.
As added by P.L.1-1995, SEC.27. Amended by P.L.16-2009, SEC.25.

IC 14-34-4-10.5
Good faith effort to identify problems that may result in unanticipated events or conditions

Sec. 10.5. (a) A person who submits an application for a permit or for the revision or renewal of a permit under this article shall, to the extent not otherwise addressed in the permit application, make a good faith effort to identify potential problems that may result in an unanticipated event or condition.

(b) An event or condition that arises despite substantial adherence to the applicable operation and reclamation plan may be considered unanticipated if it was not identified in the application for the governing permit.
As added by P.L.179-1995, SEC.5.

IC 14-34-4-11
Written findings

Sec. 11. (a) If an informal conference or public hearing is held under section 5 of this chapter, the director shall furnish the applicant and all parties with written findings:

(1) granting or denying the permit in whole or in part; and
(2) stating the reasons for granting or denying the permit in whole or in part;

within sixty (60) days of the conference or public hearing.

(b) If the director does not take action on the permit application within sixty (60) days after the conference or public hearing, the applicant may do the following:

(1) Consider the permit application disapproved.
(2) Request a hearing under section 13 of this chapter.

(c) The applicant may waive the time limits of this section.

(d) If an informal conference or public hearing is not held under section 5 of this chapter, the director shall notify the applicant in writing within a reasonable time established by the commission by rule and taking into account:

(1) the time needed for proper investigation of the site;
(2) the complexity of the permit application; and
(3) whether or not written objections to the application were filed;

whether the application has been approved or disapproved in whole or in part.
As added by P.L.1-1995, SEC.27.

IC 14-34-4-12
Notification of applicant of director's decision

Sec. 12. The director shall notify an applicant of the director's decision regarding the application. If the application is disapproved,

the notification must set forth specific reasons for the application's disapproval.
As added by P.L.1-1995, SEC.27.

IC 14-34-4-13
Hearing on reasons for final determination

Sec. 13. (a) Within thirty (30) days after an applicant is notified of the approval or disapproval of an application:

(1) the applicant; or

(2) any person with an interest that is or may be adversely affected;

may request a hearing on the reasons for the final determination. The request must identify the person's interest that is or may be affected by the approval or disapproval of the application.

(b) Upon receipt of a request for a hearing under subsection (a), the commission shall do the following:

(1) Hold a hearing within thirty (30) days of the receipt of the request.

(2) Notify the applicant and all interested parties of the time and place of the hearing.

(3) Conduct the hearing and proceedings in accordance with IC 4-21.5. For all hearings and proceedings commenced after July 1, 1991, the commission is limited to the record before the director.

(c) Within thirty (30) days after the hearing, the commission shall furnish:

(1) the applicant; and

(2) all persons who participated in the hearing;

a written decision and state the reasons for the decision.
As added by P.L.1-1995, SEC.27.

IC 14-34-4-14
Issuance of permit

Sec. 14. The director shall issue a permit if all of the following apply:

(1) The application is approved.

(2) The bonding requirements of IC 14-34-6 are met.

(3) The thirty (30) day period specified under section 13(a) of this chapter has expired.

As added by P.L.1-1995, SEC.27.

IC 14-34-4-15
Permit effective upon issuance

Sec. 15. Notwithstanding IC 4-21.5-3-5, a permit issued under section 14 of this chapter is effective upon issuance, unless a stay of the permit has been granted under section 17 of this chapter.
As added by P.L.1-1995, SEC.27.

IC 14-34-4-16

Notification of permit issuance

Sec. 16. (a) Within ten (10) days after a permit is issued, the director shall notify the following persons that a permit has been issued:

(1) The local government officials in the county in which the area of land to be affected is located.

(2) Each person identified in the permit application under IC 14-34-3-3(2).

(3) Each person who has requested a hearing under section 6 of this chapter.

(4) Each person who has requested such notice.

(b) The notification must include a description of the land's location.

As added by P.L.1-1995, SEC.27.

IC 14-34-4-17

Temporary relief pending final determination

Sec. 17. If a hearing is requested under section 13 of this chapter, the commission may, under the conditions that the commission prescribes, grant appropriate temporary relief pending final determination of the proceedings if the following conditions are met:

(1) All parties to the proceedings are notified and given an opportunity to be heard on a request for temporary relief.

(2) The person requesting temporary relief shows a substantial likelihood that the person will prevail on the merits of the final determination of the proceeding.

(3) Temporary relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources.

As added by P.L.1-1995, SEC.27.

IC 14-34-4-18

Conditions of permit

Sec. 18. (a) Each permit issued by the director is subject to conditions imposed by the director. The conditions must include at a minimum a requirement for the operator to pay to the federal Office of Surface Mining all fees owed under 30 CFR Part 870.

(b) The director may issue a permit subject to the condition that the permittee obtain or maintain in force other licenses or permits required for the surface coal mining and reclamation operation. However, the imposition of a condition under this subsection does not authorize or require the director to administer or enforce the requirements of any federal law or of any state law other than this article.

As added by P.L.1-1995, SEC.27. Amended by P.L.75-1998, SEC.5.

IC 14-34-5
Chapter 5. Permit Terms

IC 14-34-5-1
Validity permit

Sec. 1. (a) A permit issued under IC 14-34-4 is valid for five (5) years unless the director grants a longer period under subsection (c).

(b) The director may issue a permit with a validity period exceeding five (5) years if the following conditions are met:

(1) The applicant demonstrates that a specified longer period is reasonably needed to obtain necessary financing for equipment and the opening of the operation.

(2) The application is full and complete for the specified longer period.

(3) The application complies with:

(A) the standards established by this article; or

(B) the rules that the commission adopts.

(c) If the director determines that a specified validity period exceeding five (5) years is warranted under subsection (b)(1), the director may issue a permit for the specified longer period.

As added by P.L.1-1995, SEC.27.

IC 14-34-5-2
Transferring, assigning, or selling permit rights

Sec. 2. (a) A permittee may not transfer, assign, or sell the rights granted under a permit without the written approval of the director.

(b) A successor in interest to a permittee who:

(1) applies for a new permit within thirty (30) days of succeeding to the interest; and

(2) obtains the bond coverage of the original permittee;

may continue the surface coal mining and reclamation operations according to the approved mining and reclamation plan of the original permittee until the successor's application is granted or denied.

As added by P.L.1-1995, SEC.27.

IC 14-34-5-3
Termination of permit for nonuse; extension of time

Sec. 3. (a) A permit terminates if the permittee has not commenced the surface coal mining and reclamation operations covered by the permit within three (3) years of the date of issuance of the permit. With respect to coal to be mined for use in a synthetic fuel facility or a specific major electric generating facility, the permittee's surface mining operation commences when construction of the synthetic fuel or generating facility is initiated.

(b) The director may grant a reasonable extension of time to the requirement of subsection (a) upon a showing that an extension is necessary because of any of the following:

(1) Litigation that:
(A) precludes the commencement of operations; or
(B) threatens substantial economic loss to the permittee.
(2) Conditions:
(A) beyond the control; and
(B) without the fault or negligence;
of the permittee.

(c) If a coal lease is issued under the federal Mineral Leasing Act, as amended (30 U.S.C. 187, 193, 201, 203), extensions of time under subsection (b) may not extend beyond the period allowed for diligent development in accordance with the federal Mineral Leasing Act, as amended (30 U.S.C. 187, 193, 201, 203).
As added by P.L.1-1995, SEC.27.

IC 14-34-5-4
Renewal of permit

Sec. 4. (a) A permittee may, within one hundred twenty (120) days before expiration of the current permit, apply to the director for renewal of a permit for a period not to exceed the validity period provided for in section 1 of this chapter.

(b) After compliance with IC 14-34-4-1 through IC 14-34-4-6 and IC 14-34-4-11, the director shall issue a renewal permit for the area within the existing permit unless it is established by opponents of the permit renewal and written findings are made by the director that any of the following conditions exist:

(1) The terms and conditions of the existing permit were not satisfactorily met.
(2) The present surface coal mining and reclamation operation does not comply with IC 14-34-10.
(3) The renewal request substantially jeopardizes the operator's continuing responsibility on existing permit areas.
(4) The operator has not provided evidence that the performance bond in effect for the operation will continue in full force and effect for a renewal requested in the application as well as an additional bond the director requires under IC 14-34-6.
(5) The permittee has not provided the director with required additional revised or updated information.

(c) If an application for renewal of a valid permit includes a proposal to extend the surface coal mining and reclamation operation beyond the boundaries authorized in the existing permit, the part of the application for renewal that addresses new land areas is subject to the full standards applicable to new applications under this article.
As added by P.L.1-1995, SEC.27.

IC 14-34-5-5
Revision of permit

Sec. 5. (a) During the term of the permit, the permittee may submit an application for a revision of the permit, together with a revised reclamation plan, to the director. However, except for incidental

boundary revisions, a new permit is required for any extensions to the permit area.

(b) The director may not approve an application for a permit revision unless the director finds the following:

(1) Reclamation required by this article can be accomplished under the revised reclamation plan.

(2) The permittee has complied with:

(A) IC 13-4.1-4 (before its repeal); or

(B) IC 14-34-4.

(c) The director shall establish guidelines for a determination of the scale or extent of a revision request for which all permit application information requirements and procedures apply.

As added by P.L.1-1995, SEC.27.

IC 14-34-5-6

Repealed

(Repealed by P.L.75-1998, SEC.14.)

IC 14-34-5-7

Change in reclamation plan; approval

Sec. 7. (a) A change in mining or reclamation operations from the approved mining and reclamation plans that would adversely affect the permittee's compliance with this article is a permit revision subject to review and approval as provided in this section and sections 8 through 8.4 of this chapter.

(b) A permit revision is either:

(1) a significant revision subject to sections 8 and 8.1 of this chapter;

(2) a nonsignificant revision subject to sections 8.2 and 8.3 of this chapter; or

(3) a minor field revision subject to section 8.4 of this chapter.

(c) Permit revisions may be approved by:

(1) the director; or

(2) the director's designated representative.

(d) A permit revision may not be approved unless the permittee demonstrates and the director or the director's designated representative finds the following:

(1) That reclamation as required by this article and by the rules adopted by the commission under IC 14-34-2-1 can be accomplished.

(2) That applicable requirements of IC 14-34-4-7 that are pertinent to the permit revision are met.

(3) That the permit revision complies with all applicable requirements of this article and the rules adopted by the commission under IC 14-34-2-1.

As added by P.L.1-1995, SEC.27. Amended by P.L.75-1998, SEC.6.

IC 14-34-5-8

Revision of permit; notice and hearing requirements

Sec. 8. (a) Unless an application for revision of a permit submitted under section 5 of this chapter is based only on nonsignificant revisions or minor field revisions, the application may be approved only after the notice and hearing requirements of this article for issuance of a permit have been fulfilled.

(b) The director may impose other conditions for approval of the application.

As added by P.L.1-1995, SEC.27. Amended by P.L.75-1998, SEC.7.

IC 14-34-5-8.1

Significant revision; determination

Sec. 8.1. For purposes of sections 7 and 8 of this chapter, a proposed revision of a permit is significant if any of the following conditions exists:

(1) The changes may result in an adverse impact beyond that previously considered, affecting cultural resources that are listed on or eligible to be listed on:

(A) the National Register of Historic Places; or

(B) the register of Indiana historic sites and historic structures established under IC 14-21-1.

(2) Blasting will be used in a manner that is likely to cause adverse impacts beyond that previously considered to persons or property outside the permit area.

(3) The changes may result in an adverse impact beyond that previously considered, affecting a water supply to which IC 14-25-4 applies.

(4) The changes:

(A) require the identification, disturbance, or handling of toxic forming or acid forming materials different from those previously considered; and

(B) have the potential for causing an additional impact not previously considered.

(5) The changes may result in an adverse impact on fish, wildlife, and related environmental values beyond that previously considered.

(6) The addition of:

(A) a coal processing facility; or

(B) a permanent support facility;

is proposed, and the addition of the facility will cause an impact not previously considered, except that the addition of a temporary coal processing facility used exclusively for crushing and screening need not be considered a significant revision.

(7) The changes will cause:

(A) a new or an updated probable hydrologic consequences determination; or

(B) a cumulative hydrologic impact analysis to be required under IC 14-34-3-3.

(8) A postmining land use will be changed to any of the following:

(A) A residential land use.
(B) A commercial or industrial land use.
(C) A recreational land use.
(D) Developed water resources as defined in rules adopted by the commission under IC 14-34-2-1 that meet the size criteria of 30 CFR 77.216(a).

As added by P.L.75-1998, SEC.8. Amended by P.L.1-1999, SEC.41.

IC 14-34-5-8.2
Nonsignificant revision; determination

Sec. 8.2. For purposes of sections 7, 8, and 8.3 of this chapter, a proposed permit revision is nonsignificant if any of the following conditions exist:

(1) For surface mines, changes of the:
(A) direction of mining; or
(B) location of mining equipment;
within the permit area.

(2) The substitution of mining equipment designed for the same purpose, the use of which is not detrimental to the achievement of final reclamation or subsidence control.

(3) For underground mines, any change in the direction or location of mining within the permit area or shadow area in response to unanticipated events.

(4) A postmining land use change other than a change described in section 8.1(8) of this chapter.

(5) Any other change in the mining or reclamation plan that the director reasonably determines:
(A) will not have a significant effect:
(i) on the achievement of final reclamation plans under IC 14-34-3-12;
(ii) on subsidence control plans; and
(iii) on the surrounding area;
(B) does not involve significant delay in achieving final reclamation or significant change in the land use; or
(C) is necessitated by unanticipated and unusually adverse weather conditions, other acts of God, strikes, or other causes beyond the reasonable control of the permittee, if all steps specified by the director to maximize environmental protection are taken.

As added by P.L.75-1998, SEC.9.

IC 14-34-5-8.3
Review and approval of nonsignificant revisions

Sec. 8.3. A nonsignificant revision in a mining or reclamation plan must be:
(1) reviewed; and
(2) approved in writing;
by the director before it may be implemented.

As added by P.L.75-1998, SEC.10.

IC 14-34-5-8.4
Minor field revision; determination and approval

Sec. 8.4. (a) For purposes of sections 7 and 8 of this chapter, a proposed revision of a permit is a minor field revision if the proposed change:

(1) does not require technical review or design analysis; and

(2) is capable of being evaluated in the field by the director's designated delegate for compliance with the requirements of section 7(d) of this chapter.

(b) A minor field revision may be approved by a field inspector in an inspection report or on a form signed in the field.

(c) A minor field revision approved under this section:

(1) must be properly documented and separately filed; and

(2) may include the following:

(A) Soil stockpile location and configurations.

(B) As-built pond certifications.

(C) Minor transportation facilities changes.

(D) Any of the following for a pond:

(i) Depth.

(ii) Shape.

(iii) Orientation.

(E) An area for temporary drainage control or temporary water storage.

(F) Equipment changes.

(G) Explosive storage areas.

(H) Minor mine management or support facility locations (except for the disposal or storage of refuse).

(I) Adding United States Natural Resources Conservation Service conservation practices.

(J) Methods of erosion protection on diversions.

(K) Temporary cessation of mining.

(L) Minor diversion location changes.

As added by P.L.75-1998, SEC.11.

IC 14-34-5-8.5
Application for extension of area covered by permit

Sec. 8.5. An extension of the area covered by a permit, except for an incidental boundary revision under section 8.6 of this chapter, must be made by applying for a new permit.

As added by P.L.75-1998, SEC.12.

IC 14-34-5-8.6
Incidental boundary revision; requirements; application and approval

Sec. 8.6. (a) For the area covered by a permit to be extended under this section as an incidental boundary revision, all of the following must apply:

(1) The extension may not constitute a significant revision to the method of conduct of mining or reclamation operations

contemplated by the original permit.

(2) The extension must be required for the orderly and continuous mining and reclamation operation.

(3) The extension must adjoin the permit or shadow area acreage.

(4) The extended area must be mined and reclaimed in conformity with the approved permit plans.

(5) The area of the extension may not exceed the lesser of:

(A) ten percent (10%) of the area originally covered by the permit; or

(B) twenty (20) acres.

(b) The aggregate of all incidental boundary revisions of a permit under this section may not exceed the area originally covered by the permit by more than fifteen percent (15%). However, the director may waive the limitation under this subsection if the director finds that:

(1) all other provisions of this section are met; and

(2) the interests of the public are not adversely affected.

(c) The aggregate of all incidental boundary revisions of a permit under this section that involve coal removal may not exceed the area originally covered by the permit by more than ten percent (10%).

(d) To obtain an incidental boundary revision under this section, a permittee must submit to the director an application containing the following:

(1) A statement of the size of:

(A) the original permit area; and

(B) the additional area that would be added by the boundary revision.

(2) A statement of the uses that:

(A) were made of the land before mining; and

(B) will be made of the land after mining.

(3) A showing that the requirements of subsection (a) are met.

(4) A map showing the additional area to be added by the boundary revision.

(5) Proof of the permittee's legal right to enter and conduct surface coal mining and reclamation operations on the additional area to be added by the boundary revision.

(6) Any necessary plans that are not contained in the permit already approved.

(7) A statement indicating whether any areas unsuitable for mining are contained in the permit already approved.

(e) An application for an incidental boundary revision may not be approved unless the applicant demonstrates and the director finds the following:

(1) That reclamation of the area as required by this article can be accomplished.

(2) That the application complies with all requirements of this article.

(f) The director shall approve or deny an incidental boundary

revision of a permit under this section within thirty (30) days after the application for the proposed boundary revision is submitted to the director, unless the director finds that more than thirty (30) days are needed to adequately review the application and make the findings required by subsection (e).

(g) This section does not alter the general requirements of this article for the submission of fees and bonds.

As added by P.L.75-1998, SEC.13.

IC 14-34-5-9

Review of outstanding permits

Sec. 9. The director shall, within a time prescribed by rule, review outstanding permits. The director may require reasonable revision or modification of the permit provisions during the term of the permit if the revision or modification is based upon a written finding and is subject to the notice and hearing requirements established by IC 14-34-4.

As added by P.L.1-1995, SEC.27.

IC 14-34-5-10

Annual report

Sec. 10. A permittee must submit to the department an annual report that reflects the status of the permittee's mining and reclamation activities for each permit. The form, content, and date of filing of the report required by this section shall be prescribed by rule adopted under IC 4-22-2.

As added by P.L.1-1995, SEC.27. Amended by P.L.176-1995, SEC.5.

IC 14-34-5-11

Suspension or revocation of permit

Sec. 11. The director may suspend or revoke the permit of a permittee that does not revise a permit as required by the director before the expiration of the time fixed to effect the revision.

As added by P.L.1-1995, SEC.27.

IC 14-34-6
Chapter 6. Bonding

IC 14-34-6-1
Bond requirements

Sec. 1. (a) After a surface coal mining and reclamation permit application is approved but before the permit is issued, the applicant must file with the director, on a form prescribed and furnished by the director, a bond for performance payable to the state and conditional upon faithful performance of all the requirements of this article and of the permit. The bond must cover the area of land within the permit area upon which the operator will initiate and conduct surface coal mining and reclamation operations within the initial term of the permit.

(b) As succeeding increments of surface coal mining and reclamation operations are initiated and conducted within the permit area, the permittee must file with the director an additional bond to cover those increments in accordance with this chapter.

(c) If a permittee files a bond that becomes unacceptable under section 4 of this chapter, the permittee must file an acceptable bond as required by the director.

As added by P.L.1-1995, SEC.27.

IC 14-34-6-2
Bond amount

Sec. 2. (a) The director shall determine the amount of the bond required for each bonded area. The amount of the bond must be sufficient to assure the completion of the reclamation plan if the work had to be performed by the director if forfeiture occurs. However, the bond amount may not be less than ten thousand dollars ($10,000).

(b) In making a determination of bond amount, the director shall consider the following:

(1) The reclamation requirements of the approved permit.

(2) The probable difficulty of reclamation due to factors such as the following:

(A) Topography.

(B) Geology of the site.

(C) Hydrology.

(D) Revegetation potential.

(3) The history of mining and reclamation activities of the applicant.

As added by P.L.1-1995, SEC.27.

IC 14-34-6-3
Liability under bond

Sec. 3. Liability under the bond extends for:

(1) the duration of the surface coal mining and reclamation operation; and

(2) a period coincident with the operator's responsibility for revegetation requirements in IC 14-34-10.

As added by P.L.1-1995, SEC.27.

IC 14-34-6-4

Execution of bond

Sec. 4. The operator and a corporate surety:

(1) licensed to do business in Indiana; and

(2) recognized by the treasurer of state as holding a certificate of authority from the United States Department of the Treasury as an acceptable surety on federal bonds;

shall execute the bond.

As added by P.L.1-1995, SEC.27.

IC 14-34-6-5

Options instead of bond

Sec. 5. (a) Instead of a bond, an operator may elect to deposit:

(1) cash;

(2) negotiable bonds of the United States government or of Indiana; or

(3) negotiable certificates of deposit or letters of credit of a bank organized or transacting business in the United States;

in an amount or that has a market value equal to or greater than the amount of the bond required for the bonded area under the same terms and conditions upon which surety bonds are deposited.

(b) In the alternative, the director may accept the applicant's own bond without separate surety if the applicant demonstrates to the satisfaction of the department under IC 14-34-7 the following:

(1) The existence of a suitable agent to receive service of process.

(2) A history of financial solvency and continuous operation sufficient for authorization to self insure or bond the amount.

As added by P.L.1-1995, SEC.27.

IC 14-34-6-6

Adjustment of bond or deposit amount

Sec. 6. The director shall adjust the amount of the bond or deposit required and the terms of each acceptance of the applicant's bond periodically as:

(1) affected land acreages are increased or decreased;

(2) changes occur in the cost of future reclamation; or

(3) significant changes occur in the history of the mining and reclamation activities of the applicant.

As added by P.L.1-1995, SEC.27.

IC 14-34-6-7

Release of bond or deposit

Sec. 7. (a) After a permit is issued, the permittee may apply to the director for the release of all or part of the bond or deposit. As part of

the bond release application, the permittee must do the following:

(1) Submit copies of letters that the permittee has sent by certified mail to:

(A) adjoining property owners;

(B) local government bodies;

(C) planning agencies;

(D) sewage and water treatment authorities; or

(E) water companies;

in the county in which the surface coal mining and reclamation operation is located notifying the entities of the bond release application.

(2) Within thirty (30) days after filing the bond release application, submit a copy of an advertisement placed at least one (1) time a week for four (4) successive weeks in a newspaper of general circulation in the county in which the surface coal mining and reclamation operation is located. The advertisement must contain the following:

(A) A notification of the precise location of the land affected.

(B) The number of acres.

(C) The permit and the date of approval.

(D) The amount of the bond filed and the part sought to be released.

(E) The type and appropriate dates of reclamation work performed.

(F) A description of the results achieved relating to the operator's approved reclamation plan.

(b) The director may initiate an application for the release of a bond. If a bond release application is initiated by the director, the department shall perform the notification and certification requirements otherwise imposed on the permittee under this section and section 8 of this chapter.

As added by P.L.1-1995, SEC.27. Amended by P.L.71-2004, SEC.26.

IC 14-34-6-8

Bond release application; notification

Sec. 8. If an application for total or partial bond release is filed with the director, the director shall notify appropriate:

(1) local governmental bodies;

(2) planning agencies;

(3) sewage and water treatment authorities; or

(4) water companies;

in the county in which the surface coal mining operation is located by certified mail at least thirty (30) days before the release of all or a part of the bond.

As added by P.L.1-1995, SEC.27.

IC 14-34-6-9

Inspection and evaluation

Sec. 9. Within thirty (30) days of receipt of a bond release

application, the director shall conduct an inspection and evaluation of the reclamation work involved. The evaluation must include the following:

(1) The degree of difficulty to complete a remaining reclamation.

(2) Whether pollution of surface and subsurface water is occurring.

(3) The probability of continuance or future occurrence of the pollution.

(4) The estimated cost of abating the pollution.

As added by P.L.1-1995, SEC.27.

IC 14-34-6-10

Written objections; request for public hearing

Sec. 10. (a) This section applies to the following:

(1) A person with a legal interest that might be adversely affected by release of a bond.

(2) The responsible officer or head of a federal, state, or local governmental agency that:

(A) has jurisdiction by law or special expertise with respect to an environmental, a social, or an economic impact involved in the operation; or

(B) may develop and enforce environmental standards with respect to those operations.

(b) A person described in subsection (a) may do the following:

(1) File written objections to the proposed release from bond with the director.

(2) Request a public hearing within thirty (30) days after the last publication of the notice required by section 7 of this chapter.

As added by P.L.1-1995, SEC.27. Amended by P.L.71-2004, SEC.27.

IC 14-34-6-11

Public hearing

Sec. 11. (a) If written objections are filed and a hearing requested under section 10 of this chapter, the director shall do the following:

(1) Inform all the interested parties of the date, time, and location of the hearing.

(2) Advertise the information in a newspaper of general circulation in the county where the surface coal mining and reclamation operation proposed for bond release is located one (1) time each week for two (2) consecutive weeks.

(b) The director shall hold the public hearing in accordance with IC 14-34-4-5:

(1) in the county where the surface coal mining and reclamation operation proposed for bond release is located; or

(2) at the state capital;

at the option of the objector, within thirty (30) days of the request for the hearing.

(c) At a hearing held under this section, the director may inspect

the land affected and other surface coal mining operations carried on by the applicant in the vicinity.

(d) The director shall notify the permittee in writing of the decision and findings of the hearing within thirty (30) days of the completion of the hearing.

(e) The director's decision is subject to IC 4-21.5.

As added by P.L.1-1995, SEC.27.

IC 14-34-6-12

Informal conference

Sec. 12. Without prejudice to the rights of the objectors under section 10 of this chapter or the applicant, the director may provide for an informal conference to resolve the written objections.

As added by P.L.1-1995, SEC.27.

IC 14-34-6-13

Schedule for release of bond or deposit

Sec. 13. The director may release the bond, deposit, or letter of credit in whole or in part if the director is satisfied that the reclamation covered by the bond or deposit or part of the bond or deposit has been accomplished as required by this article according to the following schedule:

(1) When the operator completes the backfilling, regrading, and drainage control of a bonded area in accordance with the approved reclamation plan, the release of sixty percent (60%) of the bond or collateral for the applicable permit area.

(2) After revegetation is established on the regraded mined land in accordance with the approved reclamation plan. When determining the amount of bond to be released after successful revegetation has been established, the director shall retain the amount of bond for the revegetated area that would be sufficient for a third party to cover the cost of establishing revegetation and for the period specified for operator responsibility in IC 14-34-10 of establishing revegetation. The director may not release a part of the bond or deposit under this subdivision:

(A) if the land to which the release would be applicable is contributing suspended solids to stream flow or runoff outside the permit area in excess of the requirements set forth in IC 14-34-10-2(b)(13); or

(B) until soil productivity for prime farmland has returned to equivalent levels of yield as nonmined land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey performed under IC 14-34-3-3(16).

If a silt dam is to be retained as a permanent impoundment under IC 14-34-10-2(b)(11), the appropriate part of the bond may be released under this subdivision if provisions for sound future maintenance by the operator or the landowner are made with the director.

(3) When the operator has successfully completed all surface coal mining and reclamation activities, the release of the remaining part of the bond, but not before the expiration of the period specified for operator responsibility in IC 14-34-10. However, the director may not fully release a bond or deposit until all reclamation requirements of this article are fully met.

As added by P.L.1-1995, SEC.27.

IC 14-34-6-14

Notification of decision

Sec. 14. (a) If a public hearing requested under section 10 of this chapter is not held, the director shall notify the permittee in writing of the decision on the application or bond release within sixty (60) days of the filing of the application.

(b) If the director disapproves the application for release of the bond or part of the bond, the director shall notify the permittee, in writing, stating the following:

(1) The reasons for disapproval.

(2) A recommendation as to the corrective actions necessary to secure the release.

(3) Allowing an opportunity for a public hearing in accordance with IC 4-21.5-3.

As added by P.L.1-1995, SEC.27.

IC 14-34-6-14.3

Release of bond covering undisturbed area

Sec. 14.3. The director may release the bond, deposit, or letter of credit covering an area that has not been disturbed by surface coal mining activities. A release under this subsection is not subject to the public notice and hearing requirements set forth in sections 7 through 14 of this chapter.

As added by P.L.176-1995, SEC.6.

IC 14-34-6-14.6

Release of bond covering disturbed area

Sec. 14.6. (a) This section applies when an applicant or permittee submits a bond, deposit, or letter of credit covering an area that:

(1) has been disturbed by surface coal mining activities; and

(2) is covered by another bond, deposit, or letter of credit previously submitted by another permittee.

(b) Except as provided in subsection (c), in a situation described in subsection (a):

(1) the bond, deposit, or letter of credit previously submitted shall be released when the director accepts the bond, deposit, or letter of credit submitted by the applicant or permittee; and

(2) the bond, deposit, or letter of credit submitted by the applicant or permittee:

(A) is subject to the standards set forth in sections 7 through 14 of this chapter; and

(B) may not be released under section 14.3 of this chapter.

(c) If two (2) or more persons who are applicants or permittees each file a bond, deposit, or letter of credit covering the same area, the persons may enter into a written agreement that allocates responsibility among the persons for the reclamation of the area. If the agreement is approved by the director, the agreement governs the respective responsibilities of the persons for the reclamation of the area.

As added by P.L.176-1995, SEC.7.

IC 14-34-6-15

Abandoned mine reclamation fund

Sec. 15. (a) As used in this section, "fund" refers to the post-1977 abandoned mine reclamation fund established by this section.

(b) The post-1977 abandoned mine reclamation fund is established. The fund consists of bond forfeiture money collected under section 16 of this chapter and the civil penalties described in IC 14-34-16-9. The fund may be used as follows:

(1) To effect the restoration of land not otherwise eligible for federal funding on which there has been surface mining activity after August 3, 1977.

(2) To replace domestic water supplies disrupted or affected by a surface coal mining and reclamation operation, including the disposal of coal combustion waste (as defined in IC 13-19-3-3), where the surface coal mining and reclamation operation has been completed and is no longer subject to IC 14-34.

The money held for this purpose may not exceed an amount established by the department that is sufficient to enable the director to cover the anticipated cost of restoration.

(c) At least five hundred thousand dollars ($500,000) in the fund is dedicated as collateral for the bond pool under IC 14-34-8 and may not be used for the restoration of land or replacement of water described in subsection (b).

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.1-1995, SEC.27. Amended by P.L.63-1999, SEC.1.

IC 14-34-6-16

Forfeiture of bond

Sec. 16. (a) The director may order the forfeiture of all or part of a bond for a permit area or an increment of a permit area, regardless of whether the entire area has been disturbed by surface mining activities, if:

(1) the permittee does not conduct reclamation operations in accordance with the applicable reclamation plan; or

(2) the permittee does not fulfill at least one (1) of the conditions under which the bond was posted.

(b) An order issued under subsection (a) or under IC 13-4.1-6-9(a) (before its repeal) is subject to IC 4-21.5-3-6 and becomes an effective and final order of the director without a proceeding if a request for review of the order is not filed with the director within fifteen (15) days after the order is served upon:

(1) the permittee; and

(2) the person that executed the permittee's bond or other performance guarantee if the permittee filed a bond or other performance guarantee under this chapter.

(c) If the forfeited bond is insufficient to pay the entire cost of reclamation, the permittee shall pay the uncompensated balance necessary for complete reclamation as determined by the director.

(d) If the amount of the forfeited bond exceeds the amount necessary for complete restoration, the excess amount shall be returned by the director to the person from whom the amount was received.

(e) A person who has forfeited a bond may not be given a permit until:

(1) the land subject to the forfeiture has been reclaimed without cost to the state; or

(2) the department has received an amount of money equal to the amount determined by the director to be necessary to reclaim the land.

(f) Money collected under this section is appropriated and allotted to the department, at the time of deposit, for restoration of the site from which the bond was forfeited.

As added by P.L.1-1995, SEC.27.

IC 14-34-7
Chapter 7. Self-Bonding

IC 14-34-7-0.5
"Collateral" defined

Sec. 0.5. As used in this chapter, "collateral" means the actual or constructive deposit, as appropriate, with the director of one (1) or more of the following types of property in support of a self-bond:

(1) A perfected, first-lien security interest in favor of the department of natural resources in real property located in Indiana that meets the requirements of this chapter.

(2) Securities backed by the full faith and credit of the United States government, or state government securities, that are:

(A) acceptable to;

(B) endorsed to the order of; and

(C) placed in the possession of;

the director.

(3) Personal property that is located in Indiana and owned by the applicant, the market value of which is more than one million dollars ($1,000,000) per property unit.

As added by P.L.176-1995, SEC.8.

IC 14-34-7-0.6
"Comparative balance sheet" defined

Sec. 0.6. As used in this chapter, "comparative balance sheet" means item accounts from a number of the operator's successive yearly balance sheets arranged side by side in a single statement.

As added by P.L.176-1995, SEC.9.

IC 14-34-7-0.7
"Comparative income statement" defined

Sec. 0.7. As used in this chapter, "comparative income statement" means an operator's income statement amounts for a number of successive yearly periods arranged side by side in a single statement.

As added by P.L.176-1995, SEC.10.

IC 14-34-7-1
"Liabilities" defined

Sec. 1. As used in this chapter, "liabilities" means obligations to transfer assets or provide services to other entities in the future as a result of past transactions. The term does not include amounts that are required to be recorded for financial accounting purposes under Statement of Financial Accounting Standards number 106 issued by the Financial Accounting Standards Board and effective December 1990.

As added by P.L.1-1995, SEC.27. Amended by P.L.176-1995, SEC.11.

IC 14-34-7-2
"Net worth" defined

Sec. 2. As used in this chapter, "net worth":

(1) means:

(A) total assets; minus

(B) total liabilities; and

(2) is equivalent to owners' equity.

As added by P.L.1-1995, SEC.27.

IC 14-34-7-2.5
"Surface Mining Control and Reclamation Act" defined

Sec. 2.5. As used in this chapter, "Surface Mining Control and Reclamation Act" means the federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 through 1328).

As added by P.L.176-1995, SEC.12.

IC 14-34-7-3
"Tangible net worth" defined

Sec. 3. As used in this chapter, "tangible net worth" means:

(1) net worth; minus

(2) intangibles such as goodwill and rights to patents or royalties.

As added by P.L.1-1995, SEC.27.

IC 14-34-7-4
"Current assets" defined

Sec. 4. (a) As used in this section, "current assets" means cash or other assets or resources that are reasonably expected to be converted to cash or sold or consumed within:

(1) one (1) year; or

(2) the normal operating cycle of the business.

(b) As used in this section, "current liabilities" means:

(1) obligations that are reasonably expected to be paid or liquidated within one (1) year or within the normal operating cycle of the business; plus

(2) dividends payable on preferred stock within:

(A) one (1) quarter, if declared; or

(B) one (1) year, if a pattern of declaring dividends each quarter is apparent from past business practice.

(c) As used in this section, "fixed assets" means plants and equipment. The term does not include land or coal in place.

(d) Subject to subsection (f), the director may accept a self-bond from an applicant for a permit if all of the following conditions are met by the applicant or the applicant's corporate guarantor at the time the self-bond is accepted:

(1) The applicant designates a suitable agent to receive service of process in Indiana.

(2) The applicant has been in continuous operation as a business entity for at least five (5) years immediately preceding the time

of application.

(A) The director may allow a joint venture or syndicate with less than five (5) years of continuous operation to qualify under this requirement if each member of the joint venture or syndicate has been in continuous operation for at least five (5) years immediately preceding the time of application.

(B) When calculating the period of continuous operation, the director may exclude periods of interruption to the operation of the business entity that:

(i) were beyond the applicant's control; and

(ii) do not affect the applicant's likelihood of remaining in business during the proposed surface coal mining and reclamation operations.

(3) The applicant is not subject to any outstanding cessation order issued under IC 13-4.1-11-5 (before its repeal), IC 14-34-15-6, or the Surface Mining Control and Reclamation Act.

(4) The applicant does not owe any civil penalties under IC 13-4.1-12 (before its repeal), IC 14-34-16, or the Surface Mining Control and Reclamation Act.

(5) The applicant does not owe any fees under this article, IC 13-4.1 (before its repeal), or the Surface Mining Control and Reclamation Act, and is not delinquent in the payment of any fees or civil penalties.

(6) The applicant's permit has never been suspended under this article or IC 13-4.1 (before its repeal), and the applicant is not listed on the Applicant Violator System (AVS).

(7) The applicant submits financial information in sufficient detail to demonstrate that the applicant satisfies at least one (1) of the following criteria:

(A) The applicant has a current rating for the applicant's most recent bond issuance of "A" or higher as issued by:

(i) Moody's Investor Service; or

(ii) Standard and Poor's Corporation.

The applicant must identify the rating service used by the applicant and provide any additional relevant information concerning how the service arrived at the specific ratings.

(B) The applicant has the following:

(i) A tangible net worth of at least ten million dollars ($10,000,000).

(ii) A ratio of total liabilities to net worth of not more than 2.5:1.

(iii) A ratio of current assets to current liabilities of at least 1.2:1.

The ratio requirements set forth in this clause must be met for the year immediately preceding the application, and must be documented for the four (4) years preceding the application. An explanation shall be included for any year in which the ratios of the applicant did not meet the

requirements set forth in this clause. The failure of an applicant to meet the ratio requirements set forth in this clause for any of the four (4) years preceding the application does not necessarily disqualify an applicant for self-bonding under this chapter.

(C) The applicant has the following:

(i) Fixed assets in the United States that total at least twenty million dollars ($20,000,000).

(ii) A ratio of total liabilities to net worth of not more than 2.5:1.

(iii) A ratio of current assets to current liabilities of at least 1.2:1.

The ratio requirements set forth in this clause must be met for the applicant's fiscal year immediately preceding the application, and must be documented for the four (4) years preceding the application. An explanation shall be included for any year in which the ratios of the applicant did not meet the requirements set forth in this clause. The failure of an applicant to meet the ratio requirements set forth in this clause for any of the four (4) years preceding the application does not necessarily disqualify an applicant for self-bonding under this chapter.

(8) The applicant submits the following:

(A) Financial statements for the most recently completed fiscal year accompanied by a report prepared by an independent certified public accountant:

(i) in conformity with generally accepted accounting principles; and

(ii) containing the accountant's audit opinion or review opinion of the financial statements with no adverse opinion.

(B) Unaudited financial statements for completed quarters in the current fiscal year.

(C) Comparative financial data from a five (5) year period, that must include a comparative income statement and a comparative balance sheet.

(D) A statement listing:

(i) every lien filed against any assets of the applicant in any jurisdiction in the United States for an amount that is more than two percent (2%) of the applicant's net worth;

(ii) every action pending against the applicant;

(iii) every judgment rendered against the applicant within the seven (7) years preceding the application that remains unsatisfied and for an amount that is more than two percent (2%) of the applicant's net worth; and

(iv) any petitions or actions in bankruptcy against the applicant, including actions for reorganization.

(E) Additional unaudited information requested by the director.

(e) If an applicant submits financial information to demonstrate that the applicant satisfies the criteria set forth in subsection (d)(7)(B) or (d)(7)(C), the two (2) ratios set forth in subsection (d)(7)(B) or (d)(7)(C) shall be calculated with the proposed self-bond amount included in the current liabilities or total liabilities for the year of the application. The operator may deduct from the total liabilities the costs currently accrued for reclamation that appear on the balance sheet current in the year of the application.

(f) Notwithstanding subsection (d)(7), the director may not accept a self-bond from an applicant unless the financial ratios of the applicant are at least as favorable as those listed for the medium performers in the Dun and Bradstreet listing of Industry Norms and Key Business Ratios.

(g) Each lien, action, and petition listed under subsection (d)(8)(E) must be identified by the named parties, the jurisdiction in which the matter was filed, the case number, and the final disposition or the current status of any action still pending.

As added by P.L.1-1995, SEC.27. Amended by P.L.176-1995, SEC.13.

IC 14-34-7-4.1

Method of replacement of self-bonds

Sec. 4.1. (a) Before January 1, 1996, all self-bonds in effect on July 1, 1995, must be replaced in one (1) of the following ways:

(1) The self-bond may be replaced by another form of bond allowed under IC 13-4.1-6.

(2) The self-bonded permittee may reapply for self-bonding under this chapter.

(b) If the application of a permittee submitted under subsection (a)(2) is not accepted, the permittee must replace its self-bond with another form of bond allowed under IC 14-34-6.

As added by P.L.176-1995, SEC.14.

IC 14-34-7-5

"Corporate guarantee" defined

Sec. 5. (a) A written guarantee accepted under this section is referred to as a "corporate guarantee".

(b) The director may accept a corporate guarantee for an applicant's self-bond from a corporate guarantor if, at the time the self-bond is accepted, the following conditions are met:

(1) The guarantee is in writing.

(2) The applicant satisfies the requirements of section 4(d)(1), 4(d)(2), and 4(d)(8) of this chapter.

(3) The guarantor meets the conditions imposed upon an applicant under section 4 of this chapter.

(c) The terms of a corporate guarantee must provide for the following:

(1) If the applicant fails to complete the reclamation plan, the guarantor shall complete the reclamation plan or the guarantor

is liable under the indemnity agreement to provide money to the department sufficient to complete the reclamation plan, but not to exceed the bond amount.

(2) The corporate guarantee remains in force unless:

(A) the guarantor sends notice of cancellation by certified mail to:

(i) the applicant; and

(ii) the director;

at least ninety (90) days before the cancellation date; and

(B) the director accepts the cancellation.

(3) A notice of cancellation of a corporate guarantee may be accepted by the director if:

(A) the applicant obtains a suitable replacement bond allowed under IC 13-4.1-6 (before its repeal) or IC 14-34-6 before the cancellation date; or

(B) the land or parts of the land for which the self-bond was accepted have not been disturbed.

As added by P.L.1-1995, SEC.27. Amended by P.L.176-1995, SEC.15.

IC 14-34-7-6

Self-bond or corporate guarantee; percentage of net worth

Sec. 6. (a) For the director to accept an applicant's self-bond, the total amount of the outstanding and proposed self-bonds of the applicant for surface coal mining and reclamation operations in the United States may not exceed twenty-five percent (25%) of the applicant's tangible net worth in the United States.

(b) For the director to accept a corporate guarantee, the total amount of the corporate guarantor's present and proposed self-bonds and guaranteed self-bonds for surface coal mining and reclamation operations in the United States may not exceed twenty-five percent (25%) of the guarantor's tangible net worth in the United States.

As added by P.L.1-1995, SEC.27.

IC 14-34-7-7

Indemnity agreement

Sec. 7. If the director accepts an applicant's self-bond, an indemnity agreement shall be submitted to the director. The indemnity agreement must meet the following requirements:

(1) The indemnity agreement must provide in express terms that the persons or parties bound by the agreement are liable to the director for all costs incurred by the director:

(A) in pursuing forfeiture of any self-bonds posted by the permittee for whom the indemnity agreement was submitted; and

(B) in reclaiming those areas at which the permittee for whom the indemnity agreement was submitted retains excess monetary liability to the director under IC 14-34-6-16(c).

(2) The indemnity agreement must:

(A) be executed by all persons and parties who are to be bound by the agreement, including the corporate guarantor; and

(B) bind each party jointly and severally.

(3) A corporation applying for a self-bond and a corporate guarantor guaranteeing a self-bond must submit an indemnity agreement signed by two (2) corporate officers who are authorized to bind the corporation. The director must be given a copy of the authorization and an affidavit certifying that the indemnity agreement is valid under all applicable state and federal laws. A corporate guarantor must give the director a copy of the corporate authorization demonstrating that the corporation may guarantee the self-bond and execute the indemnity agreement.

(4) If the applicant is a partnership, joint venture, or syndicate, the agreement must bind each partner or party who has a beneficial interest, directly or indirectly, in the applicant.

(5) The applicant or corporate guarantor must complete the approved reclamation plan for the land as to which a bond has been forfeited for failure to reclaim or pay to the director an amount necessary to complete the approved reclamation plan, not to exceed the bond amount.

(6) All bonds and guarantees must be indemnified corporately and personally by all principals.

As added by P.L.1-1995, SEC.27. Amended by P.L.176-1995, SEC.16.

IC 14-34-7-7.1

Collateral and indemnity agreement to support self-bond application

Sec. 7.1. (a) If an application for self-bonding is rejected based on the information required by section 4 of this chapter or limitations set forth in section 4 of this chapter, the applicant may offer collateral (as defined in section 0.5 of this chapter) and an indemnity agreement to support the applicant's self-bond application. An indemnity agreement offered under this subsection is subject to the requirements of section 7 of this chapter.

(b) The following information must be provided about collateral offered under subsection (a) to support a self-bond:

(1) The value of the property. The property must be valued at the difference between the fair market value of the property and reasonable expenses the department anticipates incurring in selling the property. The fair market value must be determined by an appraiser proposed by the applicant. The director may reject an appraiser proposed by the applicant. An appraisal of property must be performed expeditiously and a copy of the appraisal must be furnished to the director and the applicant. The applicant must pay the cost of the appraisal.

(2) A description of the property, indicating that the property is

satisfactory for deposit under this section, and a statement of:

(A) all liens, encumbrances, or adverse judgments imposed on the property; and

(B) any pending litigation relating to the property.

(c) The director has full discretion in accepting collateral offered under subsection (a) to support a self-bond.

(d) Real property offered as collateral under subsection (a) may not include lands that are in the process of being mined or reclaimed or lands that are the subject of an application under this chapter. The operator may offer land that was formerly subject to a bond if the bond has been released.

(e) Securities offered as collateral under subsection (a) may include only securities that meet the definition of collateral set forth in section 0.5 of this chapter.

(f) Personal property offered as collateral under subsection (a) must be in the possession of the operator, must be unencumbered, and may not include the following:

(1) Property that is already being used as collateral.

(2) Goods that the operator sells in the ordinary course of business.

(3) Fixtures.

(4) Certificates of deposit that are not federally insured or that are issued by a depository that is unacceptable to the director.

(g) Evidence of ownership of property offered as collateral under subsection (a) must be submitted in one (1) of the following forms:

(1) If the property offered is real property, the interest of the applicant must be evidenced by a title certificate or similar evidence of title and encumbrance prepared by an abstract office that is:

(A) authorized to transact business in Indiana; and

(B) satisfactory to the director.

(2) If the property offered is a security, the operator's interest must be evidenced by possession of the original or a notarized copy of the certificate or a certified statement of account from a brokerage house.

(3) If the property offered is personal property, evidence of ownership must be submitted in a form that:

(A) is satisfactory to the director; and

(B) affirmatively establishes unencumbered title to the property of the operator.

(h) An applicant that offers personal property as collateral under subsection (a), in addition to submitting the evidence required by subsection (g), must satisfy the financial requirements set forth in section 4(d)(7)(B) and 4(d)(7)(C) of this chapter.

(i) If the director accepts personal property from an applicant as collateral under subsection (a), the director shall require the following:

(1) Quarterly and annual maintenance reports prepared by the applicant.

(2) A perfected, first lien security interest in the property in favor of the department of natural resources. The security interest must be perfected through:

(A) the filing of a financing statement; or

(B) surrender of possession of the collateral to the department under subsection (k).

(j) If the director accepts personal property from an applicant as collateral under subsection (a), the director may require quarterly or annual inspections of the personal property by a qualified representative of the department.

(k) If the director accepts personal property from an applicant as collateral under subsection (a), the director shall, as applicable, require:

(1) possession by the department of the personal property; or

(2) a mortgage or security agreement executed by the applicant in favor of the department.

(l) The property interest conveyed under subsection (k) vests in the department to secure the right and power to sell or otherwise dispose of the property by public or private proceedings so as to ensure reclamation of the affected lands in accordance with the reclamation plan.

(m) A mortgage executed under subsection (k)(2) must be executed and recorded so as to be first in time and constitute notice of the interest of the department in the property to any prospective subsequent purchaser of the property.

(n) Any income received from the collateral during the period when the collateral is in the possession of the department shall be remitted to the applicant.

(o) If collateral is left in the possession of the applicant, the security agreement executed under subsection (k)(2) must require that, upon default, the applicant shall assemble the collateral and make it available to the department at a place designated by the department that is reasonably convenient to both parties. All costs of transporting and assembling the collateral shall be borne by the applicant.

(p) With the consent of the director, an applicant may substitute other property for any property accepted and held as collateral under this section. Property may be substituted under this subsection only if:

(1) all the information required concerning property originally submitted as collateral is provided concerning the proposed substitute collateral; and

(2) all requirements of this section are met with respect to the proposed substitute collateral so that all obligations relating to mining operations are secured under all periods of time.

(q) If collateral is posted under subsection (a) to support a self-bond, the applicant shall:

(1) notify all persons that have an interest in the collateral of the posting of the collateral and of all other actions affecting the

collateral; and

(2) provide copies of the notices provided under subdivision (1) to the director.

As added by P.L.176-1995, SEC.17.

IC 14-34-7-8

Updated information for self-bond or corporate guarantee

Sec. 8. The director shall require self-bonded applicants and corporate guarantors to submit:

(1) an update of the information required under section 4(d)(7), 4(d)(8), and 4(f) of this chapter within ninety (90) days after the close of each fiscal year; and

(2) information required under section 4(d)(8)(B) of this chapter on a quarterly basis not later than sixty (60) days after the end of each quarter;

following the issuance of the self-bond or corporate guarantee.

As added by P.L.1-1995, SEC.27. Amended by P.L.176-1995, SEC.18.

IC 14-34-7-9

Change in financial condition

Sec. 9. (a) If at any time during the period when a self-bond is posted, the financial conditions of the applicant or the corporate guarantor change so that the criteria of sections 4(d)(7), 4(f), and 6 of this chapter are no longer satisfied, the permittee shall do the following:

(1) Notify the director immediately.

(2) Within ninety (90) days of the change in financial condition post an alternate form of bond in the same amount as the self-bond.

(b) If the applicant does not post an alternate form of bond within ninety (90) days of the change in financial condition, the applicant must cease coal extraction and immediately begin reclamation.

As added by P.L.1-1995, SEC.27. Amended by P.L.176-1995, SEC.19.

IC 14-34-7-10

Report of public accounting consultant

Sec. 10. (a) An applicant shall submit, in addition to the financial information required under section 4 of this chapter, a report prepared by a qualified independent public accounting consultant selected from a list of public accounting consultants approved by the director. The director shall consider the information in the report when deciding whether to accept the self-bond of an applicant.

(b) The director may also require reports described in subsection (a) after the director accepts the applicant's self-bond, but not more than one (1) time every three (3) years while the self-bond is posted, except as provided in subsection (d).

(c) A consultant who prepares a report under this section must:

(1) verify that the financial information required under section 4 of this chapter was prepared in accordance with generally accepted accounting principles;

(2) verify that the accounting principles referred to in subdivision (1) were applied consistently for each year of the period for which the information is submitted;

(3) state the amount of, and reason for, any restatement of the financial information referred to in subdivision (1) that is necessary to meet the requirements of subdivision (2); and

(4) state whether any information reviewed during the preparation of the report would lead the consultant to conclude that the applicant would not meet the requirements of section 4 of this chapter at the end of each of the three (3) fiscal years ending after the calendar month in which the report is completed.

(d) If the consultant who prepares a report under this section is unable to provide the information required by subsection (c)(4), the applicant for whom the report is prepared shall submit an updated report annually.

(e) An applicant shall submit a report required under this section not later than ninety (90) days after the director notifies the applicant or permittee that the report is required.

(f) If an applicant fails to submit a report required under subsection (a), the director shall refuse to accept the self-bond of the applicant until the applicant files the report.

(g) If a permittee who has posted a self-bond under this chapter fails to submit a report required under subsection (b), the director may require the permittee to post an alternate form of bond not later than ninety (90) days after the deadline for the submission of the report.

As added by P.L.176-1995, SEC.20.

IC 14-34-7-11

Incremental self-bonds; coverage of deferred grading areas

Sec. 11. (a) The director may not accept an applicant's self-bond under this chapter in an increment unless, when the self-bond is initially approved under this chapter, the total area of the increment is one hundred percent (100%) self-bonded.

(b) When a self-bond is initially accepted from a permit applicant under this chapter, the self-bond may cover areas subject to the permit on which, as of July 1, 1995, grading has been deferred.

(c) After a self-bond is accepted under this chapter:

(1) coverage under the self-bond continues on any area subject to a grading deferral that is in existence on July 1, 1995, if the grading deferral is subsequently extended beyond its original term; but

(2) an area subject to the permit as to which a grading deferral is granted after July 1, 1995, may not be covered by self-bonding.

(d) An area described in subsection (c)(2):

(1) must be covered by another form of bond allowed under IC 14-34-6; and

(2) may not be covered by the surface coal mine reclamation bond pool established by IC 14-34-8.

As added by P.L.176-1995, SEC.21.

IC 14-34-7-12

Alternate forms of self-bonds; monitoring of reclamation

Sec. 12. (a) If a permittee who posted a self-bond under this chapter does not file an application for a Phase I grading release with the department before the second November 1 after the year in which the coal was removed from the site covered by the self-bond, the permittee shall replace the self-bond with an alternate form of bond within ninety (90) days of the November 1 deadline established under this subsection.

(b) If:

(1) a permittee who posted a self-bond under this chapter files an application for a Phase I grading release with the department before the second November 1 after the year in which the coal was removed from the site covered by the self-bond; but

(2) the application is rejected by the department;

the permittee shall replace the self-bond with an alternate form of bond not later than ninety (90) days after the denial of the application for a Phase I grading release becomes a final order of the department.

(c) All acreage and structures that are within a permitted area and are used to facilitate active mining and reclamation operations are exempt from subsection (b). Areas described in this subsection include, but are not limited to, the following:

(1) Processing sites.

(2) Tipples.

(3) Railroad sidings.

(4) Buildings.

(5) Haul roads.

(6) Topsoil stockpiles.

(7) Sediment ponds.

(d) For the purposes of subsection (c), the director shall determine what areas are used to facilitate active mining and reclamation operations.

(e) A permittee shall submit annual reports to the department in a form that the director considers necessary to facilitate the effective monitoring of acres under self-bonding that have been affected and reclaimed.

(f) An area that:

(1) is not subject to the time limitations set forth in subsection (b); and

(2) has been used for the disposal of:

(A) coal combustion fly or bottom ash;

(B) flue gas desulfurization byproducts generated by coal

combustion units; or

(C) coal processing wastes;

is no longer eligible for self-bonding ten (10) years after the disturbance of the area or the self-bonding of the area, whichever is later. An alternative form of bond must be posted for the area under IC 14-34-6 not later than ninety (90) days after the area becomes ineligible for self-bonding under this subsection.

(g) Whenever an area is determined to be no longer eligible for self-bonding, and an alternative form of bond is posted under IC 14-34-6, the area:

(1) is never again eligible for self-bonding; and

(2) may not be bonded by the surface coal mine reclamation bond pool established under IC 14-34-8-3.

As added by P.L.176-1995, SEC.22. Amended by P.L.2-1997, SEC.55.

IC 14-34-7-13

Effect of invalidation of IC 14-34-7-1

Sec. 13. For purposes of IC 1-1-1-8, if the amendments to IC 14-34-7-1, as amended by SEA 125-1995, are held invalid or otherwise unenforceable, the other amendments to IC 14-34-7 made by SEA 125-1995 are also void.

As added by P.L.176-1995, SEC.23.

IC 14-34-8
Chapter 8. Bond Pool

IC 14-34-8-1
"Bond pool" defined

Sec. 1. As used in this chapter, "bond pool" refers to the surface coal mine reclamation bond pool established by this chapter.
As added by P.L.1-1995, SEC.27.

IC 14-34-8-2
"Committee" defined

Sec. 2. As used in this chapter, "committee" refers to the surface coal mine reclamation bond pool committee established by this chapter.
As added by P.L.1-1995, SEC.27.

IC 14-34-8-3
Surface coal mine reclamation bond pool

Sec. 3. The surface coal mine reclamation bond pool is established to be used for surface coal mine reclamation under this chapter. The department shall administer the bond pool.
As added by P.L.1-1995, SEC.27.

IC 14-34-8-4
Participation in bond pool

Sec. 4. (a) As used in this section, "mining" includes contract mining.

(b) As used in this section, "operator" includes a predecessor in interest, subsidiaries, and affiliates as approved by the director.

(c) Participation in the bond pool is open to each operator applying for a permit under this article who, after May 3, 1978, has a five (5) year history of mining within Indiana and who meets the following conditions:

(1) Is not subject to an outstanding cessation order issued under:
(A) IC 13-4.1-11-5 (before its repeal); or
(B) IC 14-34-15-6.

(2) Does not owe a civil penalty under:
(A) IC 13-4.1-12 (before its repeal);
(B) IC 14-34-16; or
(C) the federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 through 1328).

(3) Does not:
(A) owe a fee:
(i) under IC 13-4.1 (before its repeal);
(ii) under this article; or
(iii) collected under the federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 through 1328); or

(B) have a history of delinquency in the payment of fees or civil penalties.

(4) Has never been suspended under:

(A) IC 13-4.1-6.5-6 (before its repeal); or

(B) section 6 of this chapter.

(d) Participation in the bond pool is:

(1) optional for each permit application;

(2) subject to approval by the director; and

(3) not effective until the entrance fee has been paid in full.

(e) The director may, based on all available information, disapprove an application that may create an unreasonable risk to the bond pool.

(f) This chapter does not preclude compliance with IC 14-34-6 instead of participation in the bond pool before commencement of participation in the bond pool.

(g) Commencement of participation in the bond pool for the applicable permit constitutes an irrevocable commitment to participate in the bond pool for the applicable permit for the duration of the surface coal mining operations covered under the permit, unless the operator has replaced all bond pool liability with bonds acceptable under IC 14-34-6-1.

(h) An operator may apply for participation in the bond pool on a bond increment area under an existing permit. Commencement of participation in the bond pool for the bond increment area, within an existing permit, constitutes an irrevocable commitment to participate in the bond pool for the duration of that surface coal mining permit, unless the operator has replaced all bond pool liability with bonds acceptable under IC 14-34-6-1.

As added by P.L.1-1995, SEC.27. Amended by P.L.71-2004, SEC.28.

IC 14-34-8-5

Fees for participation in bond pool

Sec. 5. (a) An application for participation in the bond pool must be accompanied by an entrance fee of one thousand dollars ($1,000). The fees collected under this section shall be deposited in the post-1977 abandoned mine reclamation fund under IC 14-34-6-15 and dedicated as collateral for the bond pool. The entrance fee is not required on subsequent permits or bond increments after an operator has been accepted for participation in the bond pool.

(b) In addition to the initial payments to the bond pool under subsection (a), an operator electing to participate in the bond pool must furnish a bond in an amount adequate to ensure phase I reclamation, except as provided in subsection (c).

(c) The director may accept:

(1) the bond of an operator without separate surety under the self-bonding provisions of IC 14-34-7; or

(2) deposits in lieu of bond under IC 14-34-6-5.

(d) Subject to subsection (e), fees and payments under this chapter are:

(1) not refundable; and
(2) in addition to all other fees required under this article.

(e) The entrance fee required under subsection (a) is refundable if the application is rejected.

(f) Bond pool participants may post incremental bonds under IC 14-34-6-1. The bonds may be posted in increments according to a schedule contained in the approved permit application.

As added by P.L.1-1995, SEC.27.

IC 14-34-8-6

Suspension from bond pool

Sec. 6. (a) Subject to subsection (c), an operator is suspended from the bond pool if the operator:

(1) fails to pay a fee or civil penalty under:
(A) IC 13-4.1 (before its repeal);
(B) this article; or
(C) the federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 through 1328); or
(2) receives a cessation order that is not abated.

(b) If the final release of a bond has not been obtained within ten (10) years after the date of the last required report of the affected area for the permit, including new disturbances, the director may require the operator to:

(1) replace the bond pool liability with bonds acceptable under IC 14-34-6-1; and
(2) withdraw that operation from the bond pool.

If the operator fails to comply with the director's order to withdraw a mine area from the bond pool, the director may suspend the operator from the bond pool.

(c) An operator is not suspended from the bond pool if the director makes a written determination that mitigating circumstances are present that would not create an unreasonable risk to the bond pool if the operator's participation continues.

(d) An operator who is suspended from the bond pool shall cease all surface coal mining operations until the operator furnishes a new performance bond under IC 14-34-6-1 in an amount calculated under IC 14-34-6-2 for all disturbed areas and proposed additional mining areas under the permit. When the new performance bond has been executed, the bond pool has no additional liability for reclamation on any part of the area covered by the applicable permit.

As added by P.L.1-1995, SEC.27. Amended by P.L.71-2004, SEC.29.

IC 14-34-8-7

Release of bond or other surety

Sec. 7. The bond or other surety furnished by the operator under section 5 of this chapter shall be released by the director when the operator completes the backfilling, regrading, and drainage control of a bonded area in accordance with the operator's approved reclamation plan.

As added by P.L.1-1995, SEC.27.

IC 14-34-8-8
Fees per acre for bond

Sec. 8. (a) When an operator furnishes a bond under section 5 of this chapter to participate in the bond pool, the operator shall pay a fee of twenty-five dollars ($25) per bonded acre into the bond pool.

(b) After the bond or other surety has been released under section 7 of this chapter, the operator shall annually pay ten dollars ($10) per acre on the areas affected to the bond pool until phase II bond release is approved.

(c) After revegetation is established, the operator shall pay to the bond pool fund the following:

(1) Five dollars ($5) per acre per year for the first three (3) years.

(2) Ten dollars ($10) per acre per year after the first three (3) years on the areas affected until phase III bond release is approved.

(d) All fees collected under this section shall be:

(1) deposited in the post-1977 abandoned mine reclamation fund established by IC 14-34-6-15; and

(2) dedicated as collateral for the bond pool.

As added by P.L.1-1995, SEC.27.

IC 14-34-8-9
Use of bond pool money to complete reclamation

Sec. 9. After all available money furnished for a permit under section 5(b) and 5(c) of this chapter is exhausted under section 10 of this chapter, the money in the bond pool is available for the completion of reclamation necessary to achieve phase II and phase III bond release according to the approved reclamation plan on permitted areas covered by the bond pool by participating operators. The bond pool may not be used to complete reclamation on any areas not permitted and bonded under this chapter.

As added by P.L.1-1995, SEC.27.

IC 14-34-8-10
Forfeiture of bonds

Sec. 10. (a) Forfeiture of bonds of an operator participating in the bond pool shall be accomplished under IC 14-34-6-16. In addition to forfeiture, the director may proceed against the permittee of the surface coal mining operation by filing a civil action for injunctive or other relief in any court having jurisdiction to compel the permittee to perform the reclamation work in full compliance with this article, the rules adopted under this article, and the approved permit plans. The director may also file an action in any court having jurisdiction against the permittee to recover all money expended by the bond pool to accomplish the reclamation, including construction costs, engineering costs, administrative costs, and legal costs. In an action

to recover these costs, the defendant may not do the following:

(1) Relitigate the facts giving rise to the forfeiture.

(2) Defend by claiming the forfeiture was improper.

(b) A:

(1) proceeding under this section does not constitute a waiver by the director to proceed under other provisions of this article; and

(2) commencement of action under one (1) provision does not constitute an election to proceed solely under that provision.

(c) Liability of participants in the bond pool for reclamation of areas disturbed by other operators is limited to fees paid into the bond pool under sections 5 and 8 of this chapter.

As added by P.L.1-1995, SEC.27.

IC 14-34-8-11

Surface coal mine reclamation bond pool committee

Sec. 11. (a) The surface coal mine reclamation bond pool committee is established. The committee consists of the following:

(1) Five (5) members appointed by the director as follows:

(A) Three (3) members must represent a cross-section of coal operators.

(B) One (1) member must be a member of the commission.

(C) One (1) member must be a representative of the public with knowledge of reclamation performance guarantees.

(2) The director or the director's designee, who is a nonvoting member.

(b) The term of each member is four (4) years beginning July 1. The director may remove an appointed member for cause.

(c) The committee shall do the following:

(1) Annually elect a chairman.

(2) Adopt rules for organization and procedure.

(d) Each member of the committee who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(e) The committee shall, acting in an advisory capacity to the director, do the following:

(1) Meet as necessary to perform duties under this chapter, but not less than one (1) time each year, for the purpose of formulating recommendations to the director concerning oversight of the general operation of the bond pool.

(2) Review and make recommendations concerning the following:

(A) All proposed expenses from the bond pool.

(B) All applications for admission to the bond pool.

(f) The director shall report annually to the committee and to the governor on the status of the bond pool.

As added by P.L.1-1995, SEC.27. Amended by P.L.71-2004, SEC.30.

IC 14-34-9

Chapter 9. Coal Exploration

IC 14-34-9-1

Notice of intention to explore; written permission of director; requirements

Sec. 1. (a) Subject to subsection (b), before conducting a coal exploration operation the person intending to conduct the operation must do the following:

(1) File with the director a notice of intention to explore.

(2) Demonstrate the ability to comply with the revegetation requirements of IC 14-34-10-2 concerning all land disturbed.

(b) A person may not conduct a coal exploration operation without the express written permission of the director if, under the coal exploration operation, the person:

(1) substantially disturbs the natural land surface; or

(2) removes more than two hundred fifty (250) tons of coal.

As added by P.L.1-1995, SEC.27.

IC 14-34-9-2

Description of exploration area; period of exploration

Sec. 2. The notice of intention to explore and the application for written permission to explore as required by section 1 of this chapter must include the following:

(1) A description of the exploration area.

(2) The period of supposed exploration.

As added by P.L.1-1995, SEC.27.

IC 14-34-9-3

Rules

Sec. 3. The commission shall adopt rules to do the following:

(1) Establish a procedure for application for permission to conduct a coal exploration operation.

(2) Establish guidelines for granting or denying the application.

(3) Require that the applicant comply with the requirements of IC 14-34-10 and IC 14-34-12 for all land disturbed.

As added by P.L.1-1995, SEC.27.

IC 14-34-9-4

Confidential information

Sec. 4. Information concerning trade secrets or privileged commercial or financial information relating to the competitive rights of the person or entity intending to explore the described area that is submitted to the director under this chapter is confidential and not available for public examination.

As added by P.L.1-1995, SEC.27.

IC 14-34-9-5

Person engaged in coal exploration treated as permittee

Sec. 5. A person engaged in coal exploration is subject to IC 14-34-15 and IC 14-34-16 as if the person were a permittee.

As added by P.L.1-1995, SEC.27.

IC 14-34-9-6

Environmental limitations on exploration

Sec. 6. Coal exploration may not disturb the following:

(1) Habitats of unique or unusually high value for fish and wildlife and other related environmental values.

(2) Critical habitats of threatened or endangered species.

As added by P.L.1-1995, SEC.27.

IC 14-34-10
Chapter 10. Performance Standards

IC 14-34-10-1
"Approximate original contour" defined

Sec. 1. As used in this chapter, "approximate original contour" means the surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including terracing or access roads:

(1) closely resembles the general surface configuration of the land before mining; and

(2) blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated except for the following:

(A) Water impoundments that comply with section 2(b)(11) of this chapter.

(B) Boxcut spoil areas that are:

(i) specifically designed to provide alternative land uses; and

(ii) permitted by the director.

As added by P.L.1-1995, SEC.27.

IC 14-34-10-2
Duties of permittee

Sec. 2. (a) As used in this section, "higher or better uses" means postmining land uses that have a higher:

(1) economic value; or

(2) nonmonetary benefit;

to the landowner or the community than the premining land uses.

(b) In addition to other standards a permittee must meet under rules of the commission, a permittee shall do the following:

(1) Place markers on the site to readily identify the permit area.

(2) Conduct the surface coal mining operation in a manner that maximizes the use and conservation of the solid fuel resource that is recovered so that reaffecting the land in the future through surface coal mining is minimized.

(3) Restore the land affected to a condition capable of supporting the uses that the land was capable of supporting before mining or higher or better uses of which there is a reasonable likelihood if:

(A) those uses do not:

(i) present an actual or a probable hazard to public health or safety; or

(ii) pose an actual or a probable threat of water diminution or pollution; and

(B) the permit applicant's declared proposed land use following reclamation:

(i) is not impractical or unreasonable;

(ii) is not inconsistent with applicable land use policies and plans;

(iii) does not involve unreasonable delay in implementation; or

(iv) does not violate federal, state, or local law.

(4) Except as provided in subdivisions (5) and (6) and section 4 of this chapter with respect to all surface coal mining operations backfill, compact where advisable to ensure stability or prevent the leaching of toxic materials, and grade to restore the approximate original contour of the land with all highwalls, spoil piles, and depressions eliminated. Small depressions are allowed if needed to retain moisture to assist revegetation or as otherwise authorized under this article.

(5) In a surface coal mining operation that:

(A) is carried out at the same location over a substantial time;

(B) transects the coal deposit and the thickness of the coal deposit relative to the volume of the overburden that is large; and

(C) has overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area that is insufficient, giving due consideration to volumetric expansion, to restore the approximate original contour;

the operator, at a minimum, shall backfill, grade, and compact, where advisable, using all available overburden and other spoil and waste materials to attain the lowest practicable grade but not more than the angle of repose to provide adequate drainage and to cover all acid-forming and other toxic materials to achieve an ecologically sound land use compatible with the surrounding region.

(6) If in surface coal mining:

(A) the volume of overburden is large relative to the thickness of the coal deposit; and

(B) the operator demonstrates that due to volumetric expansion the amount of overburden and other spoil and waste materials removed in the course of the mining operation is more than sufficient to restore the approximate original contour;

the operator shall, after restoring the approximate contour, backfill, grade, and compact, where advisable, the excess overburden and other spoil and waste materials to attain the lowest grade but not more than the angle of repose and to cover all acid-forming and other toxic materials to achieve an ecologically sound land use compatible with the surrounding region. The overburden or spoil shall be shaped and graded in a way that prevents slides, erosion, and water pollution and revegetated in accordance with the requirements of this article.

(7) Stabilize and protect all surface areas, including spoil piles, affected by the surface coal mining and reclamation operation

to effectively control erosion and attendant air and water pollution.

(8) Remove the topsoil from the land in a separate layer and:

(A) replace the topsoil on the backfill area; or

(B) if the topsoil is not used immediately;

(i) segregate the topsoil in a separate pile from other spoil; and

(ii) if the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plants or other means so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation.

However, if the topsoil is of insufficient quantity or of poor quality to sustain vegetation or if other strata are more suitable for vegetation requirements, the operator shall remove, segregate, and preserve, in a like manner, the strata that are best able to support vegetation.

(9) Restore the topsoil or the best available subsoil that is best able to support vegetation.

(10) For all prime farmland as identified in IC 14-34-3-3(16), comply with the specifications for soil removal, storage, replacement, and reconstruction established by rules of the commission and do the following:

(A) Segregate the A horizon of the natural soil unless it is shown that other available soil materials will create a final soil that has a greater productive capacity, stockpile this material, if not used immediately, separately from other spoil, and provide needed protection from wind and water erosion or contamination by other acid or toxic material.

(B) Segregate the B horizon of the natural soil, or underlying C horizons or other strata, or a combination of those horizons or other strata that are texturally and chemically suitable for plant growth and equal to or more favorable for plant growth than the B horizon, in sufficient quantities to create in the regraded final soil a root zone of comparable depth and quality to that existing in the natural soil, stockpile this material, if not used immediately, separately from other spoil, and provide needed protection from wind and water erosion or contamination by other acid or toxic material.

(C) Replace and regrade the root zone material described in clause (B) with proper compaction and uniform depth over the regraded spoil material.

(D) Redistribute and grade in a uniform manner the surface soil horizon described in clause (A).

(11) Create, if authorized in the approved surface coal mining and reclamation plan, permanent impoundments of water on mining sites. The permittee may create the permanent

impoundment only after the permittee demonstrates the following:

(A) The size of the impoundment is adequate for the intended purposes.

(B) The impoundment dam construction will be designed to achieve necessary stability with an adequate margin of safety compatible with that of structures constructed under 16 U.S.C. 1006.

(C) The quality of impounded water will be suitable, on a permanent basis, for the intended use and discharges from the impoundment will not degrade the water quality below water quality standards established under applicable federal and state law in the receiving stream.

(D) The level of water will be reasonably stable.

(E) Final grading will provide adequate safety and access for proposed water users.

(F) The water impoundments will not result in the diminution of the quality or quantity of water used by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses.

(12) Conduct an augering operation associated with surface coal mining in a manner that maximizes the recoverability of mineral reserves remaining after the surface coal mining and reclamation operation is complete and seal all auger holes with an impervious and noncombustible material to prevent drainage except where the director determines that the resulting impoundment of water in those auger holes may create a hazard to the environment or the public health or safety. The director may prohibit augering if necessary to:

(A) maximize the use, recoverability, or conservation of the solid fuel resources; or

(B) protect against adverse water quality impacts.

(13) Minimize disturbances to the prevailing hydrologic balance at the mine site and associated offsite areas and to the quality and quantity of water in surface and ground water systems during and after surface coal mining and reclamation operations by doing the following:

(A) Avoiding acid or other toxic mine drainage by measures such as the following:

(i) Preventing or removing water from contact with toxic-producing deposits.

(ii) Treating drainage to reduce toxic content that adversely affects downstream water upon being released to watercourses.

(iii) Casing, sealing, or otherwise managing boreholes, shafts, and wells and keep acid or other toxic drainage from entering ground and surface water.

(B) Conducting surface coal mining and reclamation operations so as to prevent, to the extent possible using the

best technology currently available, violations of the effluent limitations for coal mining operations established under applicable state or federal law.

(C) Constructing siltation structures under clause (B) before commencement of surface coal mining operations that will be certified by an engineer licensed under IC 25-31 and constructed as designed and approved in the reclamation plan.

(D) Cleaning out and removing temporary or large settling ponds or other siltation structures from drainageways after disturbed areas are revegetated and stabilized and depositing the silt and debris at a site and in a manner approved by the director.

(E) Restoring recharge capacity of the mined area to approximate premining conditions.

(F) Avoiding channel deepening or enlargement in operations requiring the discharge of water from mines.

(G) Other actions required under the permit.

(14) With respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine workings or excavations, the following:

(A) Stabilize all waste piles in designated areas through construction in compacted layers, including the use of incombustible and impervious materials if necessary.

(B) Assure the following:

(i) The final contour of the waste pile will be compatible with natural surroundings.

(ii) The site will be stabilized and revegetated according to this article.

(15) Refrain from surface coal mining within five hundred (500) feet of active and abandoned underground mines to prevent breakthroughs and to protect the health or safety of miners. However, the director shall permit an operator to mine near, through, or partially through an abandoned underground mine or closer to an active underground mine if the following conditions exist:

(A) The nature, timing, and sequencing of the approximate coincidence of specific coal surface mining activities with specific underground coal mining activities are jointly approved by the regulatory authorities concerned with surface coal mining regulation and the health and safety of underground miners.

(B) The operations will result in:

(i) improved resource recovery;

(ii) abatement of water pollution; or

(iii) elimination of hazards to the health and safety of the public.

(16) Design, locate, construct, operate, maintain, enlarge, modify, and remove or abandon, in accordance with the

standards and criteria used by the United States Secretary of the Interior to ensure that flood control structures are safe and effectively perform their functions, all existing and new coal mine waste piles:

(A) consisting of:

(i) mine wastes;

(ii) tailings;

(iii) coal processing wastes; or

(iv) other liquid and solid wastes; and

(B) used temporarily or permanently as dams or embankments.

(17) Ensure the following:

(A) All debris, acid-forming materials, toxic materials, or materials constituting a fire hazard are treated, buried, and compacted or otherwise disposed of in a manner designed to prevent contamination of ground or surface water.

(B) Contingency plans are developed to prevent sustained combustion.

(18) Ensure that explosives are used only in accordance with the following:

(A) IC 14-34-12.

(B) Applicable state and federal law.

(C) The rules adopted by the commission.

(19) Ensure that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable with the surface coal mining operations. However, if the applicant proposes to combine surface coal mining operations with underground coal mining operations to assure maximum practical recovery of the mineral resources, the director may grant a variance for specific areas within the reclamation plan from the requirement that reclamation efforts proceed as contemporaneously as practicable and permit underground coal mining operations before reclamation if the following conditions are met:

(A) The director finds in writing the following:

(i) The applicant has presented, as part of the permit application, specific, feasible plans for the proposed underground mining operations.

(ii) The proposed underground mining operations are necessary or desirable to assure maximum practical recovery of the mineral resource and will avoid multiple disturbance of the surface.

(iii) The applicant has satisfactorily demonstrated that the plan for the underground coal mining operations conforms to the requirements for underground coal mining in that jurisdiction and that permits necessary for the underground coal mining operations have been issued by the appropriate authority.

(iv) The applicant has shown the areas proposed for the

variance are necessary for the implementation of the proposed underground coal mining operations.

(v) Substantial adverse environmental damage, either onsite or offsite, will not result from the delay in completion of reclamation as required by this article.

(vi) The provisions for the offsite storage of spoil will comply with subdivision (25).

(B) The commission has adopted specific rules to govern the granting of variances in accordance with this subdivision.

(C) Variances granted under this subdivision are to be reviewed by the director not more than three (3) years from the date of issuance of the permit.

(D) Liability under the bond filed by the applicant with the director under IC 14-34-6 is for the duration of underground coal mining operations and until the requirements of this section and IC 14-34-6 are fully complied with.

(20) Ensure that the construction, maintenance, and postmining conditions of access roads into and across the site of operations will control or prevent the following:

(A) Erosion and siltation.

(B) Pollution of water.

(C) Damage to the following:

(i) Fish or wildlife or their habitat.

(ii) Public or private property.

(21) Refrain from the construction of roads or other access ways:

(A) up a stream bed or drainage channel; or

(B) in the proximity of a channel;

that seriously alters the normal flow of water.

(22) Establish on the regraded areas and all other land affected a diverse, an effective, and a permanent vegetative cover:

(A) of the same seasonal variety native to the area of land to be affected; and

(B) that is capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area.

However, an introduced species may be used in the revegetation process where desirable and necessary to achieve the approved postmining land use plan.

(23) Assume the responsibility for successful revegetation, as required by subdivision (22), as follows:

(A) On lands not eligible for remining, for five (5) full years after the last year of augmented seeding, fertilizing, irrigation, or other work to assure compliance with subdivision (22). However, if the director approves a long term intensive agricultural postmining land use, the applicable five (5) or ten (10) year period of responsibility for revegetation commences at the date of initial planting for the long term intensive agricultural postmining land use. If

the director issues a written finding approving a long term intensive agricultural postmining land use as part of the mining and reclamation plan, the director may grant exception to subdivision (22).

(B) On lands eligible for remining, for two (2) full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to ensure compliance with subdivision (22).

(24) Protect offsite areas from slides or damage occurring during the surface coal mining and reclamation operations and not deposit spoil material or locate any part of the operations or waste accumulations outside the permit area.

(25) Place all excess spoil material resulting from coal surface mining and reclamation activities to ensure the following:

(A) Spoil is transported and placed in a controlled manner in a position for concurrent compaction and in a manner that assures mass stability and prevents mass movement.

(B) The areas of disposal are within the bonded permit areas and all organic matter is removed immediately before spoil placement.

(C) Appropriate surface and internal drainage systems and diversion ditches are used in a manner that prevents spoil erosion and movement.

(D) The disposal area does not contain springs, natural watercourses, or wet weather seeps unless lateral drains are constructed from the wet areas to the main underdrains in a manner that prevents filtration of the water into the spoil pile.

(E) If placed on a slope, the spoil is placed as follows:

(i) On the most moderate slope among the slopes on which, in the judgment of the director, the spoil could be placed in compliance with all the requirements of this article.

(ii) If possible, upon or above a natural terrace, bench, or berm if the placement provides additional stability and prevents mass movement.

(F) Where the toe of the spoil rests on a downslope, a rock toe buttress of sufficient size to prevent mass movement is constructed.

(G) The final configuration is compatible with the natural drainage pattern and surroundings and suitable for intended uses.

(H) Design of the spoil disposal area is certified by an engineer licensed under IC 25-31 and in conformance with professional standards.

(I) All other provisions of this article are met.

(26) To the extent possible using the best technology currently available the following:

(A) Minimize disturbances and adverse impacts of the

operation on fish, wildlife, and related environmental values.
(B) Enhance those resources where practicable.
(27) Provide for an undisturbed natural barrier:
(A) beginning at the elevation of the lowest coal seam to be mined; and
(B) extending from the outslope for a distance determined by the director;
to serve as a barrier to slides and erosion.
(28) Replace the water supply of an owner of interest in real property who obtains all or part of the owner's supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or a surface source if the supply is affected by contamination, diminution, or interruption proximately resulting from the surface coal mine operation. This article does not affect the right of a person to enforce or protect under applicable law the person's interest in water resources affected by a surface coal mining operation.
(29) Meet other criteria that are necessary to achieve reclamation in accordance with the purposes of this article, taking into consideration the physical, climatological, and other characteristics of the site.

As added by P.L.1-1995, SEC.27. Amended by P.L.179-1995, SEC.6.

IC 14-34-10-3
Exemptions

Sec. 3. (a) This section does not apply to the following:
(1) A permittee of a surface coal mining operation that is mining on flat or gently rolling terrain with an occasional slope as described in subsection (b) through which the coal mining operation is to proceed.
(2) A permittee in compliance with section 4 of this chapter.

(b) In addition to the requirements of section 2 of this chapter, a permittee operating a surface coal mining and reclamation operation on a slope of at least twenty degrees (20°), unless the director establishes a lesser slope after consideration of Indiana's soil, climate, and other pertinent characteristics, shall do the following:
(1) Ensure that, when performing surface coal mining on steep slopes, debris, abandoned or disabled equipment, spoil material, or waste mineral matter is not placed on the downslope below the bench or mining cut. However, spoil material exceeding that required for the reconstruction of the approximate original contour under:
(A) section 2(b)(4) of this chapter; or
(B) subdivision (2);
shall be permanently stored under section 2(b)(25) of this chapter.
(2) Complete backfilling with spoil material that:
(A) maintains stability following mining and reclamation; and

(B) completely covers the highwall;

and return the site to the approximate original contour.

(3) Not disturb land above the top of the highwall unless the director finds the disturbance will facilitate compliance with the standards of this chapter. However, the land disturbed above the highwall is limited to that amount necessary to facilitate compliance with those standards.

As added by P.L.1-1995, SEC.27.

IC 14-34-10-4

Mining permitted without regard to restoring land to original contour

Sec. 4. (a) The director may, under procedures established by rule, permit surface coal mining operations if:

(1) an industrial, a commercial, an agricultural, a residential, a recreational, or a public facility is proposed for the postmining use of the affected land; and

(2) the mining operation will remove an entire coal seam running through the upper fraction of a ridge or hill, except as provided in subsection (c)(1), by:

(A) removing all of the overburden; and

(B) creating a level plateau or a gently rolling contour;

(i) with no highwalls remaining; and

(ii) capable of supporting the postmining uses listed in subdivision (1);

without regard to the requirement to restore the affected land to the approximate original contour as set forth in section 2(b)(4), 3(b)(2), or 3(b)(3) of this chapter.

(b) The director may permit the proposed uses under subsection (a) only if the following conditions are met:

(1) After consultation with the appropriate land use planning agencies, if any, the proposed postmining land use is considered an equal or a better economic or public use of the affected land compared with the premining use.

(2) The applicant presents specific plans for the proposed postmining land use and appropriate assurances that the use meets the following conditions:

(A) The use is compatible with adjacent land uses.

(B) The use is obtainable according to data regarding expected need and market.

(C) The use is assured of investment in necessary public facilities.

(D) The use is supported by commitments from public agencies where appropriate.

(E) The use is practicable with respect to private financial capability for completion of the proposed use.

(F) The use is planned according to a schedule attached to the reclamation plan so as to integrate the mining operation and reclamation with the postmining land use.

(G) The use is designed by an engineer licensed under IC 25-31 and in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site.

(3) The proposed use is consistent with adjacent land uses and existing state and local land use plans and programs.

(4) The governing body of the unit of general purpose government in which the land is located and a state or federal agency that the director determines to have an interest in the proposed use is provided an opportunity of not more than sixty (60) days to review and comment on the proposed use.

(5) All other requirements of this article are met.

(c) With respect to a permit granted under subsection (a) and in addition to other requirements the commission establishes by rule, the director shall require the following:

(1) The toe of the lowest coal seam and the overburden associated with the seam are retained in place as a barrier to slides and erosion.

(2) The reclaimed area is stable.

(3) The resulting plateau or rolling contour drains inward from the outslopes except at specified points.

(4) No damage is done to natural watercourses.

(5) Spoil is placed on the hilltop bench as is necessary to achieve the planned postmining land use and the operator places all excess spoil material not retained on the hilltop in accordance with section 2(b)(25) of this chapter.

(6) The operator ensures stability of the spoil retained on the hilltop and meets all other requirements of this article.

(d) The director shall review all permits issued under this section not more than three (3) years from the date of issuance unless the applicant affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the approved schedule and reclamation plan.

As added by P.L.1-1995, SEC.27.

IC 14-34-10-5

Conditions for variance

Sec. 5. (a) The director may grant a variance from the requirement to restore to approximate original contour set forth in section 3(b)(2) of this chapter if the following conditions exist:

(1) After approval of the appropriate state environmental agencies, the watershed control of the area is improved.

(2) Complete backfilling with spoil materials that maintains stability following mining and reclamation is required to completely cover the highwall.

(3) The owner of the surface knowingly requests in writing, as a part of the permit application, that a variance be granted so as to make the land, after reclamation, suitable for an industrial, a commercial, a residential, a public, or a recreational use.

(4) After consultation with the appropriate land use planning agencies, if any:

(A) the potential use of the affected land constitutes an equal or a better economic or public use; and

(B) the variance is designed and certified by a professional engineer licensed under IC 25-31 and is in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site.

(b) With respect to a variance granted under subsection (a) or under IC 13-4.1-8-4(a) (before its repeal) and in addition to other requirements the commission establishes by rule, the director shall require the following:

(1) Only the amount of spoil will be placed off the mine bench as is necessary to achieve the planned postmining land use.

(2) Stability of the spoil retained on the bench is ensured.

(3) All spoil placement off the mine bench must comply with section 2(b)(25) of this chapter.

(c) The director shall review all exceptions granted under this section not more than three (3) years after the date of issuance of the permit unless the permittee affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the reclamation plan.

As added by P.L.1-1995, SEC.27.

IC 14-34-11
Chapter 11. Surface Effects of Underground Coal Mining

IC 14-34-11-1
Requirements of permit holders

Sec. 1. In addition to other requirements that the commission establishes by rule after considering the distinct difference between surface coal mining and underground coal mining and that do not conflict with or supersede any provision of the federal Mine Safety and Health Act of 1977, as amended (30 U.S.C. 801 through 960), or any of its regulations, an operator of an underground coal mining operation who holds a surface coal mining and reclamation permit shall do the following:

(1) To the extent technologically and economically feasible and except in those instances where the mining technology used requires planned subsidence in a predictable and controlled manner, adopt measures consistent with known technology to do the following:

(A) Prevent subsidence causing material damage.

(B) Maximize mine stability.

(C) Maintain the value and reasonably foreseeable use of surface land.

However, this section does not prohibit the standard method of room and pillar mining.

(2) Seal all portals, entryways, drifts, shafts, or other openings between the surface and underground coal mine working when no longer needed for the conduct of the mining operations.

(3) Fill or seal exploratory holes no longer necessary for mining, maximizing to the extent technologically and economically feasible the return of:

(A) mine and processing waste;

(B) tailings; and

(C) any other waste incident to the mining operation;

to the mine workings or excavations.

(4) With respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine workings or excavations the following:

(A) Stabilize all waste piles created by the permittee from current operations through construction in compacted layers, including the use of incombustible and impervious materials if necessary.

(B) Assure the following:

(i) The leachate will not degrade below water quality standards established under applicable federal and state law for surface or ground water.

(ii) The final contour of the waste accumulation will be compatible with natural surroundings.

(iii) The site is stabilized and revegetated according to this

chapter.

(5) Design, locate, construct, operate, maintain, enlarge, modify, and remove, or abandon, in accordance with the standards and criteria used by the United States Secretary of the Interior to ensure that flood control structures are safe and effectively perform their intended function, all existing and new coal mine waste piles:

(A) consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes; and

(B) used temporarily or permanently as dams or embankments.

(6) Establish on regraded areas and all other land affected a diverse and permanent vegetative cover:

(A) capable of self-regeneration and plant succession; and

(B) at least equal in extent of cover to the natural vegetation of the area.

(7) Protect offsite areas from damages that may result from the mining operations.

(8) Eliminate fire hazards and other conditions that constitute a hazard to the health and safety of the public.

(9) Minimize the disturbances of the prevailing hydrologic balance at the mine site and in associated offsite areas and to the quantity of water in surface ground water systems both during and after coal mining operations and during reclamation by doing the following:

(A) Avoiding acid or other toxic mine drainage by measures such as the following:

(i) Preventing or removing water from contact with toxic-producing deposits.

(ii) Treating drainage to reduce toxic content that adversely affects downstream water upon release to watercourses.

(iii) Casing, sealing, or otherwise managing boreholes, shafts, and wells to keep acid or other toxic drainage from entering ground and surface water.

(B) Conducting surface coal mining operations to:

(i) prevent, to the extent possible using the best technology currently available, additional contributions, not exceeding requirements set by state or federal law, of suspended solids to stream flow or runoff outside the permit area; and

(ii) avoid channel deepening or enlargement;

in operations requiring the discharge of water from mines.

(10) With respect to other surface impacts not specified in this chapter, including the construction of:

(A) new roads or the improvement or use of existing roads to gain access to the site of those activities and for haulage;

(B) repair areas;

(C) storage areas;

(D) processing areas;

(E) shipping areas; and

(F) other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to those activities;

operate in accordance with the standards established under IC 14-34-10 for the effects that result from surface coal mining operations.

(11) To the extent possible using the best technology currently available the following:

(A) Minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values.

(B) Achieve enhancement of those resources if practicable.

(12) Locate openings for all new drift mines working acid-producing or iron-producing coal seams in such a manner as to prevent a gravity discharge of water from the mine unless another location is approved by the director.

As added by P.L.1-1995, SEC.27.

IC 14-34-11-2

Suspension of mining to protect land stability

Sec. 2. To protect the stability of the land, the director shall suspend underground coal mining:

(1) under urbanized areas, cities, towns, and communities; and

(2) adjacent to industrial or commercial buildings, major impoundments, or permanent streams;

if the director finds an imminent danger to inhabitants of the urbanized areas, cities, towns, and communities.

As added by P.L.1-1995, SEC.27.

IC 14-34-11-3

Damage to buildings or water

Sec. 3. (a) As used in this section, "compensate" means to provide an amount equal to the full amount of the diminution in value resulting from the subsidence described in subsection (c)(1). The term includes the purchase, before the commencement of mining operations, of a noncancellable premium-prepaid insurance policy.

(b) As used in this section, "repair" includes rehabilitation, restoration, and replacement.

(c) The operator of an underground coal mining operation conducted after June 30, 1994, shall do the following:

(1) Promptly repair or compensate for material damage resulting from subsidence caused to:

(A) any occupied residential dwelling and any structure related to the occupied residential dwelling; or

(B) any noncommercial building;

due to the operator's underground coal mining operation.

(2) Promptly replace any drinking, domestic, or residential water supply from a well or spring that:

(A) was in existence before the filing of the operator's application for a surface coal mining and reclamation permit;

and

(B) has been affected by contamination, diminution, or interruption resulting from the operator's underground coal mining operation.

As added by P.L.1-1995, SEC.27.

IC 14-34-11-4

Modification of permits and bonds

Sec. 4. All provisions of this article apply to surface impacts incident to an underground coal mine. However, the director may modify the:

(1) permit application requirements;

(2) permit approval or denial procedures; and

(3) bond requirements;

to accommodate the distinct difference between surface coal mining and underground coal mining.

As added by P.L.1-1995, SEC.27.

IC 14-34-12
Chapter 12. Blasting

IC 14-34-12-1
Rules regarding training, examination, and certification

Sec. 1. The commission shall adopt rules that require the:
(1) training;
(2) examination; and
(3) certification;
of persons engaging in or directly responsible for blasting or use of explosives in surface coal mining.
As added by P.L.1-1995, SEC.27.

IC 14-34-12-2
Adoption of rules regarding blasting

Sec. 2. The commission shall adopt rules to do the following:
(1) Require the permittee to provide reasonable advance written notice to local governments and residents who might be affected by the use of the explosives by:
(A) publication of the planned blasting schedule in a newspaper of general circulation in the county in which the blasting will occur;
(B) mailing a copy of the proposed blasting schedule to every resident living within one-half (1/2) mile of the proposed blasting site; and
(C) providing daily notice to persons living in the areas before any blasting.
(2) Require the permittee to maintain for at least three (3) years and make available for public inspection upon request a log detailing the following:
(A) The location of the blasts.
(B) The pattern and depth of the drill holes.
(C) The amount of explosives used per hole.
(D) The order of and length of delay in the blasts.
(3) Limit the type of explosives and detonating equipment and the size, timing, and frequency of the blasts based upon the physical conditions of the site to prevent the following:
(A) Injury to persons.
(B) Damage to public and private property outside the permit area.
(C) Adverse impacts on an underground mine.
(D) Change in the course, channel, or availability of ground or surface water outside the permit area.
(4) Require that all blasting operations are conducted by trained and competent persons certified by the director.
(5) Provide that upon the request of a resident or an owner of a manmade dwelling or structure within one (1) mile of any part of the permitted area, the applicant for the surface coal mining

and reclamation permit or the permittee shall conduct a preblasting survey of those structures and submit the survey to the director and a copy to the resident or owner making the request. The director shall determine the area of the survey. The applicant or the permittee shall do the following:

(A) Notify the public, by publication at least one (1) time a week for four (4) consecutive weeks in a local newspaper of general circulation in the county in which the blasting will occur, that the applicant or permittee will conduct a preblasting survey upon request by a resident or an owner of a manmade dwelling or structure within one (1) mile of any part of the permitted area.

(B) Send written notice to each resident or owner of a manmade dwelling or structure within one-half (1/2) mile of any part of the permitted area that the resident or owner is entitled to a preblasting survey upon request.

As added by P.L.1-1995, SEC.27.

IC 14-34-12-3

Investigation of complaints

Sec. 3. Upon receipt of a complaint that blasting operations at surface coal mining operations may be causing damage to a person's property, the director may, if invited, enter upon property of the person making the complaint to investigate the complaint.

As added by P.L.1-1995, SEC.27.

IC 14-34-13

Chapter 13. Reclamation Fees

IC 14-34-13-1

Fees paid by all operators

Sec. 1. All operators of surface coal mining operations subject to this article shall pay to the department for deposit in the natural resources reclamation division fund established by IC 14-34-14-2 a reclamation fee of five and a half cents ($0.055) per ton of coal produced.

As added by P.L.1-1995, SEC.27. Amended by P.L.179-1995, SEC.7; P.L.174-2005, SEC.3.

IC 14-34-13-2

Fees paid by underground mining operators

Sec. 2. All operators of underground coal mining operations subject to this article shall pay to the department for deposit in the natural resources reclamation division fund established by IC 14-34-14-2 a reclamation fee of three cents ($0.03) per ton of coal produced.

As added by P.L.1-1995, SEC.27. Amended by P.L.179-1995, SEC.8; P.L.155-2002, SEC.10; P.L.174-2005, SEC.4.

IC 14-34-13-3

Payments of fees

Sec. 3. The fees required by sections 1 through 2 of this chapter shall be paid:

(1) concurrently with the federal reclamation fee under the federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232); and

(2) not later than thirty (30) days after the end of each calendar quarter.

As added by P.L.1-1995, SEC.27.

IC 14-34-14

Chapter 14. Reclamation Division Fund

IC 14-34-14-1

"Fund" defined

Sec. 1. As used in this chapter, "fund" refers to the natural resources reclamation division fund established by this chapter.

As added by P.L.1-1995, SEC.27.

IC 14-34-14-2

Purpose

Sec. 2. The natural resources reclamation division fund is established to receive money for the administration of this article. The money in the fund is appropriated for the purposes expressed under this article.

As added by P.L.1-1995, SEC.27.

IC 14-34-14-3

Fund administration

Sec. 3. The department shall administer the fund.

As added by P.L.1-1995, SEC.27.

IC 14-34-14-4

Investments

Sec. 4. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

As added by P.L.1-1995, SEC.27.

IC 14-34-14-5

Money not reverting to state general fund

Sec. 5. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.1-1995, SEC.27.

IC 14-34-15

Chapter 15. Inspections, Monitoring, and Enforcement

IC 14-34-15-1

Duties of permittees regarding records and reports

Sec. 1. (a) To aid in the enforcement of this article, the director shall require each permittee to establish and maintain the information and records required by the commission by rule.

(b) Each permittee shall do the following:

(1) Perform the following administrative duties:

(A) Establish and maintain appropriate records.

(B) Make monthly reports to the director.

(C) Install, use, and maintain any necessary monitoring equipment or methods.

(D) Evaluate results in accordance with:

(i) the methods;

(ii) the locations;

(iii) the intervals; and

(iv) the manner;

that the director prescribes.

(E) Provide other information relative to surface coal mining and reclamation operations that the department considers reasonable and necessary.

(F) Without delay allow the director or the director's authorized representative to:

(i) have access to or copy any records; and

(ii) inspect any monitoring equipment or method of operation;

required under this article.

(2) Conspicuously maintain at the entrance to the surface coal mining and reclamation operation a clearly visible sign that sets forth the name, business address, phone number, and permit number of the operation.

(3) Allow the director or the director's authorized representative to enter, upon presentation of credentials and without advance notice, the permittee's surface coal mining and reclamation operation. The director or the director's authorized representative has the following:

(A) The right of entry to, upon, or through any surface coal mining and reclamation operation or any premises in which any records required to be maintained under subdivision (1) are located.

(B) At reasonable times and without delay:

(i) access to and authority to copy any records; and

(ii) authority to inspect any monitoring equipment or method of operation;

required under this article.

As added by P.L.1-1995, SEC.27.

IC 14-34-15-2
Operations removing or disturbing strata serving as aquifers

Sec. 2. (a) For those surface coal mining and reclamation operations that remove or disturb strata that serve as aquifers that significantly ensure the hydrologic balance of water use either on or off the mining site, the director shall specify the following:

(1) Monitoring sites to record the quantity and quality of surface drainage above and below the mine site as well as in the potential zone of influence.

(2) Monitoring sites to record level, amount, and samples of ground water and aquifers potentially affected by the mining and also directly below the lowermost (deepest) coal seam to be mined.

(3) Records of well logs and borehole data to be maintained.

(4) Monitoring sites to record precipitation.

(b) The monitoring, data collection, and analysis required by this section shall be conducted according to standards and procedures set forth by rules of the commission to assure reliability and validity.

As added by P.L.1-1995, SEC.27.

IC 14-34-15-3
Minimum inspections

Sec. 3. (a) The director shall inspect the surface coal mining and reclamation operation covered by a permit issued under this article on an irregular basis with, at a minimum, the following:

(1) One (1) partial inspection per month.

(2) One (1) complete inspection per calendar quarter.

(b) In addition to the inspections conducted under subsection (a), the director shall inspect the surface coal mining and reclamation operation covered by a permit issued under this article whenever, on the basis of any information available to the director, including receipt of information from any person, the director has reason to believe that the operation is in violation of this article or the commission's rules. The inspection must occur within ten (10) days of receipt of the notification. If the inspection results from information provided by any person, the person may accompany the director on the inspection.

(c) All inspections must occur without prior notice to the permittee or the permittee's agents or employees except for necessary onsite meetings with the permittee.

As added by P.L.1-1995, SEC.27.

IC 14-34-15-4
Inspection report

Sec. 4. (a) Following completion of the inspections required under section 3 of this chapter, the inspector shall file an inspection report. The inspection report must include information sufficient to allow the director to enforce the requirements and carry out the purposes of this article.

(b) A copy of any record, report, inspection material, or other information obtained under this chapter, other than material designated as confidential under this article, must be available to the public at the following:

(1) The department.

(2) A public library in the county in which the mining operation is located.

As added by P.L.1-1995, SEC.27.

IC 14-34-15-5

Notification of violations

Sec. 5. (a) If, due to an inspection under section 3 of this chapter, the director or an inspector determines a violation of:

(1) this article; or

(2) a rule adopted under this article;

has occurred, the director or inspector shall notify the permittee in writing of the violation and make a reasonable attempt to verbally notify the permittee upon discovery of the violation.

(b) The written notification must do the following:

(1) Contain a detailed description of each violation.

(2) Fix a reasonable time not exceeding ninety (90) days for abatement of the violation.

(3) Provide an opportunity for a public hearing under section 9 of this chapter.

(c) A notice of violation issued under subsection (a) is effective when served upon the permittee and is governed by IC 4-21.5-3-6. However, the notice of violation is subject to an application for temporary relief under section 9 of this chapter.

As added by P.L.1-1995, SEC.27.

IC 14-34-15-6

Ordered cessation of coal mining and reclamation operations

Sec. 6. (a) As used in this section, "imminent danger to the health or safety of the public" means the existence of:

(1) a condition;

(2) a practice; or

(3) a violation of a permit or other requirement of this article;

in a surface coal mining and reclamation operation that could reasonably be expected to cause substantial physical harm to persons outside the permit area before the condition, practice, or violation is abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose the person to the danger during the time necessary for abatement.

(b) If the director or inspector determines that:

(1) a condition or practice exists or a violation of this article or the commission's rules has occurred that:

(A) creates an imminent danger to the health or safety of the public; or

(B) is reasonably expected to cause significant, imminent environmental harm to land, air, or water resources; or

(2) the permittee has not abated the violation within the time set under section 5 of this chapter;

the director shall order the cessation of surface coal mining and reclamation operations or the part relevant to the condition, practice, or violation. In the cessation order, the director shall determine the steps necessary to abate the violation in the most expeditious manner.

(c) If the director or inspector finds that the ordered cessation of surface coal mining and reclamation operations, or any part, will not completely abate:

(1) the imminent danger to health or safety of the public; or

(2) the significant imminent environmental harm to land, air, or water resources;

the director shall, in addition to the cessation order, impose affirmative obligations on the operator requiring the operator to take whatever steps the director considers necessary to abate the imminent danger or the significant environmental harm.

(d) The cessation order is effective for thirty (30) days after actual notice of the order is sent to the permittee unless:

(1) the director determines the violation is abated;

(2) the order is modified, vacated, or terminated under section 8 of this chapter; or

(3) an informal public hearing is held in the county in which the surface coal mining and reclamation operation is located, in which case the effectiveness of the order may be more or less than thirty (30) days.

(e) A cessation order issued under subsection (b) is effective when served upon the permittee.

As added by P.L.1-1995, SEC.27.

IC 14-34-15-7

Permit suspension or revocation

Sec. 7. (a) As used in this section, "unwarranted failure to comply" means the failure of a permittee to:

(1) prevent the occurrence of a violation of:

(A) the permittee's permit; or

(B) a requirement of this article; or

(2) abate a violation of:

(A) the permit; or

(B) this article;

due to indifference, lack of diligence, or lack of reasonable care.

(b) If, on the basis of an inspection, the director determines that:

(1) a pattern of violations of the requirements of:

(A) this article or IC 13-4.1 (before its repeal);

(B) the rules adopted under IC 14-34-2-1 or IC 13-4.1-2-1 (before its repeal); or

(C) permit conditions required by this article or IC 13-4.1 (before its repeal);

exists or has existed; and

(2) the violations:

(A) are caused by the unwarranted failure of the permittee to comply with:

(i) the requirements of this article or IC 13-4.1 (before its repeal);

(ii) the rules adopted under IC 14-34-2-1 or IC 13-4.1-2-1 (before its repeal); or

(iii) permit conditions required by this article or IC 13-4.1 (before its repeal); or

(B) are willfully caused by the permittee;

the director shall issue an order of permit suspension or revocation and shall provide opportunity for a public hearing under subsection (d).

(c) An order issued under:

(1) subsection (b); or

(2) IC 13-4.1-11-6 (before its repeal);

is subject to IC 4-21.5-3-6 and becomes an effective and final order of the commission without a proceeding if a request for review of the order is not filed with the director within thirty (30) days after the order is served upon the permittee.

(d) If a hearing is requested under IC 4-21.5-3-7, the director shall conduct the hearing in accordance with IC 4-21.5. The director shall notify all interested parties of the time, place, and date of the hearing.

(e) In a hearing requested under IC 4-21.5-3-7, the director has the burden of going forward with evidence demonstrating that the permit in question should be suspended or revoked. This burden is satisfied if the director establishes a prima facie case that:

(1) a pattern of violations of the requirements of:

(A) this article or IC 13-4.1 (before its repeal);

(B) the rules adopted under IC 14-34-2-1 or IC 13-4.1-2-1 (before its repeal); or

(C) permit conditions required by this article or IC 13-4.1 (before its repeal);

exists or has existed; and

(2) the violations were:

(A) willfully caused by the permittee; or

(B) caused by the unwarranted failure of the permittee to comply with the requirements of:

(i) this article or IC 13-4.1 (before its repeal);

(ii) the rules adopted under IC 14-34-2-1 or IC 13-4.1-2-1 (before its repeal); or

(iii) a permit condition required by this article or IC 13-4.1 (before its repeal).

(f) For the purposes of subsection (e), the unwarranted failure of the permittee to pay any fee required under this article or under IC 13.4.1 (before its repeal):

(1) constitutes a pattern of violations; and

(2) requires the permittee to show cause why the permit should

not be suspended or revoked under this section.

(g) If the director demonstrates in a hearing requested under IC 4-21.5-3-7 that the permit in question should be suspended or revoked, the permittee has the ultimate burden of persuasion to show cause why the permit should not be suspended or revoked. A permittee may not challenge the fact of any violation that is the subject of a final order of the director.

(h) Within sixty (60) days after the conclusion of the hearing on the merits, the commission shall issue to the parties a final written decision. The final written decision must include the reasons for the determination of the commission on the suspension or revocation of the permit.

(i) If the commission revokes a permit, the permittee shall do the following:

(1) Immediately cease surface coal mining and reclamation operations on the permit area.

(2) Complete reclamation within a time period set by the director. If reclamation is not completed within that time period, the permittee forfeits the applicable bond.

As added by P.L.1-1995, SEC.27.

IC 14-34-15-8

Notice or order requirements

Sec. 8. (a) The director or inspector, as appropriate, shall sign each written notice or order issued under this chapter and promptly deliver the notice or order to the permittee. The notice or order must set forth with particularity the following:

(1) The nature of the violation.

(2) The remedial action required.

(3) The time established for abatement.

(4) A reasonable description of the part of the surface coal mining and reclamation operation to which the notice or order applies.

(b) The director may modify, vacate, or terminate a notice or order issued under:

(1) this chapter; or

(2) IC 13-4.1-11 (before its repeal).

As added by P.L.1-1995, SEC.27.

IC 14-34-15-9

Application for review

Sec. 9. (a) Any person having an interest that is or may be adversely affected by the issuance under this chapter or under IC 13-4.1-11 (before its repeal) of:

(1) a notice of violation;

(2) a cessation order;

(3) the modification of a notice of violation or a cessation order;

(4) the vacation of a notice of violation or a cessation order; or

(5) the termination of a notice of violation or a cessation order;

may apply to the commission for review of the notice, order, modification, vacation, or termination within thirty (30) days from the date of issuance. The filing of an application for review does not operate as a stay of an order or a notice.

(b) Upon receipt of an application for review under subsection (a), the commission shall conduct an investigation of the circumstances relating to the issuance of the notice or order or modification, vacation, or termination of the notice or order. The investigation shall provide an opportunity for a public hearing to enable interested persons to present information relating to:

(1) the issuance and continuance of the notice or order; or

(2) the modification, vacation, or termination of the notice or order.

(c) If a public hearing is requested under subsection (b), the commission shall do the following:

(1) Conduct the hearing in accordance with IC 4-21.5-3.

(2) Give written notice to the permittee and other interested parties of the time and place of the hearing at least five (5) days before the hearing.

(d) Upon completion of the investigation conducted under subsection (b), the commission shall make findings of fact and issue a written final decision. The written final decision must include an order vacating, affirming, modifying, or terminating the notice or order or the modification, vacation, or termination of the notice or order. If:

(1) the application for review concerns an order for cessation of a surface coal mining and reclamation operation; and

(2) the cessation order has directly or indirectly ordered the ceasing of surface or underground mining activities;

the commission shall issue the written decision within thirty (30) days of receipt of the application for review unless the commission under subsection (e) or the court under judicial review of the commission's decision under IC 4-21.5-5 grants temporary relief.

(e) Pending completion of the investigation and hearing required by subsection (b) and the hearing required by section 7 of this chapter, the applicant may file with the commission a written request that the commission grant temporary relief from a notice or an order issued under this chapter or under IC 13-4.1-11 (before its repeal). The written request must include a detailed statement of the reasons why temporary relief is appropriate. The commission shall issue an order or a decision granting or denying the requested relief expeditiously. However, if the applicant requests relief from an order for cessation of coal mining and reclamation operations issued under section 6 of this chapter, the commission shall issue the order or decision on the request within five (5) days of receipt of the request. The commission may grant temporary relief, under the conditions that the commission prescribes, if the following conditions are met:

(1) A hearing was held in the locality of the permit area on the request for temporary relief in which all parties were given an

opportunity to be heard.

(2) The applicant showed there is substantial likelihood that the findings of the commission will be favorable to the applicant.

(3) Temporary relief will not do any of the following:

(A) Adversely affect the health or safety of the public.

(B) Cause significant, imminent environmental harm to land, air, or water resources.

As added by P.L.1-1995, SEC.27.

IC 14-34-15-10

Costs and expenses

Sec. 10. Whenever an order is issued:

(1) under this chapter or under IC 13-4.1-11 (before its repeal); or

(2) as a result of an administrative proceeding under this article or under IC 13-4.1 (before its repeal) instituted at the request of a person;

the court, resulting from judicial review, or the commission may assess against either party to the proceeding an amount of money, determined by the commission, equal to the aggregate amount of all costs and expenses, including attorney's fees, reasonably incurred by the person for or in connection with the person's participation in the proceedings, including any judicial review of agency actions.

As added by P.L.1-1995, SEC.27.

IC 14-34-15-11

Injunctions; restraining orders; other orders

Sec. 11. The director may request the attorney general to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order, in an appropriate court in the county in which the surface coal mining and reclamation operation is located if a person does any of the following:

(1) Violates or fails or refuses to comply with an order issued by the director under:

(A) IC 13-4.1 (before its repeal); or

(B) this article.

(2) Interferes with, hinders, or delays the director in carrying out this article.

(3) Refuses the director admittance to the person's surface coal mining and reclamation operation.

(4) Refuses to permit the director to inspect the person's surface coal mining and reclamation operation.

(5) Refuses to furnish any information or report requested by the director under this article.

(6) Refuses to permit access to and copying of any records that the director considers necessary to carry out this article.

As added by P.L.1-1995, SEC.27.

IC 14-34-15-12
Civil action

Sec. 12. (a) In addition to other remedies available under statutory or common law, a person with an interest that is or may be adversely affected may commence a civil action on the person's own behalf to compel compliance with this article against any of the following:

(1) A person allegedly in violation of:

(A) this article;

(B) a commission rule adopted under this article; or

(C) a notice or an order issued under:

(i) IC 13-4.1 (before its repeal); or

(ii) this article.

However, a commencement of an action under this subdivision must occur in the county in which the surface coal mining and reclamation operation complained of is located.

(2) The director or the commission to the extent permitted by the Constitution of the State of Indiana and IC 34-13-3 if the person allegedly fails to perform an act or a duty required under this article. However, commencement of an action under this subdivision must occur in the county in which the complained of action should have taken place.

(b) A person may not commence an action under subsection (a)(1):

(1) less than sixty (60) days after notice is given by the person to:

(A) the director;

(B) the commission; and

(C) an alleged violator; or

(2) if the director or the state has commenced a civil action and is diligently prosecuting the action to require compliance with:

(A) this article;

(B) a commission rule adopted under this article; or

(C) a notice or an order issued under:

(i) IC 13-4.1 (before its repeal); or

(ii) this article.

However, any person may intervene in the action as a matter of right.

(c) A person may not commence an action under subsection (a)(2) less than sixty (60) days after the person has notified the director or the commission in writing of the intention to commence an action. However, the person may commence an action immediately after the written notification if the alleged violation:

(1) constitutes an imminent threat to the health or safety of the person; or

(2) would immediately affect a legal interest of the person.

(d) In an action commenced under subsection (a)(2):

(1) the director;

(2) the commission; or

(3) the Secretary of the United States Department of the Interior;

may intervene as a matter of right.

(e) The court may, in issuing a final order in an action brought under subsection (a), award the costs of litigation, including attorney's and expert witness fees, to any party if the court determines the award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Indiana Rules of Trial Procedure.

(f) This section does not restrict a right that a person or class of persons has under a statute or common law to do the following:

(1) Seek enforcement of the following:

(A) This article.

(B) The rules adopted under this article.

(2) Seek any other relief, including relief against the commission.

As added by P.L.1-1995, SEC.27. Amended by P.L.1-1998, SEC.112.

IC 14-34-15-13

Violations at surface mining site; citations

Sec. 13. (a) A person who is or may be adversely affected by a surface mining operation may notify the director or any representative of the director responsible for conducting the inspection, in writing, of a violation of this article that the person has reason to believe exists at the surface mining site.

(b) The commission shall by rule establish procedures for informal review of a refusal by a representative of the director to issue a citation with respect to such an alleged violation.

(c) The director shall furnish the person requesting the review a written statement of the reasons for the director's final disposition of the case.

As added by P.L.1-1995, SEC.27.

IC 14-34-15-14

Inspections

Sec. 14. (a) The commission shall by rule establish procedures to ensure that adequate and complete inspections are made.

(b) A person may notify the director of a failure to make an inspection, after which the director shall determine whether an adequate and complete inspection has been made.

(c) The director shall furnish the person a written statement of the reasons for the director's determination that an adequate and complete inspection has or has not been conducted.

As added by P.L.1-1995, SEC.27.

IC 14-34-15-15

Action for damages

Sec. 15. (a) A person whose person or property is injured through the violation by an operator of a rule, an order, or a permit issued under:

(1) IC 13-4.1 (before its repeal); or
(2) this article;

may bring an action for damages, including reasonable attorney's and expert witness fees. The action must be brought in the circuit or superior court with jurisdiction in the county in which the surface coal mining operation complained of is located.

(b) This section does not affect the rights established by or limits imposed under IC 22-3-1 and IC 22-3-2.

As added by P.L.1-1995, SEC.27.

IC 14-34-15-16

Intervention

Sec. 16. A person subject to this article who:

(1) is entitled to request a hearing under IC 4-21.5-3; or
(2) has an interest that may be adversely affected by the outcome of a hearing under IC 4-21.5-3;

may intervene in the hearing.

As added by P.L.1-1995, SEC.27.

IC 14-34-16
Chapter 16. Penalties

IC 14-34-16-1
Civil penalties; violations

Sec. 1. (a) The director:

(1) may, after an opportunity for a public hearing under IC 4-21.5-3, assess a civil penalty on a permittee who violates:

(A) this article; or

(B) IC 13-4.1 (before its repeal); and

(2) shall, if the director has issued a cessation order for the violation to the permittee, assess a civil penalty.

(b) The civil penalty assessed under this section may be in an amount of not more than five thousand dollars ($5,000) for each violation.

(c) If an operator fails to correct a violation for which a notification has been issued under:

(1) IC 13-4.1-11-4 (before its repeal); or

(2) IC 14-34-15-5;

in the allotted time for correction, the director may, if a civil penalty is assessed, assess a civil penalty of not less than seven hundred fifty dollars ($750) for each day during which the failure or violation continues.

(d) The time for correction of a violation does not end until the entry of:

(1) a final order by the director, for review proceedings initiated by the operator if the director orders, after an expedited hearing, the suspension of the abatement requirements of the citation based upon a determination that the operator will suffer irreparable loss or damage from the application of those requirements; or

(2) an order of the court, for review proceedings initiated by the operator if the court orders the suspension of the abatement requirements of the citation.

As added by P.L.1-1995, SEC.27.

IC 14-34-16-2
Amount of penalty

Sec. 2. In determining the amount of a civil penalty under section 1 of this chapter, the director shall consider the following:

(1) The permittee's history of previous violations at the surface coal mining and reclamation operation.

(2) The seriousness of the violation, including any irreparable harm to the environment and hazard to the health and safety of the public.

(3) The permittee's negligence.

(4) The demonstrated good faith of the permittee to achieve rapid compliance after notification of the violation.

As added by P.L.1-1995, SEC.27.

IC 14-34-16-3
Each day considered separate violation

Sec. 3. Each day in violation of:

(1) IC 13-4.1 (before its repeal); or

(2) this article;

may be considered a separate violation for purposes of assessing a civil penalty.

As added by P.L.1-1995, SEC.27.

IC 14-34-16-4
Order to pay penalty; hearing

Sec. 4. (a) Upon the issuance of a notice or an order charging that a violation of IC 13-4.1 (before its repeal) or this article has occurred, the director shall, within thirty (30) days, do the following:

(1) Inform the permittee of the amount of penalty assessed.

(2) Issue an order to the permittee to pay the penalty.

(b) The permittee has thirty (30) days from receipt of the order to:

(1) pay the penalty; or

(2) request a hearing to contest the amount.

(c) If the permittee requests a hearing, the permittee shall forward an amount equal to the assessed penalty to the director, who shall place the amount in an escrow account. A permittee who desires to contest the violation or amount of penalty assessed but fails to forward the amount to the director waives all legal rights to contest the violation or amount of penalty assessed.

(d) The commission:

(1) shall conduct the hearing in accordance with IC 4-21.5-3; and

(2) may consolidate this hearing with a hearing conducted under IC 14-34-15 if appropriate.

(e) If it is determined at the hearing that the civil penalty is appropriate, the commission shall issue to the permittee a written decision and an order to pay the penalty within thirty (30) days of receipt of the order.

(f) If, through administrative or judicial review of the assessed penalty:

(1) it is determined that a violation did not occur; or

(2) the amount of penalty is reduced;

the director shall, within thirty (30) days of the decision, remit the appropriate amount to the permittee with interest at the rate of eight percent (8%) per year.

As added by P.L.1-1995, SEC.27.

IC 14-34-16-5
Action by attorney general to recover civil penalties owed

Sec. 5. The director may request the attorney general to institute an action in an appropriate court in the county in which the

permittee's surface coal mining and reclamation operation is located for recovery of civil penalties owed under this article.
As added by P.L.1-1995, SEC.27.

IC 14-34-16-6
Criminal violations

Sec. 6. (a) A person who:
(1) knowingly violates:
(A) a condition of a permit issued under:
(i) IC 13-4.1 (before its repeal); or
(ii) this article;
(B) this article; or
(C) an order issued under:
(i) IC 13-4.1 (before its repeal); or
(ii) this article; or
(2) knowingly makes a false statement, representation, or certification in an application, a record, a report, a plan, or other document filed with or required to be maintained by the director;
commits a Class A misdemeanor.

(b) A person who:
(1) violates subsection (a); or
(2) discloses confidential information to an unauthorized person;
is subject to IC 14-34-15-5, IC 14-34-15-6, or sections 1 through 5 of this chapter, as appropriate.

(c) If a person violates subsection (a), the person's application for a permit may be denied.
As added by P.L.1-1995, SEC.27.

IC 14-34-16-7
Interference with director in performance of director's duties

Sec. 7. A person who willfully resists, prevents, impedes, or interferes, except as otherwise provided by law, with the director or the director's representative in the performance of duties under this article commits a Class A misdemeanor.
As added by P.L.1-1995, SEC.27.

IC 14-34-16-8
Violations of permit and noncompliance by corporate permittee

Sec. 8. If a corporate permittee:
(1) violates a condition of a permit issued under this article; or
(2) fails or refuses to comply with an order issued by the director;
a director, an officer, or an agent of the corporation who willfully and knowingly authorized, ordered, or carried out the violation, failure, or refusal is subject to the same penalties under sections 1 through 6 of this chapter that are imposed on an individual permittee.
As added by P.L.1-1995, SEC.27.

IC 14-34-16-9
Penalties deposited in fund

Sec. 9. All civil penalties collected under this chapter shall be deposited in the post-1977 abandoned mine reclamation fund established by IC 14-34-6-15.

As added by P.L.1-1995, SEC.27.

IC 14-34-17
Chapter 17. Judicial Review

IC 14-34-17-1
Action subject to review; operation of rights not limited

Sec. 1. An action of the director or the commission is subject to judicial review under IC 4-21.5-5. The availability of judicial review under this chapter does not limit the operation of rights under IC 14-34-15-12 through IC 14-34-15-15.
As added by P.L.1-1995, SEC.27.

IC 14-34-17-2
Judicial review not stay of action

Sec. 2. The commencement of a judicial review proceeding under this chapter does not operate as a stay of the action, order, or decision of the director or the commission.
As added by P.L.1-1995, SEC.27.

IC 14-34-17-3
Temporary relief

Sec. 3. Pending final determination of the judicial review proceeding, the court may grant temporary relief if the following conditions are met:

(1) All parties to the proceedings were:
(A) notified; and
(B) given an opportunity to be heard on a request for temporary relief.

(2) The person requesting the relief shows a substantial likelihood that the person will prevail on the merits of the final determination of the proceeding.

(3) The temporary relief will not:
(A) adversely affect the public health or safety; or
(B) cause significant imminent environmental harm to land, air, or water resources.

As added by P.L.1-1995, SEC.27.

IC 14-34-18

Chapter 18. Designation of Land Unsuitable for Surface Coal Mining

IC 14-34-18-1

Exemptions

Sec. 1. This chapter does not apply to the following:

(1) Land on which surface coal mining operations were conducted:

(A) on August 3, 1977; or

(B) under a permit issued under:

(i) IC 13-4.1 (before its repeal); or

(ii) this article.

(2) Land where substantial legal and financial commitments in a surface coal mining operation were in existence before January 4, 1977.

As added by P.L.1-1995, SEC.27.

IC 14-34-18-2

"Substantial legal and financial commitments in a surface coal mining operation" defined

Sec. 2. As used in this chapter, "substantial legal and financial commitments in a surface coal mining operation" means significant investments that have been made on the basis of a long term coal contract in power plants, railroads, coal handling facilities, preparation facilities, extraction facilities, or storage facilities and other capital intensive activities, such as the following:

(1) Improvement or modification of coal land within, for access to, or in support of surface coal mining and reclamation operations.

(2) Acquisition of capital equipment for use in, for access to, or for use in support of surface coal mining and reclamation operations.

As added by P.L.1-1995, SEC.27.

IC 14-34-18-3

Prohibited conditions

Sec. 3. (a) Subject to valid existing rights that existed before August 3, 1977, and except for those operations that existed on August 3, 1977, and as provided in subsection (c), a surface coal mining operation may not exist under any of the following conditions:

(1) On land within the boundaries of units of the following:

(A) The National Park System.

(B) The National Wildlife Refuge Systems.

(C) The National System of Trails.

(D) The National Wilderness Preservation System.

(E) The Wild and Scenic Rivers System, including study

rivers designated under the federal Wild and Scenic Rivers Act, as amended (16 U.S.C. 1271 et seq.).

(F) National Recreation Areas designated by an act of the United States Congress.

(2) On federal land within the boundaries of a national forest. However, surface coal mining operations are allowed on the national forest land if the United States Secretary of the Interior finds that:

(A) there are no significant recreational, timber, economic, or other values that are incompatible with surface mining operations; and

(B) surface operations and effects are incident to an underground coal mine.

(3) That will adversely affect:

(A) a publicly owned park or a place included in:

(i) the National Register of Historic Places; or

(ii) the Indiana state register of historic sites and structures; or

(B) a natural landmark included in the National Register of Historic Places;

unless approved jointly by the director and the federal, state, or local agency with jurisdiction over the park or the historic site.

(4) Within one hundred (100) feet of the outside right-of-way line of a public road, except where mine access roads or haulage roads join the right-of-way line. However, the director may permit:

(A) a road to be relocated; or

(B) the area affected to lie within one hundred (100) feet of the road if, after public notice and an opportunity for a public hearing in the locality, a written finding is made that the interests of the public and the landowners affected will be protected.

(5) Within three hundred (300) feet from any of the following:

(A) An occupied dwelling, unless waived by the owner.

(B) A public building.

(C) A school.

(D) A church.

(E) A community or an institutional building.

(F) A public park.

(6) Within one hundred (100) feet of a cemetery.

(7) That will violate a local zoning ordinance.

(b) If:

(1) valid rights exist; or

(2) joint agency approval is to be obtained under subsection (a)(3);

adverse effects of mining shall be minimized.

(c) If the director determines that the public health or safety will be endangered, the extraction of coal by strip mining methods within the distances for:

(1) occupied dwellings set forth in subsection (a)(5); and
(2) public roads set forth in subsection (a)(4), except where a public road is vacated or closed in accordance with law;

is not subject to valid existing rights.

(d) The commission shall adopt rules to establish a planning process enabling objective decisions based upon competent and scientifically sound data and information to determine the land areas of Indiana, if any, that are unsuitable for all or certain types of surface coal mining operations under the standards set forth in this section. However, the designation does not prevent the mineral exploration under this article of an area so designated.

As added by P.L.1-1995, SEC.27.

IC 14-34-18-4

Petition to director

Sec. 4. (a) A person with an interest that is or may be adversely affected may petition the director to:

(1) designate an area as unsuitable for surface coal mining operations; or
(2) have the designation terminated.

The petition must contain allegations of facts with supporting evidence that tends to establish the allegations.

(b) Within ten (10) months after receipt of a petition, the director shall hold a public hearing in the locality of the affected area, after appropriate notice and publication of the date, time, and location of the hearing. A person may intervene by filing allegations of facts with supporting evidence that tends to establish the allegations after the petition is filed and before the hearing.

(c) Within sixty (60) days after the hearing, the director shall issue and furnish to the petitioner and any other party to the hearing a written decision regarding the petition and the reasons for the decision.

(d) The director is not required to hold a hearing if all the petitioners do the following:

(1) Stipulate agreement before the requested hearing.
(2) Withdraw the request.

As added by P.L.1-1995, SEC.27.

IC 14-34-18-5

Statement by director

Sec. 5. Before designating a land area as unsuitable for surface coal mining operations, the director shall prepare a detailed statement on the following:

(1) The potential coal resources of the area.
(2) The demand for coal resources.
(3) The impact of the designation on the following:
    (A) The environment.
    (B) The economy.
    (C) The supply of coal.

As added by P.L.1-1995, SEC.27.

IC 14-34-18-6
Designation of area as unsuitable

Sec. 6. (a) The director may designate an area as unsuitable for coal mining if the designation is based on competent and scientifically sound data.

(b) The director may designate an area as unsuitable for certain types of coal mining operations if the operation will:

(1) be incompatible with existing state or local land use plans or programs;

(2) affect fragile or historic lands in which the operation could result in significant damage to important historic, cultural, scientific, and esthetic values and natural systems;

(3) affect renewable resource lands, including aquifers and aquifer recharge areas, in which the operation could result in a substantial loss or reduction of long range productivity of water supply or of food or fiber products; or

(4) affect natural hazard lands, including the following:

(A) Areas subject to frequent flooding.

(B) Areas of unstable geology in which the operation could substantially endanger life and property.

(c) The director shall designate an area as unsuitable for all or certain types of surface coal mining if the director determines that reclamation under this article is not technologically and economically feasible.

(d) The director shall integrate determinations of the unsuitability of land for surface coal mining with the land use planning and regulation processes at the federal, state, and local levels.

As added by P.L.1-1995, SEC.27.

IC 14-34-19
Chapter 19. Abandoned Mines

IC 14-34-19-1
Federal money

Sec. 1. (a) Money received by the department from the federal government for use in the restoration of abandoned mine land under this chapter shall be deposited in separate dedicated funds administered by the department. The funds may only be used to effect the restoration of abandoned mine land under this chapter.

(b) Federal money received is considered appropriated and allotted at the time of grant approval for specific projects included in the approved grant.

As added by P.L.1-1995, SEC.27. Amended by P.L.165-2011, SEC.26.

IC 14-34-19-1.3
Acid mine drainage abatement and treatment fund

Sec. 1.3. (a) As used in this section, "fund" refers to the acid mine drainage abatement and treatment fund established by subsection (b).

(b) The acid mine drainage abatement and treatment fund is established for the purpose of the abatement of the causes and the treatment of the effects of acid mine drainage. The department shall administer the fund.

(c) The fund consists of the following:

(1) Accrued interest and other investment earnings of the fund.

(2) Gifts, grants, donations, or appropriations from any source.

(d) Money in the fund does not revert to the state general fund at the end of a fiscal year.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

As added by P.L.165-2011, SEC.27.

IC 14-34-19-1.5
Reclamation set-aside fund

Sec. 1.5. (a) As used in this section, "fund" refers to the reclamation set-aside fund established by subsection (b).

(b) The reclamation set-aside fund is established for the following purposes:

(1) The protection of public health and property from the extreme danger of the adverse effects of coal mining practices.

(2) The assurance that safety and general welfare are not affected by the extreme danger of adverse effects of coal mining practices.

(3) The protection of public health from the adverse effects of coal mining practices.

(4) The assurance that safety and general welfare are not affected by the adverse effects of coal mining practices.

(5) The restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices, including measures for the conservation and development of soil, water, excluding channelization, woodland, fish and wildlife, recreation resources, and agricultural productivity.

(c) The department shall administer the fund.

(d) The fund consists of the following:

(1) Accrued interest and other investment earnings of the fund.

(2) Gifts, grants, donations, or appropriations from any source.

(e) Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(f) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

As added by P.L.165-2011, SEC.28. Amended by P.L.6-2012, SEC.105.

IC 14-34-19-2

Lands and water eligible for reclamation or drainage abatement expenditures

Sec. 2. (a) Lands and water eligible for reclamation or drainage abatement expenditures under this chapter are those:

(1) that were:

(A) mined for coal; or

(B) affected by the mining, wastebanks, coal processing, or other coal mining processes;

(2) that were:

(A) abandoned; or

(B) left in an inadequate reclamation status;

before August 3, 1977; and

(3) for which there is not a continuing reclamation responsibility under state or federal law.

(b) Surface coal mining operations on lands eligible for remining do not affect the eligibility of the lands for reclamation and restoration under this chapter after the release of the bond or deposit for the operation under IC 14-34-6.

As added by P.L.1-1995, SEC.27. Amended by P.L.179-1995, SEC.9.

IC 14-34-19-3

Priorities for expenditures

Sec. 3. (a) Expenditure of money from the fund created by section 1 of this chapter on lands and water eligible under section 2 of this chapter must reflect the following priorities in the order stated:

(1) The protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining

practices.

(2) The protection of public health and safety from adverse effects of coal mining practices.

(3) The restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices, including measures for the conservation and development of soil, water, excluding channelization, woodland, fish and wildlife, recreation resources, and agricultural productivity.

(b) Not more than thirty percent (30%) of money from funds under section 1 of this chapter that is received from the federal government on an annual basis may be expended on water supply restoration projects.

As added by P.L.1-1995, SEC.27. Amended by P.L.165-2011, SEC.29.

IC 14-34-19-4

Director entering property to abate adverse effects of coal mining practices

Sec. 4. (a) This section applies if the director makes a finding of fact that:

(1) land or water resources have been adversely affected by past coal mining practices;

(2) the adverse effects of past coal mining practices are at a stage where, in the public interest, action to restore, reclaim, abate, control, or prevent should be taken; and

(3) the owners of the land or water resources where entry must be made to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices:

(A) are not known or readily available; or

(B) will not give permission for:

(i) the United States;

(ii) the state;

(iii) a political subdivision; or

(iv) an agent, an employee, or a contractor of the United States, the state, or the political subdivision;

to enter upon the property to restore, reclaim, rebate, control, or prevent the adverse effects of past coal mining practices.

(b) The director may, upon giving notice by mail to the owners if known or if not known by posting notice upon the premises and advertising one (1) time in a newspaper of general circulation in the county in which the land lies, do the following:

(1) Enter upon the property adversely affected by past coal mining practices and any other property to have access to that property.

(2) Do all things necessary or expedient to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices.

(c) Entry under this section is:

(1) an exercise of the police power for the protection of public health and safety; and
(2) not an act of:
(A) condemnation of property; or
(B) trespass.

(d) The money expended for the work and the benefits accruing to the premises entered under this section:
(1) is chargeable against the land; and
(2) mitigates or offsets:
(A) a claim in; or
(B) an action brought by an owner of;
an interest in the premises for alleged damages by virtue of the entry.

However, this subsection does not create new rights of action or eliminate existing immunities.

As added by P.L.1-1995, SEC.27. Amended by P.L.165-2011, SEC.30.

IC 14-34-19-5

Director entering property to conduct studies or exploratory work

Sec. 5. (a) The director may enter upon any property for the purpose of conducting studies or exploratory work to determine the following:
(1) The existence of adverse effects of past coal mining practices.
(2) The feasibility of restoration, reclamation, abatement, control, or prevention of the adverse effects.

(b) Entry under this section is:
(1) an exercise of the police power for the protection of public health, safety, and general welfare; and
(2) not an act of:
(A) condemnation of property; or
(B) trespass.

As added by P.L.1-1995, SEC.27.

IC 14-34-19-6

Acquisition of adversely affected land for reclamation

Sec. 6. The director may, by purchase, donation, or condemnation, acquire land that is adversely affected by past coal mining practices if the director determines that acquisition of the land is necessary to successful reclamation and that:
(1) the acquired land, after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices, will:
(A) serve recreation, historic, conservation, and reclamation purposes; or
(B) provide open space benefits and permanent facilities such as a treatment plant;
or a relocated stream channel will be constructed on the land for

the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices; or

(2) acquisition of coal refuse disposal sites and all coal refuse on the sites will serve the purpose of this chapter or that public ownership is desirable to meet emergency situations and prevent recurrences of the adverse effects of past coal mining practices.

As added by P.L.1-1995, SEC.27.

IC 14-34-19-7

Title and price of land purchased

Sec. 7. Title to all land acquired by the director under this chapter is in the name of the state. The price paid for the land must reflect the market value of the land as adversely affected by past coal mining practices.

As added by P.L.1-1995, SEC.27.

IC 14-34-19-8

Public sale of land

Sec. 8. If land acquired by the director under this chapter is suitable for industrial, commercial, residential, or recreational development, the director may sell the land:

(1) by public sale under a system of competitive bidding at not less than fair market value; and

(2) under other conditions that are adopted by the commission by rule to ensure that the land is put to proper use consistent with local and state land use plans.

As added by P.L.1-1995, SEC.27.

IC 14-34-19-9

Public hearing

Sec. 9. The director shall, when requested after appropriate public notice, hold a public hearing in accordance with IC 4-21.5 in the county in which the land acquired by the director under this chapter is located. The hearing shall be held at a time that affords local citizens and governments the maximum opportunity to participate in the decision concerning the use or disposition of the land after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices.

As added by P.L.1-1995, SEC.27.

IC 14-34-19-10

Transfer of land to state agency

Sec. 10. After restoration of the acquired land, the director may, with the approval of the governor, transfer jurisdiction of the land or a part of the land to a state agency that can best use the land for public purposes.

As added by P.L.1-1995, SEC.27.

IC 14-34-19-11

Sale of land with governor's approval

Sec. 11. (a) If retention of the land by the director or other state agency is impractical, the director may, with the approval of the governor, do either of the following:

(1) Sell the land to political subdivisions of the state at the cost of acquisition and restoration.

(2) Dispose of the land by public sale to the highest bidder for not less than the fair market value as determined by two (2) private appraisers appointed by the director.

(b) The proceeds of a sale shall be deposited in the fund created under section 1 of this chapter.

As added by P.L.1-1995, SEC.27.

IC 14-34-19-12

Liens

Sec. 12. (a) Within six (6) months after the completion of projects to restore, reclaim, abate, control, or prevent adverse effects of past coal mining practices on privately owned land, the director:

(1) shall itemize the money expended; and

(2) may, subject to subsection (b), file a statement with the county recorder in the county in which the land lies together with a notarized appraisal by an independent appraiser of the value of the land before the restoration, reclamation, abatement, control, or prevention of adverse effects of past coal mining practices if the money expended results in a significant increase in property value. The statement constitutes a lien upon the land. The lien may not exceed the amount determined by the appraisal to be the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices.

(b) A lien may not be filed against the property of a person under subsection (a) who did not:

(1) consent to;

(2) participate in; or

(3) exercise control over;

the mining operation that necessitated the reclamation performed under this chapter.

(c) The landowner may petition within sixty (60) days of the filing of the lien to determine the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. The amount reported to be the increase in value of the premises constitutes the amount of the lien and shall be recorded with the statement filed under subsection (a). A party aggrieved by the decision may appeal as provided by law.

(d) The director shall record the lien with the county recorder in the county in which the land is located. The statement:

(1) constitutes a lien upon the land as of the date of the expenditure of the money; and

(2) has priority as a lien second only to the lien of real estate taxes imposed upon the land.

As added by P.L.1-1995, SEC.27. Amended by P.L.165-2011, SEC.31.

IC 14-34-19-13

Powers of director

Sec. 13. (a) The director may do the following:

(1) Fill voids and open abandoned tunnels, shafts, and entryways resulting from a previous mining operation that constitutes a hazard to the public health or safety.

(2) Reclaim surface impacts of underground or surface mines that the director determines could:

(A) endanger life and property;

(B) constitute a hazard to the public health and safety; or

(C) degrade the environment.

(b) If mine waste piles are being reworked for conservation purposes, the incremental cost of disposing of the wastes from the operations by filling voids and sealing tunnels is eligible for funding under this chapter if the disposal of the wastes meets the purposes of this section.

(c) The director may, by:

(1) purchase;

(2) donation;

(3) easement; or

(4) otherwise;

acquire the interest in land that the director determines necessary to carry out this section.

As added by P.L.1-1995, SEC.27.

IC 14-34-19-14

Plants for controlling and treating water pollution from mine drainage

Sec. 14. The director may construct and operate plants for the control and treatment of water pollution resulting from mine drainage. The extent of the control and treatment is dependent upon the ultimate use of the water.

As added by P.L.1-1995, SEC.27.

IC 14-34-19-15

Mine land reclamation projects; requirements

Sec. 15. (a) This section applies to the following:

(1) When the department is considering a mine land reclamation project under IC 14-34-1-2 or 312 IAC 25-2-3 that is:

(A) at least fifty percent (50%) funded by funds appropriated from a governmental entity that finances the construction through either the entity's budget or general revenue bonds; or

(B) less than fifty percent (50%) funded by funds

appropriated from a governmental entity that finances the construction through either the entity's budget or general revenue bonds if the construction is an approved reclamation project under Title IV of the federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 through 30 U.S.C. 1328) and this chapter.

Government financing guarantees, insurance, loans, funds obtained through industrial revenue bonds or their equivalent, or in-kind payments are not considered funds appropriated by a governmental entity under this subdivision.

(2) When the level of funding for the construction will be less than fifty percent (50%) of the total cost because of planned coal extraction.

(b) The department must make the following determinations:

(1) The likelihood that coal will be mined under a surface coal mining and reclamation operations permit issued under this article. The determination must consider available information, including the following:

(A) Coal reserves from existing mine maps or other sources.

(B) Existing environmental conditions.

(C) All prior mining activity on or adjacent to the site.

(D) Current and historical coal production in the area.

(E) Any known or anticipated interest in mining the site.

(2) The likelihood that nearby mining activities might create new environmental problems or adversely affect existing environmental problems at the site.

(3) The likelihood that reclamation activities at the site might adversely affect nearby mining activities.

(c) If a decision is made to proceed with the reclamation project, the department must make the following determinations:

(1) The limits on any coal refuse, coal waste, or other coal deposits that can be extracted under the exemption under IC 14-34-1-2 and 312 IAC 25-2-3.

(2) The delineation of the boundaries of the abandoned mine lands reclamation project.

(d) The following documentation must be included in the abandoned mine lands reclamation case file:

(1) Determinations made under subsections (b) and (c).

(2) The information taken into account in making the determinations.

(3) The names of the persons making the determinations.

(e) The department must do the following for each project:

(1) Characterize the site regarding mine drainage, active slide and slide prone areas, erosion and sedimentation, vegetation, toxic materials, and hydrological balance.

(2) Ensure that the reclamation project is conducted according to provisions of 30 CFR Subchapter R, this chapter, and applicable procurement provisions to ensure the timely progress and completion of the project.

(3) Develop specific site reclamation requirements, including, when appropriate, performance bonds that comply with procurement procedures.

(4) Require the contractor conducting the reclamation to provide, before reclamation begins, applicable documents that authorize the extraction of coal and any payment of royalties.

(f) The contractor must obtain a surface coal mining and reclamation operations permit under this article for any coal extracted beyond the limits of the incidental coal specified in subsection (c)(1).

As added by P.L.71-2004, SEC.31.

IC 14-35

ARTICLE 35. MINING

IC 14-35-1

Chapter 1. Mining Permits

IC 14-35-1-1

Granting of permits

Sec. 1. (a) This section does not apply to lands under the navigable waters of Indiana.

(b) The department may, whenever the department considers it to be in the public interest, grant permits for the:

(1) extraction;

(2) removal; and

(3) disposition;

of deposits of coal, limestone, dolomite, gypsum, anhydrite, sand, gravel, clay, shale, or deposits of earth or mineral or vegetable matter on or under land or nonnavigable water belonging to the state no matter how the land or water is used if the extraction, removal, and disposition does not materially interfere with the purpose for which the land or water is held or used by the state.

As added by P.L.1-1995, SEC.28.

IC 14-35-1-2

State residency required

Sec. 2. A permit may be granted under this chapter only to the following:

(1) An individual who is a resident of Indiana.

(2) A corporation that is domiciled in Indiana or qualified to do business in Indiana.

As added by P.L.1-1995, SEC.28.

IC 14-35-1-3

Notice of permit

Sec. 3. Except as otherwise provided by this chapter, a permit may not be granted by the department under this chapter unless the department has done the following:

(1) Published notice one (1) time each week for at least two (2) weeks in the following:

(A) At least one (1) newspaper of general circulation in the county where the land or water belonging to the state is located.

(B) At least one (1) newspaper published in Indianapolis.

(2) Given concurrent and similar notice one (1) time in writing to each person known to be actively engaged in the extraction of these resources in Indiana.

As added by P.L.1-1995, SEC.28.

IC 14-35-1-4
Contents of notice

Sec. 4. Notice given under section 3 of this chapter must do the following:

(1) Describe the specific property from or under which the extraction will occur.

(2) State the time, terms, and conditions under which a permit will be granted.

(3) Call for sealed proposals or bids stating the amount that will be paid for the privilege to be exercised under the permit.

As added by P.L.1-1995, SEC.28.

IC 14-35-1-5
Proposal or bid for mining privilege

Sec. 5. (a) A proposal or bid made in response to a request under section 4 of this chapter must offer the following:

(1) A royalty on a percentage basis, based on the commodity value at the mine, pit, or quarry.

(2) A bonus, or fixed fee per acre, in addition to royalty.

(b) A royalty may not be less than that generally prevailing for the resource to be extracted under similar methods of mining.

As added by P.L.1-1995, SEC.28.

IC 14-35-1-6
Time for submitting proposal or bid

Sec. 6. The department may receive sealed proposals or bids not earlier than thirty (30) days after the date of first publication.

As added by P.L.1-1995, SEC.28.

IC 14-35-1-7
Granting or rejecting bids

Sec. 7. The department may grant a permit to the qualified bidder who submits the highest and best bid. However, the department may reject any or all bids.

As added by P.L.1-1995, SEC.28.

IC 14-35-1-8
Permit approval by commission; governor's signature

Sec. 8. A permit must be approved by the commission and signed by the governor.

As added by P.L.1-1995, SEC.28.

IC 14-35-1-9
Term of permit

Sec. 9. (a) The department shall determine the initial term of a permit, not to exceed ten (10) years. The department shall automatically continue a permit:

(1) if commercial production and accompanying royalty payments are established by the end of the initial term; and

(2) as long as production continues, not to exceed fifty (50) years.

(b) If commercial production is not established within the initial term of a permit, the department may terminate the permit.

(c) The department may terminate a permit at any time for failure of the permittee to comply with:

(1) this chapter; or

(2) the rules adopted under this chapter.

As added by P.L.1-1995, SEC.28.

IC 14-35-1-10

Bond

Sec. 10. Each proposal and bid must be accompanied by sufficient bond in an amount to be determined by the department for the restoration of land or water disturbed by exploration and mining.

As added by P.L.1-1995, SEC.28.

IC 14-35-1-11

Additional covenants, terms, and conditions

Sec. 11. The department and the governor may require other covenants, terms, and conditions in addition to those provided in this chapter.

As added by P.L.1-1995, SEC.28.

IC 14-35-2
Chapter 2. Geological Investigation Permits

IC 14-35-2-1
Department investigations; granting permit

Sec. 1. The department may do the following:

(1) Conduct geologic investigations, including exploratory drilling, to evaluate the quality and reserves of mineral deposits on land and water of the state.

(2) Grant permits for investigations and exploration described in subdivision (1) by interested persons.

As added by P.L.1-1995, SEC.28.

IC 14-35-2-2
Fee

Sec. 2. The fee for a permit issued under this chapter is one hundred dollars ($100). In addition, a permittee must give bond in the amount and with surety approved by the department for full and prompt compliance with the terms and conditions of the permit.

As added by P.L.1-1995, SEC.28.

IC 14-35-2-3
Terms, conditions, and covenants

Sec. 3. The department shall incorporate in a permit the terms, conditions, and covenants the department considers necessary to protect the public interest and other uses and purposes for which the land is held and used by the state.

As added by P.L.1-1995, SEC.28.

IC 14-35-3

Chapter 3. Permit Fees

IC 14-35-3-1

Payment to treasurer

Sec. 1. Fees and other money recovered or received due to a permit granted under IC 14-35-1 or IC 14-35-2 shall be paid to the treasurer of state.

As added by P.L.1-1995, SEC.28.

IC 14-35-3-2

Deposit of fees in state general fund

Sec. 2. The treasurer of state shall deposit the fees and other money received under section 1 of this chapter for the use of the board, bureau, commission, division, department, or governmental entity having the custody, control, possession, or authority of or over the real property for which the permit is issued without reversion to the state general fund. If the land is under the custody, control, possession, or authority of the department, the money shall be deposited in the special revenue fund of the appropriate division of the department.

As added by P.L.1-1995, SEC.28.

IC 14-35-4

Chapter 4. Interstate Mining Compact

IC 14-35-4-1

Form of compact

Sec. 1. The interstate mining compact is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE 1

Findings and Purposes

(a) The party states find that:

(1) Mining and the contributions thereof to the economy and well-being of every State are of basic significance.

(2) The effects of mining on the availability of land, water, and other resources for other uses present special problems which properly can be approached only with due consideration for the rights and interests of those engaged in mining, those using or proposing to use these resources for other purposes, and the public.

(3) Measures for the reduction of the adverse effects of mining on land, water, and other resources may be costly and the devising of means to deal with them are of both public and private concern.

(4) Such variables as soil structure and composition, physiography, climatic conditions, and the needs of the public make impracticable the application to all mining areas of a single standard for the conservation, adaptation, or restoration of mined land or the development of mineral and other natural resources, but justifiable requirements of law and practice relating to the effects of mining on land, water, and other resources may be reduced in equity or effectiveness unless they pertain similarly from state to state for all mining operation similarly situated.

(5) The states are in a position and have the responsibility to assure that mining shall be conducted in accordance with sound conservation principles and with due regard for local conditions.

(b) The purposes of this compact are to:

(1) Advance the protection and restoration of land, water, and other resources affected by mining.

(2) Assist in the reduction or elimination or counteracting of pollution or deterioration of land, water, and air attributable to mining.

(3) Encourage, with due recognition of relevant regional, physical, and other differences, programs in each of the party states which will achieve comparable results in protecting, conserving, and improving the usefulness of natural resources, to the end that the most desirable conduct of mining and related operations may be universally facilitated.

(4) Assist the party states in their efforts to facilitate the use of land and other resources affected by the mining, so that such use may be consistent with sound land use, public health, and public safety, and to this end to study and recommend, wherever desirable, techniques for the improvement, restoration, or protection of such land and other resources.

(5) Assist in achieving and maintaining an efficient and productive mining industry and in increasing economic and other benefits attributable to mining.

ARTICLE 2

Definitions

As used in this compact:

(a) "Mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter, any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location, and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include those aspects of deep mining not having significant effect on the surface, and shall not include excavation or grading when conducted solely in aid of on site farming or construction.

(b) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

ARTICLE 3

State Programs

Each party state agrees that within a reasonable time it will formulate and establish an effective program for the conservation and use of mined land by the establishment of standards, enactment of laws, or the continuing of the same in force to accomplish:

(1) The protection of the public and the protection of adjoining and other landowners from damage to their lands and the structures and other property thereon resulting from the conduct of mining operations or the abandonment or neglect of land and property formerly used in the conduct of such operations.

(2) The conduct of mining and the handling of refuse and other mining wastes in ways that will reduce adverse effects on the economic, residential, recreational, or aesthetic value and utility of land and water.

(3) The institution and maintenance of suitable programs of adaptation, restoration, and rehabilitation of mined lands.

(4) The prevention, abatement, and control of water, air, and soil pollution resulting from mining, present, past, and future.

ARTICLE 4

Powers

In addition to any other powers conferred upon the Interstate Mining Commission established by Article 5 of this compact, such

commission shall have power to:

(1) Study mining operations, processes, and techniques for the purpose of gaining knowledge concerning the effects of such operations, processes, and techniques on land, soil, water, air, plant and animal life, recreation, and patterns of community or regional development or change.

(2) Study the conservation, adaptation, improvement, and restoration of land and related resources affected by mining.

(3) Make recommendations concerning any aspect or aspects of law or practice and governmental administration dealing with matters within the purview of this compact.

(4) Gather and disseminate information relating to any of the matters within the purview of this compact.

(5) Cooperate with the federal government and any public or private entities having interest in any subject coming within the purview of this compact.

(6) Consult, upon the request of a party state and within resources available therefore, with the officials of such state in respect to any problem within the purview of this compact.

(7) Study and make recommendations with respect to any practice, process, technique, or course of action that may improve the efficiency of mining or the economic yield from mining operations.

(8) Study and make recommendations relating to the safeguarding of access to resources which are or may become the subject of mining operations to the end that the needs of the economy for the products of mining may not be adversely affected by unplanned or inappropriate use of land and other resources containing minerals or otherwise connected with actual or potential mining sites.

ARTICLE 5

The Commission

(a) There is hereby created an agency of the party states to be known as the Interstate Mining Commission, hereinafter called "the commission". The commission shall be composed of one commissioner from each party state who shall be the governor thereof. Pursuant to the laws of Indiana the governor shall have assistance of the natural resources commission in considering problems relating to mining and in discharging his responsibilities as the commissioner of his state on the commission. In any instance where a governor is unable to attend a meeting of the commission or perform any other function in connection with the business of the commission, he shall designate an alternate, from among the members of the advisory body required by this paragraph, who shall represent him and act in his place and stead. The designation of an alternate shall be communicated by the governor to the commission in such manner as its bylaws may provide.

(b) The commissioners shall be entitled to one vote each on the commission. No action of the commission making a recommendation

pursuant to Article 4(3), 4(7), and 4(8) or requesting, accepting, or disposing of funds, services, or other property pursuant to this paragraph, Article 5(g), Article 5(h), or Article 7 shall be valid unless taken at a meeting at which a majority of the total number of votes on the commission is cast in favor thereof. All other action shall be by a majority of those present and voting: provided that action of the commission shall be only at a meeting at which a majority of the commissioners, or their alternates, is present. The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

(c) The commission shall have a seal.

(d) The commission shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The commission shall appoint an executive director and fix his duties and compensation. Such executive director, shall serve at the pleasure of the commission. The executive director, the treasurer, and such other personnel as the commission shall designate shall be bonded. The amount or amounts of such bond or bonds shall be determined by the commission.

(e) Irrespective of the civil service, personnel, or other merit system laws of any of the party states, the executive director, with the approval of the commission, shall appoint, remove, or discharge such personnel as may be necessary for the performance of the commission's functions and shall fix the duties and compensation of such personnel.

(f) The commission may establish and maintain independently or in conjunction with a party state a suitable retirement system for its employees. Employees of the commission shall be eligible for Social Security coverage in respect to old age and survivor's insurance provided that the commission takes such steps as may be necessary pursuant to the laws of the United States to participate in such program of insurance as a governmental agency or unit. The commission may establish and maintain or participate in such additional programs of employee benefits as it may deem appropriate.

(g) The commission may borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association, limited liability company, or corporation.

(h) The commission may accept for any of its purposes and functions under this compact any and all donations and grants of money, equipment, supplies, materials, and service, conditional or otherwise, from any state, the United States, or any other governmental agency or from any person, firm, association, limited liability company, or corporation and may receive, utilize, and dispose of the same. Any donation or grant accepted by the commission pursuant to this paragraph or services borrowed pursuant to paragraph (g) of this Article shall be reported in the annual report of the commission. Such report shall include the nature, amount, and

conditions, if any, of the donation, grant, or services borrowed and the identity of the donor or lender.

(i) The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(j) The commission annually shall make to the governor, legislature, and advisory body required by Article 5(a) of each party state a report covering the activities of the commission for the preceding year and embodying such recommendations as may have been made by the commission. The commission may make such additional reports as it may deem desirable.

ARTICLE 6

Advisory, Technical, and Regional Committees

The commission shall establish such advisory, technical, and regional committees as it may deem necessary, membership on which shall include private persons and public officials, and shall cooperate with and use the services of any such committees and the organizations which the members represent in furthering any of its activities. Such committees may be formed to consider problems of special interest to any party states, problems dealing with particular commodities or types of mining operations, problems related to reclamation, development, or use of mined land, or any other matters of concern to the commission.

ARTICLE 7

Finance

(a) The commission shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that party state for presentation to the legislature thereof.

(b) Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-half in equal shares, and the remainder in proportion to the value of minerals, ores, and other solid matter mined. In determining such values, the commission shall employ such available public source or sources of information as, in its judgement, present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated expenditures and request for appropriations shall indicate the source or sources used in obtaining information concerning value of minerals, ores, and other solid matter mined.

(c) The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under Article 5(h) of this compact; provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such

manner. Except where the commission makes use of funds available to it under Article 5(h) of this compact, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(e) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

(f) Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

ARTICLE 8

Entry Into Force and Withdrawal

(a) This compact shall enter into force when enacted into law by any four or more states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

ARTICLE 9

Effect on Other Laws

Nothing in this compact shall be construed to limit, repeal, or supersede any other law of any party state.

ARTICLE 10

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

As added by P.L.1-1995, SEC.28.

IC 14-35-4-2
Natural resources commission as advisory body

Sec. 2. The natural resources commission is the advisory body referred to in Article 5(a) of the Interstate Mining Compact.

As added by P.L.1-1995, SEC.28.

IC 14-35-4-3
Filing bylaws and amendments

Sec. 3. In accordance with Article 5(i) of the Interstate Mining Compact, the Interstate Mining Commission shall file copies of its bylaws and amendments to the bylaws with the following:

(1) The office of the governor.
(2) The division of reclamation.
(3) The department of natural resources.

As added by P.L.1-1995, SEC.28.

IC 14-36

ARTICLE 36. RECLAMATION

IC 14-36-1

Chapter 1. Surface Mining Reclamation

IC 14-36-1-1

Purpose of reclamation

Sec. 1. This chapter provides for the proper reclamation of areas of land subjected to surface mining of minerals in accordance with modern standards to do the following:

(1) Provide improved land use practice of these areas.

(2) Prevent or minimize injurious effects to the people and the natural resources of Indiana, including the need to do the following:

(A) Protect lakes and streams from pollution.

(B) Decrease soil erosion.

(C) Decrease the hazards of fire.

(D) Improve the aesthetic value of the landscape.

(E) Enhance the development of wildlife resources.

(F) Increase the economic contributions of the affected areas to the welfare of the people of Indiana.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-2

Exemptions

Sec. 2. Notwithstanding any other provision of this chapter, except section 3 of this chapter, this chapter does not apply to coal mining operations if IC 14-34 is applicable to those operations under IC 14-34-1-4(a) or IC 14-34-1-4(b).

As added by P.L.1-1995, SEC.29.

IC 14-36-1-3

Operations subject to certain statutes

Sec. 3. All surface mining operations that operate or have operated under a permit issued under this chapter subject to:

(1) Acts 1978, P.L.159;

(2) Acts 1979, P.L.314;

(3) Acts 1980, P.L.101, SECTION 5; or

(4) Acts 1981, P.L.331;

are subject to IC 14-34-15, IC 14-34-16, IC 14-34-17, 30 U.S.C. 1252, 30 U.S.C. 1260(d), 30 U.S.C. 1272(e), and 30 CFR 710 through 716.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-4

"Affected area" defined

Sec. 4. As used in this chapter, "affected area" means the area of

land:

(1) from which overburden has been removed;

(2) upon which cast overburden, mining refuse, or a mineral has been deposited; and

(3) that is disturbed incidental to an operation.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-5
"Cast overburden" defined

Sec. 5. As used in this chapter, "cast overburden" means a bank or deposit of overburden after removal from the overburden's natural state.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-6
"Mineral" defined

Sec. 6. As used in this chapter, "mineral" means coal, clay, or shale, including oil shale.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-7
"Mining refuse" defined

Sec. 7. As used in this chapter, "mining refuse" means all waste material directly connected with the cleaning and preparation of substances mined by surface mining.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-8
"Operation" defined

Sec. 8. As used in this chapter, "operation" means the premises, facilities, nonpublic roads, and equipment used in the process of producing minerals from a surface mine.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-9
"Operator" defined

Sec. 9. As used in this chapter, "operator" means a person engaged in carrying on surface mining operations.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-10
"Overburden" defined

Sec. 10. As used in this chapter, "overburden" means the soil and other materials that lie above a mineral deposit.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-11
"Reclamation" defined

Sec. 11. As used in this chapter, "reclamation" means the

rehabilitation of the area of land affected by surface mining under an approved reclamation plan.
As added by P.L.1-1995, SEC.29.

IC 14-36-1-12
"Reclamation plan" defined

Sec. 12. As used in this chapter, "reclamation plan" means the operator's written proposal approved by the commission for reclamation of the affected area. The term includes the following:

(1) Land use objectives.
(2) Specifications for grading.
(3) Manner and type of revegetation.
(4) The maps and other supporting documents that are required by this chapter.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-13
Commission's powers regarding permits

Sec. 13. (a) The commission may:

(1) grant;
(2) suspend;
(3) revoke;
(4) modify; or
(5) release;

permits for surface mining under this chapter.

(b) The commission shall do the following:

(1) Approve or disapprove the applications for permits consistent with the purposes of this chapter.
(2) Adopt rules under IC 4-22-2 to carry out this chapter.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-14
Duties of director

Sec. 14. (a) The director shall do the following:

(1) Supervise the administration and enforcement of this chapter and the rules adopted under this chapter.
(2) Conduct the necessary investigations and inspections for the proper administration of this chapter.
(3) Order the ceasing of surface mining operations by a person who does not possess a valid permit as required by statute.
(4) Order compliance with the terms of a permit issued under this chapter.
(5) Have access to all parts of the areas under application or under permit for surface mining without liability to the operator.
(6) Accept, release, or retain parts of cash or surety bonds required by this chapter.
(7) Conduct research related to surface mining.
(8) Collect and disseminate information relating to surface mining.

(9) Accept and use money from any source to aid in carrying out the purposes of this chapter.

(b) The director may delegate any duty prescribed by subsection (a) to other employees of the department.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-15

Permit exemptions

Sec. 15. (a) As used in this section, "pit" means a tract of land:

(1) from which the overburden has been removed or is being removed; and

(2) where mine run mineral is being produced in the raw state.

(b) A person who engages in surface mining must have a permit from the commission designating the area of land affected by the operation unless at least one (1) of the following conditions exists:

(1) Minerals regulated under this chapter constitute not more than twenty-five percent (25%) of the total tonnage of materials being extracted from the pit and the materials are extracted for purposes of bona fide sale or commercial use.

(2) The overburden above the mineral seam is insufficient for reclamation under section 26 of this chapter.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-16

Permit powers; effective date

Sec. 16. A permit:

(1) authorizes the operator to engage in surface mining upon the area of land described in the permit; and

(2) is effective for one (1) year from the date of issuance unless revoked or suspended as provided in this chapter.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-17

Contents of application

Sec. 17. An application for a permit must include the following:

(1) The description and acreage of affected area under the requested permit.

(2) The name of each owner of the surface of the area of land to be affected by the permit.

(3) The name of each owner of all surface area within five hundred (500) feet of any part of the affected area.

(4) The name of the owner of the mineral to be mined.

(5) The permanent and temporary post office addresses of the applicant.

(6) The written consent of the applicant and other persons, if any, necessary to grant access to the director or the director's designee to the area under application from the date of application until the expiration of a permit granted under the application and thereafter for the time that is necessary to assure

compliance with this chapter and the rules adopted under this chapter.

(7) The proposed method of operation, grading work, and drainage control and a reclamation plan for the affected area, which must meet the requirements of this chapter and the rules adopted under this chapter.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-18

Maps accompanying application

Sec. 18. An application for a permit must be accompanied by maps on which are indicated the following:

(1) The location of the operation.

(2) The name of the applicant and date.

(3) The boundaries of the area of land affected.

(4) The drainage plan on and away from the area of land affected.

(5) All utility and other easements on the area of land affected and any other information appropriate to the administration of this chapter as required by the rules adopted under this chapter.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-19

Amendment of information or consent

Sec. 19. The operator may amend any of the information or consent required by section 17 or 18 of this chapter with the approval of the commission at any time upon filing with the commission an amended application.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-20

Fees

Sec. 20. Each operator shall pay the following fees, which shall be deposited in the division of reclamation fund:

(1) One hundred dollars ($100) for the first application filed each year.

(2) One hundred dollars ($100) for each additional application filed in the same year.

(3) Fifty dollars ($50) for each acre or fraction of an acre described in the application.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-21

Performance bond

Sec. 21. Contemporaneously with and as a condition precedent to the issuance of a permit, each operator must file with the director a bond payable to the department, conditioned that the operator will faithfully perform all requirements of the commission in accordance with this chapter. A bond must be signed by the operator as principal

and by a corporate or individual surety approved by the director.
As added by P.L.1-1995, SEC.29.

IC 14-36-1-22
Penalty bond

Sec. 22. The commission shall determine the amount of a penalty bond subject to the following:

(1) A bond may not be less than:
(A) five thousand dollars ($5,000); or
(B) one thousand dollars ($1,000) per acre;
whichever is larger.
(2) The total bond may not be greater than five thousand dollars ($5,000) per acre.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-23
Amount of bond

Sec. 23. The commission shall determine the bond amount after evaluation of the following:

(1) Previous compliance.
(2) Business structure.
(3) Previous mining experience.
(4) Mining method.
(5) Size of operation.
(6) Depth of overburden.
(7) Geological formation.
(8) Attachable real property or other assets within Indiana.
(9) Other factors relative to the operator's ability to accomplish the intent of this chapter.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-24
Bond without surety

Sec. 24. An operator may execute a bond without surety if the operator deposits with the director cash or securities that meet the approval of the commission in an amount equal to the surety bond prescribed by section 22 of this chapter.
As added by P.L.1-1995, SEC.29.

IC 14-36-1-25
Increasing acres for permit

Sec. 25. The commission may increase the number of acres for which a permit is issued after the permit is issued on receipt of the prescribed fee and additional bond for the additional number of acres.
As added by P.L.1-1995, SEC.29.

IC 14-36-1-26
Reclamation procedures

Sec. 26. Reclamation of an area for which a permit is granted

under this chapter shall be conducted as follows:

(1) The operator shall grade the affected area to a topography consistent with the land use objectives stated in the plan of reclamation submitted by the operator and approved by the commission. The grading shall be done in a manner that does the following:

(A) Minimizes erosion.

(B) Breaks up long, uninterrupted slopes.

(C) Leaves the surface free from large rocks and other obstructions, wherever practicable, so as to permit the operation of suitable machinery over the surface.

(2) The operator shall construct earth dams in final cuts of all operations to create lakes for water impoundment if the lakes will not interfere with other mining operations or damage adjoining property. The dams shall be constructed in a manner satisfactory to the director and must receive department approval before bond release. Where acid forming materials are present and are not covered by impounded water, the operator shall cover the materials to a depth of not less than two (2) feet with earth or nontoxic overburden.

(3) Access roads shall be located and constructed to the width, base, and grade specifications that will minimize erosion and deterioration and permit use for the purposes set forth in the reclamation plan. Mining refuse may not be used in the construction or maintenance of access roads.

(4) The operator shall remove or bury all metal, lumber, or other debris or refuse resulting from the mining operation. All materials used in the mining operation shall be disposed of as required before the termination of the operation in the affected area.

(5) The operator shall revegetate the affected area described in the application with seed, plants, or cuttings of trees, shrubs, or grasses as recommended or approved in writing by the director. The revegetation must conform to the approved land use objectives stated in the approved plan of reclamation. The seeding or planting required by this section shall be carried out in accordance with a revegetation plan filed with the director before November 30 of the year preceding planting. The revegetation plan must include information on the approximate numbers and kinds of plants or seed to be used together with the seed or plant specifications set forth in rules adopted by the commission.

(6) The operator shall begin the reclamation of the affected area as soon as practicable after initiation of mining operations and consistent with the approved plan of reclamation. The operator shall carry out the grading requirements set forth in the reclamation plan and described in subdivision (1) as soon as practicable after deposit of the overburden and before removal of reclamation equipment from the mining operation. The

operator shall begin the revegetation set forth in the revegetation plan as soon as practicable following the mining operation. Approval of the revegetation plan by the director is contingent upon the physical and chemical condition of the cast overburden.

(7) The operator shall treat effluent from the permit area using the best technology available to prevent additional contributions not in excess of requirements set by applicable state or federal law of suspended solids or acid or toxic mine drainage to stream flow outside the permit area.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-27

Report of operation

Sec. 27. (a) Within sixty (60) days after the earlier of:

(1) the expiration of a permit; or

(2) the completion or abandonment of the operation for which a permit was issued;

the operator shall file with the director a report of the operation licensed on a form prescribed by the director.

(b) The report must do the following:

(1) Identify the operator and the permit under which operations were conducted.

(2) State the county and township in which the area affected by the operations is located.

(3) Describe the area of land affected by the operation within the time covered by the report with sufficient certainty so that the land may be located and distinguished from other land. A map shall be attached to the report certified by a professional surveyor registered under Indiana law showing the boundary lines of the area of land affected by the operation within the time covered by the report.

As added by P.L.1-1995, SEC.29. Amended by P.L.57-2013, SEC.19.

IC 14-36-1-28

Charge against bond; release of bond; refund of fees

Sec. 28. (a) Upon receipt of the operator's affected area report the director shall charge against the surety bonds or other securities on deposit in connection with the operation covered by the report the amount required by section 22 of this chapter for each acre of land in the area of land affected by the operation within the time covered by the report. The director shall issue to the operator and the director's surety a release of any parts of the surety bonds or other security on deposit in connection with the operation against which a charge has not been made.

(b) If the report shows that the number of acres of land comprising the area of land affected is smaller than the number of acres of land for which the operator has paid to the director a permit fee in connection with the permit authorizing the operation covered by the

report, the operator is entitled to a refund in the amount of the fees paid for acres not affected.
As added by P.L.1-1995, SEC.29.

IC 14-36-1-29
Retention of bond for revegetation

Sec. 29. (a) Upon the completion of the grading requirements, the commission shall grant a partial release of the bond. The amount of bond retained for revegetation must be adequate to cover the satisfactory reclamation of the area. The remainder of the bond shall continue to be posted until satisfactory vegetative cover has been established but not for more than fifteen (15) years.

(b) If the bond is forfeited, the director shall expend the bond in a reclamation program for the area of land for which the bond was posted.
As added by P.L.1-1995, SEC.29.

IC 14-36-1-30
Noncompliance

Sec. 30. (a) If the director finds that any of the requirements of:

(1) this chapter;
(2) the rules adopted under this chapter; or
(3) an order of the director or the commission;

have not been complied with within the time limits set by the director, the commission, or this chapter, the director shall cause a notice of noncompliance to be served upon the operator.

(b) A notice of noncompliance:

(1) shall be served by registered or certified mail addressed to the permanent address shown on the application for a permit; and
(2) must specify in what respects the operator has failed to comply with:
    (A) this chapter; or
    (B) the rules or orders of the director or the commission.

(c) If the operator has not reached an agreement with the director or otherwise complied with the requirements set forth in the notice of noncompliance within time limits set in the notice:

(1) the director shall advise the commission; and
(2) a hearing shall be held to determine whether the permit of the operator should be modified, suspended, or revoked.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-31
Modification, suspension, or revocation of permit

Sec. 31. (a) The commission may modify, suspend, or revoke a permit under IC 4-21.5 if the commission finds that the operator holding the permit has failed to comply with any of the following:

(1) The terms of this chapter.
(2) A rule of the commission.

(3) An order of the director.

(b) Upon revocation, the bond insuring compliance with the revoked permit is forfeited.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-32

Applicability of IC 4-21.5

Sec. 32. IC 4-21.5 applies to this chapter.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-33

Operator with revoked permit

Sec. 33. An operator whose permit has been revoked under this chapter is not eligible to:

(1) receive another permit; or

(2) have a suspended permit reinstated;

until the operator has complied with all the requirements of this chapter with respect to all revoked permits issued to the operator.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-34

Operator with forfeited bond

Sec. 34. An operator who has forfeited a bond may not receive a permit unless:

(1) the land for which the bond was forfeited has been reclaimed without cost to the state; or

(2) the operator has paid to the department the amount that the commission finds is adequate to reclaim the land.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-35

Commission refusing to issue permit

Sec. 35. The commission:

(1) may refuse to issue a permit to an operator whose permit the commission has repeatedly suspended for noncompliance or violation of:

(A) this chapter; or

(B) IC 13-4-6 (before its repeal); and

(2) shall refuse to issue a permit to an operator whose permit has been revoked more than three (3) times.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-36

Repealed

(As added by P.L.1-1995, SEC.29. Repealed by P.L.66-2006, SEC.30.)

IC 14-36-1-37

Violations

Sec. 37. (a) A person who violates or fails to comply with section 14, 15, 26, or 27 of this chapter (including a person who fails to comply with a rule of the commission or order of the director adopted or issued in connection with these sections) commits a Class A infraction.

(b) Each day that a violation continues constitutes a separate violation.

(c) Notwithstanding IC 34-28-5-4, a judgment for a Class A infraction imposed under this section may not exceed five thousand dollars ($5,000).

As added by P.L.1-1995, SEC.29. Amended by P.L.195-2014, SEC.37.

IC 14-36-2

Chapter 2. Acquisition of Land for Reclamation

IC 14-36-2-1

Inapplicability of chapter

Sec. 1. Notwithstanding any other provision of this chapter, this chapter does not apply to coal mining operations if IC 14-34 is applicable to those operations under IC 14-34-1-4(a) or IC 14-34-1-4(b).

As added by P.L.1-1995, SEC.29.

IC 14-36-2-2

"Land" defined

Sec. 2. As used in this chapter, "land" means ground, soil, or solid materials of the earth:

(1) disturbed by mining and not reclaimed under:

(A) IC 14-34 or IC 13-4.1 (before its repeal); or

(B) IC 14-36-1 or IC 13-4-6 (before its repeal);

whether or not subject to IC 14-34 or IC 14-36-1 due to effective dates; and

(2) in violation of:

(A) air pollution control laws (as defined in IC 13-11-2-6);

(B) water pollution control laws (as defined in IC 13-11-2-261);

(C) environmental management laws (as defined in IC 13-11-2-71);

(D) IC 13-7, IC 13-1-3, or IC 13-1-1 (before their repeal); or

(E) applicable rules.

As added by P.L.1-1995, SEC.29. Amended by P.L.1-1996, SEC.69.

IC 14-36-2-3

"Mining" defined

Sec. 3. As used in this chapter, "mining" means the following:

(1) Surface mining.

(2) Surface coal mining operations.

(3) Underground mining.

As added by P.L.1-1995, SEC.29.

IC 14-36-2-4

"Reclamation" defined

Sec. 4. As used in this chapter, "reclamation" means rehabilitation under IC 14-36-1.

As added by P.L.1-1995, SEC.29.

IC 14-36-2-5

"Restore" or "restoration" defined

Sec. 5. As used in this chapter, "restore" or "restoration" means rehabilitation under IC 14-36-1.

As added by P.L.1-1995, SEC.29.

IC 14-36-2-6
Methods for acquisition of land

Sec. 6. The department may acquire land by:

(1) negotiation; or

(2) exercise of the power of eminent domain under IC 32-24-1.

As added by P.L.1-1995, SEC.29. Amended by P.L.2-2002, SEC.65.

IC 14-36-2-7
Opportunity for owner to restore land

Sec. 7. Before acquiring land the department shall extend to the owner of the land a reasonable opportunity to restore the land. If the owner:

(1) agrees in writing to perform the restoration; and

(2) starts the restoration within ninety (90) days;

the land may not be acquired unless, in the opinion of the department, there is not a satisfactory effort to complete restoration.

As added by P.L.1-1995, SEC.29.

IC 14-36-2-8
Price for land

Sec. 8. The determination of the negotiated price or condemnation price is subject to the following:

(1) Anticipated costs of reclamation.

(2) Cost of abating pollution conditions.

As added by P.L.1-1995, SEC.29.

IC 14-36-2-9
Payment of purchase price, damages, and incidental expenses

Sec. 9. The:

(1) purchase price, for a negotiated acquisition; or

(2) damages as finally determined, for acquisition by condemnation;

and the necessary incidental expenses shall be paid from appropriations made by the general assembly or from federal money made available for these purposes.

As added by P.L.1-1995, SEC.29.

IC 14-36-2-10
Acts of restoration performed or contracted for

Sec. 10. The director may:

(1) grade, plant, and perform other acts of restoration and reclamation; or

(2) contract for the performance of restoration or reclamation work;

to the extent and subject to the conditions that state or federal money is appropriated and available.

As added by P.L.1-1995, SEC.29.

IC 14-36-2-11
Transfer of jurisdiction of land to state agency

Sec. 11. After restoration of the acquired land, the department may, with the approval of the governor, transfer jurisdiction of the land or a part of the land to a state agency that can best utilize the land for public purposes.

As added by P.L.1-1995, SEC.29.

IC 14-36-2-12
Sale of land

Sec. 12. (a) If the retention of the land by the department or other state agencies is determined to be impractical, the department may, with the approval of the governor, sell the land:

(1) to political subdivisions of the state at the cost of acquisition and restoration; or

(2) by public sale to the highest bidder for not less than fair market value for reclaimed land as determined by two (2) private appraisers appointed by the department.

(b) The proceeds of a sale may, upon approval of the department, be used and expended to reclaim and rehabilitate land.

As added by P.L.1-1995, SEC.29.

IC 14-37

ARTICLE 37. OIL AND GAS

IC 14-37-1

Chapter 1. Applicability

IC 14-37-1-1

Permit, bond, or security governed by article

Sec. 1. A permit, a bond, or an alternative security for a permit issued for a well for oil and gas purposes in force after June 30, 1988, is governed by this article.

As added by P.L.1-1995, SEC.30. Amended by P.L.80-2005, SEC.1.

IC 14-37-1-2

Operation of Class II well after June 30, 1988

Sec. 2. A person who was issued a federal permit for a Class II well may continue to operate the Class II well after June 30, 1988. Continued operation of a Class II well after June 30, 1988, subjects the person to:

(1) this article; and

(2) rules adopted under this article.

As added by P.L.1-1995, SEC.30.

IC 14-37-1-3

Federal terms and conditions binding owner or operator of Class II well under Subpart C of Underground Injection Control Program

Sec. 3. If a Class II well is authorized under Subpart C of the Underground Injection Control Program (40 CFR 144.21 through 144.28) in effect January 1, 1988, any federal terms or conditions placed on an owner or operator under Subpart C bind the owner or operator and may be enforced as if ordered by the department under:

(1) this article or IC 13-8 (before its repeal); or

(2) rules adopted under this article or IC 13-8 (before its repeal).

As added by P.L.1-1995, SEC.30.

IC 14-37-1-4

Federal terms or conditions binding owner or operator of well with permit issued under Subpart D of Underground Injection Control Program

Sec. 4. The terms of a federal permit issued under Subpart D of the Underground Injection Control Program (40 CFR 144.31 through 144.41) in effect January 1, 1988, bind the owner or operator and may be enforced as if issued by the department under:

(1) this article; or

(2) rules adopted under this article.

As added by P.L.1-1995, SEC.30.

IC 14-37-1-5

Applicability limitation

Sec. 5. This article does not apply to methane ventilation governed under an approved federal Mine Safety and Health Administration coal mine ventilation plan.

As added by P.L.140-2011, SEC.3.

IC 14-37-2
Chapter 2. Organization

IC 14-37-2-1
Administration of article
Sec. 1. The department shall administer this article.
As added by P.L.1-1995, SEC.30.

IC 14-37-2-2
Delegation of duties
Sec. 2. The commission may delegate any or all of the commission's powers and duties under this article to the director, deputy director, director of the division of oil and gas, or other employee of the department.
As added by P.L.1-1995, SEC.30.

IC 14-37-3

Chapter 3. Commission Duties

IC 14-37-3-1

Written reports showing well location required

Sec. 1. The commission shall require an owner or operator to file written reports showing the location of wells for oil and gas purposes.

As added by P.L.1-1995, SEC.30.

IC 14-37-3-2

Identification of ownership and location of wells

Sec. 2. The commission shall identify the ownership and location of wells for oil and gas purposes, including the use of surveys and plats.

As added by P.L.1-1995, SEC.30.

IC 14-37-3-3

Regulation of well spacing

Sec. 3. (a) The commission shall regulate the spacing of wells for oil and gas purposes. A rule adopted under this section may provide for the following:

(1) A minimum distance between a well and the property line of an adjacent landowner if the adjacent landowner does not provide a written waiver to the distance requirement.

(2) A minimum acreage requirement for each well.

(3) That wells may be drilled on the same tract to different formations if an acreage requirement established under subdivision (2) is satisfied for wells drilled to the same formation.

(b) A rule adopted under this section must consider regional and geological characteristics and factors conducive to the most efficient and economical recovery of oil and gas.

As added by P.L.1-1995, SEC.30.

IC 14-37-3-4

Filing of reports

Sec. 4. The commission shall require the making and filing of the following:

(1) Well logs.

(2) Completion information.

(3) Directional surveys.

(4) Reports on well locations and drilling.

As added by P.L.1-1995, SEC.30.

IC 14-37-3-5

Regulation of wells for environmental protection

Sec. 5. The commission shall regulate the drilling, casing, operating, plugging, and abandoning of wells and any related fluid

storage to prevent the following:

(1) Waste.

(2) Fresh water pollution.

(3) Blowouts.

(4) Cavings.

(5) Seepages.

(6) Fires.

(7) Unreasonably detrimental effects upon fish, wildlife, and botanical resources.

As added by P.L.1-1995, SEC.30.

IC 14-37-3-6

Testing for wells placed on temporary abandonment

Sec. 6. The commission shall establish standards and testing for wells for oil and gas purposes placed on temporary abandonment.

As added by P.L.1-1995, SEC.30.

IC 14-37-3-7

Regulation of production operations

Sec. 7. The commission shall regulate the following:

(1) Drilling.

(2) Testing.

(3) Equipping.

(4) Completing.

(5) Producing.

(6) All other operations for the production of oil or gas.

As added by P.L.1-1995, SEC.30.

IC 14-37-3-8

Regulation of well stimulation and treatment

Sec. 8. (a) The commission shall regulate the stimulation and treatment of wells.

(b) The commission shall adopt rules for the reporting and disclosure of information regarding hydraulic fracturing treatment, including:

(1) the volume and source of base fluid used;

(2) a description of each additive product used in a hydraulic fracturing treatment;

(3) the volume of each additive product used in a hydraulic fracturing treatment expressed as a maximum percentage of the total fracturing fluid volume;

(4) the maximum surface treating pressure and injection treating pressure; and

(5) any other information the commission considers necessary.

As added by P.L.1-1995, SEC.30. Amended by P.L.16-2012, SEC.3.

IC 14-37-3-9

Regulation of underground petroleum storage wells

Sec. 9. The commission shall regulate the drilling, deepening,

operating, plugging, and abandoning of the following:

(1) Wells for underground storage of petroleum products.

(2) Other wells for oil and gas purposes that may affect underground storage reservoirs.

As added by P.L.1-1995, SEC.30.

IC 14-37-3-10

Regulation of inactive underground coal mines

Sec. 10. The commission shall regulate, under IC 14-37-7, the drilling, deepening, operating, plugging, and abandoning of wells for oil and gas purposes on land underlaid by workings of an inactive underground coal mine within the permit boundaries of an active underground mine permitted under IC 14-34 or through a commercially minable coal resource.

As added by P.L.1-1995, SEC.30.

IC 14-37-3-11

Requirements for noncommercial natural gas wells

Sec. 11. The commission shall establish alternative spacing, unit, and bonding requirements for noncommercial natural gas wells.

As added by P.L.1-1995, SEC.30.

IC 14-37-3-12

Underground Injection Control Program enforcement authority

Sec. 12. (a) The commission shall obtain and maintain primary enforcement authority for Class II wells under the Underground Injection Control Program, promulgated under:

(1) Part C of the federal Safe Drinking Water Act (Public Law 93-523, as amended by Public Law 96-502, 42 U.S.C. 300f et seq.) in effect January 1, 1988; and

(2) 40 CFR Parts 124, 144, 145, 146, and 147 Subpart P, in effect January 1, 1988.

(b) The commission shall enforce the requirements of the Underground Injection Control Program and all other rules under this article to prevent the pollution or endangerment of underground sources of drinking water caused by a well regulated by this article.

As added by P.L.1-1995, SEC.30. Amended by P.L.7-2015, SEC.41.

IC 14-37-3-13

Expenses and attorney's fees

Sec. 13. The commission shall establish standards for determining expenses and attorney's fees under IC 14-37-13.

As added by P.L.1-1995, SEC.30.

IC 14-37-3-14

Repealed

(As added by P.L.1-1995, SEC.30. Repealed by P.L.80-2005, SEC.8.)

IC 14-37-3-14.5
Regulation of coal bed methane wells

Sec. 14.5. The commission shall:

(1) regulate coal bed methane wells and compliance with IC 14-37-4-8 and IC 14-37-4-8.5;

(2) establish alternative spacing, survey, unit, and bonding requirements for coal bed methane wells; and

(3) require that all coal bed methane well permit applications include detailed plans for:

(A) stimulation, including disclosure of the types and amounts to be used of all fluids and products, and any information necessary to assess the potential impact of stimulation on commercially minable coal resources and underground sources of drinking water;

(B) horizontal drilling; and

(C) plugging of wells drilled by horizontal drilling.

As added by P.L.140-2011, SEC.4.

IC 14-37-3-15
Adoption of rules

Sec. 15. The commission shall adopt rules under IC 4-22-2 to implement this article. The rules must include rules necessary to carry out the duties imposed upon the commission under this chapter.

As added by P.L.1-1995, SEC.30.

IC 14-37-3-16
Informal hearings

Sec. 16. The commission shall hold informal hearings to consider any matter that assists in the administration of the division, including the following:

(1) A request to amend, modify, or repeal a rule adopted under this chapter.

(2) Any matter relating to the issuance, reissuance, modification, or repeal of a permit for a Class II well.

(3) A request for an exception to a spacing requirement established under section 3 of this chapter.

(4) A request for an integration of interests in drilling units under IC 14-37-9 if the owners of separate interests have not agreed to integration.

(5) The issuance or proposed issuance of a notice of violation.

As added by P.L.1-1995, SEC.30.

IC 14-37-3-17
Administrative review of orders

Sec. 17. An order resulting from an informal hearing under section 16 of this chapter is subject to administrative review under IC 4-21.5, except an order under section 16(1) of this chapter, which is subject to review under IC 4-22-2.

As added by P.L.1-1995, SEC.30.

IC 14-37-4
Chapter 4. Permits

IC 14-37-4-1
Permit required for oil and gas activities
Sec. 1. A person may not drill, deepen, operate, or convert a well for oil and gas purposes without a permit issued by the department.
As added by P.L.1-1995, SEC.30. Amended by P.L.80-2005, SEC.2; P.L.78-2010, SEC.4; P.L.42-2011, SEC.32; P.L.140-2011, SEC.5.

IC 14-37-4-2
Duties of owner or operator
Sec. 2. (a) An owner or operator:
(1) shall comply with the conditions of a permit as determined by the department;
(2) may not raise as a defense to an enforcement action by the department that compliance with the conditions of the permit constitutes an economic hardship;
(3) shall correct adverse environmental impact that results from noncompliance with a permit; and
(4) shall provide proper operation and maintenance for facilities, systems of treatment, and control and related appurtenances that are installed or used by the owner or operator to comply with the permit conditions.
(b) Proper operation and maintenance under subsection (a)(4) includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. Subsection (a)(4) requires the operation of backup or auxiliary facilities or similar systems only if necessary to comply with permit conditions.
As added by P.L.1-1995, SEC.30.

IC 14-37-4-3
Permit not property right or exclusive privilege
Sec. 3. A permit does not convey to the owner or operator a property right or an exclusive privilege.
As added by P.L.1-1995, SEC.30.

IC 14-37-4-4
Permit form
Sec. 4. A person must apply for a permit under this chapter on a form prescribed by the commission.
As added by P.L.1-1995, SEC.30.

IC 14-37-4-5
Document accompanying permit application
Sec. 5. An application for a permit must include the following:
(1) A plat of the land or lease upon which the well is to be

located, together with all property and lease lines and the acreage within the tract.

(2) The location of the proposed well as certified by a professional surveyor registered under IC 25-21.5.

(3) The surface elevation of the proposed well and the method used for determining that elevation.

(4) The depth of the proposed well.

(5) The number and location of all other dry, abandoned, or producing wells located within one-fourth (1/4) mile of the proposed well.

(6) The distance from the proposed well to the three (3) nearest boundary lines of the tract.

(7) With respect to an application to drill within a city or town, a certified copy of the official consent by ordinance of the municipal legislative body.

(8) Other information determined by the commission that is necessary to administer this article.

As added by P.L.1-1995, SEC.30. Amended by P.L.57-2013, SEC.20.

IC 14-37-4-6

Bond and permit fee; expedited review

Sec. 6. (a) A person must submit the following with an application for a permit:

(1) A bond under IC 14-37-6.

(2) A permit fee of two hundred fifty dollars ($250) payable to the department. However, a person may apply for an expedited review of the application for a permit, except for a Class II or noncommercial well, by submitting a permit fee of seven hundred fifty dollars ($750).

(b) Permit fees collected under this section must be deposited in the oil and gas fund established by IC 6-8-1-27.

As added by P.L.1-1995, SEC.30. Amended by P.L.48-2002, SEC.1; P.L.186-2003, SEC.77.

IC 14-37-4-7

Operator's signature on permit

Sec. 7. An application must be signed by:

(1) the person; or

(2) an authorized agent of the person;

who is the operator named in the proposed permit.

As added by P.L.1-1995, SEC.30.

IC 14-37-4-8

Permit issuance upon compliance with article and rules

Sec. 8. (a) Except as provided in section 9 of this chapter and subject to subsections (b) and (c), if an applicant for a permit complies with:

(1) this article; and

(2) the rules adopted under this article;

the director shall issue a permit.

(b) The division shall:

(1) maintain a list of parties with experience and interest in mining commercially minable coal resources who request in writing to be given notice of the filing of complete permit applications under this chapter with respect to coal bed methane; and

(2) give written notice of each complete permit application filed under this chapter with respect to coal bed methane not later than fifteen (15) days after the filing date to each party on the list maintained under subdivision (1), and to each party that files an affidavit under IC 14-37-7-8.

(c) The notice given under subsection (b)(2) must include at least the following with respect to each proposed coal bed methane well:

(1) The location, type, and depth.

(2) The coal seam affected.

(d) The director may not issue a permit under this chapter until all of the following requirements are satisfied:

(1) At least thirty (30) days have elapsed after giving notice under subsection (b)(2).

(2) Proof of both of the following has been submitted to the director:

(A) Receipt of the permit application's written notice as provided under section 8.5(e) of this chapter.

(B) That the applicant complied with the notification to the surface owner provisions required under IC 32-23-7-6.5. The applicant may submit as proof a certified mail receipt, the surface owner's written acknowledgment of receipt of the notification, or copy of an agreement with the surface owner establishing different notification terms.

(3) The director has taken into consideration:

(A) comments received during the period referred to in subdivision (1) from a person interested in the future minability of a commercially minable coal resource; and

(B) objections made under section 8.5(h) of this chapter.

(4) The applicant has submitted to the director documentation demonstrating that the commercially minable coal seam outside the coal bed methane production area is protected adequately for future underground mining.

(5) The director has issued a finding that the requirements of subdivisions (1) through (4) and section 8.5 of this chapter have been met.

(e) Unless waived by the applicant, the director shall issue or deny a permit under this chapter within fifteen (15) days after the elapse of the thirty (30) day notice period under subsection (d)(1).

As added by P.L.1-1995, SEC.30. Amended by P.L.140-2011, SEC.6; P.L.109-2015, SEC.34.

IC 14-37-4-8.5

Exercise of rights pertaining to coal bed methane; waste; application for permit to drill for testing or production

Sec. 8.5. (a) For purposes of this section, "waste" means locating, spacing, drilling, equipping, operating, or producing a well for coal bed methane purposes in a manner that unreasonably reduces or tends to unreasonably reduce the quantity of commercially minable coal resources ultimately to be recovered from a mine.

(b) If ownership of coal bed methane is separate from ownership of coal, no surface right or any other right pertaining to coal bed methane and naturally flowing from the character of any instrument in law may be exercised without the consent of the coal owner under subsection (d)(2), unless the director makes a finding that the exercise of the right:

(1) will not result in; and

(2) does not have the potential to result in;

any waste of a commercially minable coal resource or endangerment of the health and safety of miners.

(c) In making a finding under subsection (b), the director shall consider whether the use of one (1) or more of the following may result in waste of a commercially minable coal resource or endangerment of the health and safety of miners:

(1) Hydrofracturing the coal seam.

(2) Horizontal drilling in the coal seam.

(3) Any other technology that disturbs the integrity of either or both of the following:

(A) The coal seam.

(B) The strata surrounding the coal seam.

(d) An application for a permit to drill into or through one (1) or more coal seams for the purpose of testing or producing coal bed methane must be accompanied by:

(1) subject to subsection (e), certification by affidavit of the applicant that, upon diligent inquiry, including reference to:

(A) the record of filings maintained by the department and made by coal owners and lessees under IC 14-8-2-47; and

(B) publicly available records pertaining to thickness and depth of coal;

the activities of the applicant do not and will not result in waste of a commercially minable coal resource or endangerment of the health and safety of miners; or

(2) subject to subsections (f) and (g), written consent of the coal owner or coal lessee authorizing the drilling.

(e) An applicant that submits a permit application accompanied by a certification under subsection (d)(1) shall submit proof that written notice of the permit application has been received by the owner and, if applicable, the lessee of the coal through which drilling is proposed.

(f) If there is a coal lease, the coal owner and the coal lessee must include in the written consent under subsection (d)(2) a statement acknowledging that the recovery of coal bed methane might result in

waste of the commercially minable coal resource.

(g) If there is no coal lease, the coal owner must include in the written consent under subsection (d)(2) a statement that the coal owner has not leased the coal for coal mining purposes and acknowledging that the recovery of coal bed methane may result in waste of the commercially minable resource.

(h) A person with the following interests in the coal through which drilling for purposes of testing for or producing coal bed methane is proposed has thirty (30) days, after receipt of the permit application notice, to object to the issuance of the permit on the basis of waste of a commercially minable coal resource or endangerment of the health and safety of miners:

(1) The owner.

(2) If applicable, the lessee.

(3) Another person with an interest to develop a coal resource who files an affidavit under IC 14-37-7-8.

(i) A person that files an affidavit under IC 14-37-7-8 may not object to the issuance of the permit if the application includes the written consent of the coal owner under subsection (d)(2).

(j) The commission shall prescribe by rule the procedure for objection under subsection (h), including a reasonable deadline for initiating the objection.

(k) An owner or holder of mineral interests must comply with the requirements under IC 32-23-7-6.5.

As added by P.L.140-2011, SEC.7. Amended by P.L.6-2012, SEC.106.

IC 14-37-4-9

Denial of permit

Sec. 9. The department may refuse to issue a permit if an applicant or an officer, a partner, or a director of the applicant:

(1) is in violation of this article or would be in violation if the permit were issued; or

(2) controls or has controlled a well for oil and gas purposes and has demonstrated a pattern of willful violations of:

(A) this article; or

(B) IC 13-8 (before its repeal);

that have resulted in substantial damage to the environment indicating an intention not to comply with this article or IC 13-8 (before its repeal).

As added by P.L.1-1995, SEC.30.

IC 14-37-4-10

Permit continuance for non-Class II wells

Sec. 10. A permit for a well for oil and gas purposes, other than a permit for a Class II well, continues until:

(1) the well is plugged and abandoned;

(2) the well is converted to another type of well for oil and gas purposes; or

(3) the permit is revoked.

As added by P.L.1-1995, SEC.30. Amended by P.L.80-2005, SEC.3.

IC 14-37-4-11

Expiration of permit

Sec. 11. A permit for a well for oil and gas purposes expires one (1) year from the date of issuance unless the drilling of the well has commenced.

As added by P.L.1-1995, SEC.30. Amended by P.L.80-2005, SEC.4.

IC 14-37-4-12

Permit continuance for Class II wells

Sec. 12. A permit for a Class II well continues until the well is plugged and abandoned, unless the permit is revoked, expired, or otherwise terminated.

As added by P.L.1-1995, SEC.30.

IC 14-37-4-13

Emergency permits

Sec. 13. (a) The director may issue an emergency permit for a well for oil and gas purposes if an imminent and substantial danger to the health of persons will result unless an emergency permit is granted. An emergency permit under this subsection is effective no longer than necessary to remove the danger.

(b) If a substantial and irretrievable loss of oil or natural gas resources will occur unless an emergency permit is granted, the director may issue an emergency permit for a well for oil and gas purposes if the following conditions exist:

(1) Timely application for a permit could not practicably have been made.

(2) Issuance of the permit does not violate a term of primary enforcement authority for Class II wells.

(c) An emergency permit under subsection (b) is effective not longer than ninety (90) days from issuance. However, if a permit application is submitted before expiration of the ninety (90) day period, the director may, subject to IC 4-21.5, extend the emergency permit until final agency action on the application.

(d) The director may issue an emergency permit for a well for oil and gas purposes if:

(1) a substantial delay in the production of oil or natural gas resources will occur unless an emergency permit is issued for a new injection well; and

(2) the permit will not violate a term of primary enforcement authority for Class II wells.

An emergency permit under this subsection may be issued only after a completed permit application has been submitted and is effective only until a final determination is made by the department on that application.

As added by P.L.1-1995, SEC.30.

IC 14-37-4-14
Transfer permits

Sec. 14. To transfer the ownership of a permit for a well for oil or gas purposes, a person must submit the following:

(1) A transfer fee of fifteen dollars ($15) payable to the department for each well. However, if an applicant submits more than fifty (50) applications simultaneously, the transfer fee for each application in excess of fifty (50) is ten dollars ($10).

(2) The name and mailing address of the seller and buyer on a form prescribed by the commission.

As added by P.L.186-2003, SEC.78.

IC 14-37-4-15
Violations

Sec. 15. (a) The department may assess a civil penalty of not more than ten thousand dollars ($10,000) against a person who violates section 1 or 2 of this chapter.

(b) A person who knowingly or intentionally violates section 1 or 2 of this chapter commits a Level 6 felony if the violation relates to the operation of a Class II well.

(c) A civil penalty assessed under this section shall be deposited in the oil and gas environmental fund established by IC 14-37-10-2.

As added by P.L.195-2014, SEC.38.

IC 14-37-5
Chapter 5. Fee for Class II Wells

IC 14-37-5-1
Amount of annual fee

Sec. 1. (a) This section does not apply to a noncommercial gas well drilled on real estate owned by a resident of Indiana if:

(1) the deputy director has waived the bond described in IC 14-37-6;

(2) the owner submits written proof of financial responsibility; and

(3) the owner submits on a division form an agreement to maintain and abandon the well in accordance with IC 14-37.

The deputy director may require the agreement described in subdivision (3) to be recorded.

(b) An oil and gas well owner or operator must pay an annual fee that is based on the number of wells for oil and gas purposes for which the person has permits as of November 1 of each year. The total fees required are as follows:

(1) For one (1) permit, one hundred fifty dollars ($150).

(2) For two (2) through five (5) permits, three hundred dollars ($300).

(3) For six (6) through twenty-five (25) permits, seven hundred fifty dollars ($750).

(4) For twenty-six (26) through one hundred (100) permits, one thousand five hundred dollars ($1,500).

(5) For more than one hundred (100) permits, one thousand five hundred dollars ($1,500) plus fifteen dollars ($15) for each permit over one hundred (100).

(c) The annual fee required by subsection (b):

(1) applies to each well for oil and gas purposes in existence on November 1 of each year; and

(2) must be paid to the department not later than February 1 of the following year.

(d) The department shall deposit the fees collected under this section into the oil and gas environmental fund established by IC 14-37-10-2.

As added by P.L.1-1995, SEC.30. Amended by P.L.48-2002, SEC.2.

IC 14-37-5-2
Amount of annual fee; exception

Sec. 2. (a) Notwithstanding section 1(b) of this chapter, if the amount in the oil and gas environmental fund established by IC 14-37-10-2 is more than one million five hundred thousand dollars ($1,500,000) on November 1 of a year, the annual fee required by section 1 of this chapter must be reduced by seventy-five percent (75%). However, the department shall charge a fee of at least fifty dollars ($50).

(b) The fee required under subsection (a) remains in effect until the amount in the oil and gas environmental fund is less than one million dollars ($1,000,000) on November 1 of a year.

As added by P.L.1-1995, SEC.30. Amended by P.L.48-2002, SEC.3.

IC 14-37-6
Chapter 6. Bonding

IC 14-37-6-1
Bonds required for oil and gas well applicants

Sec. 1. (a) Except as otherwise provided in this chapter, this section applies to the following:

(1) An applicant for a permit under this article who has never been granted a permit for a well for oil and gas purposes under this article.

(2) A person who has demonstrated a pattern of violation under this article within the previous two (2) years.

(3) A person who has failed to pay a civil penalty imposed under IC 14-37-13.

(4) A person who has failed to pay an annual fee required under IC 14-37-5.

(b) In addition to the annual fee required under IC 14-37-5, an applicant or a person described in subsection (a) shall execute and file with the department:

(1) a bond of two thousand five hundred dollars ($2,500) for each well;

(2) a bond in any amount if the number of wells does not exceed the number determined by dividing the principal amount of the bond by two thousand five hundred dollars ($2,500); or

(3) a blanket bond of forty-five thousand dollars ($45,000) for any number of wells.

As added by P.L.1-1995, SEC.30. Amended by P.L.48-2002, SEC.4.

IC 14-37-6-2
Cash or certificate of deposit instead of bond

Sec. 2. Instead of the bond required by sections 1 and 6 of this chapter, the department may accept cash or a certificate of deposit.

As added by P.L.1-1995, SEC.30.

IC 14-37-6-3
Duration of bond

Sec. 3. Each blanket bond for wells created, modified, or acquired during the duration of a bond that was accepted by the commission before March 11, 1971, must be replaced by a new blanket bond in the amount of thirty thousand dollars ($30,000) before January 2, 2002. The new replacement bond remains in effect until:

(1) the:

(A) owner or operator plugs and abandons each well covered under the blanket bond in accordance with:

(i) this article; and

(ii) rules adopted under this article; and

(B) bond is released by the department; or

(2) a substitute bond is accepted by the department for each well

secured by the blanket bond.
As added by P.L.1-1995, SEC.30. Amended by P.L.236-2001, SEC.1.

IC 14-37-6-4
Proof of financial ability to abandon noncommercial natural gas well

Sec. 4. Instead of a bond required by section 1 of this chapter, the commission may require a well owner or operator to provide proof of financial ability to abandon a noncommercial natural gas well. The proof must be established by a financial statement and personal guaranty.
As added by P.L.1-1995, SEC.30.

IC 14-37-6-5
Forfeiture of bond or alternative security

Sec. 5. The director shall order forfeiture of a bond or alternative security provided under this chapter when a permit is revoked under IC 14-37-13.
As added by P.L.1-1995, SEC.30.

IC 14-37-6-6
Repealed

(As added by P.L.1-1995, SEC.30. Repealed by P.L.80-2005, SEC.8.)

IC 14-37-7
Chapter 7. Drilling

IC 14-37-7-1
Documentation required by commission

Sec. 1. The commission may require a person drilling or modifying a well for oil and gas purposes to furnish the following:

(1) A copy of the driller's log and completion report of the well.
(2) A copy of any geophysical or instrumental log.
(3) Drill cuttings or cores.
(4) Other information required by rule.

As added by P.L.1-1995, SEC.30. Amended by P.L.80-2005, SEC.5.

IC 14-37-7-2
Confidentiality of records

Sec. 2. Upon written request by the operator, the department shall keep the records and materials submitted under section 1 of this chapter confidential for one (1) year from the date of completion. The records and materials become public records at the end of this period.
As added by P.L.1-1995, SEC.30.

IC 14-37-7-3
Repealed

(As added by P.L.1-1995, SEC.30. Amended by P.L.80-2005, SEC.6. Repealed by P.L.140-2011, SEC.29.)

IC 14-37-7-3.5
Selection of suitable location for drilling an oil and gas well

Sec. 3.5. (a) For purposes of this section, "waste" means locating, spacing, drilling, equipping, operating, or producing a well for oil and gas purposes in a manner that unreasonably reduces or tends to unreasonably reduce the quantity of commercially minable coal resources ultimately to be recovered from a mine.

(b) Except as provided in subsection (c), the division may require an owner or operator to make reasonable modifications to the specific location for the drilling of a well for oil and gas purposes as required by this section if the modifications:

(1) are necessary to protect commercially minable coal resources from waste;
(2) do not violate the drilling unit, well spacing, or other requirements of this article; and
(3) are necessary to protect the health and safety of miners.

(c) Subsection (b) does not apply if the coal owner or coal lessee authorizes the drilling under IC 14-37-4-8.5(d)(2).

(d) If an owner or operator proposes to drill a well for oil and gas purposes:

(1) on land within the permit boundaries of an active underground mine permitted under IC 14-34;

(2) on land underlaid by an inactive underground mine permitted under IC 14-34; or

(3) on land:

(A) associated with a mine referred to in subdivision (1) or (2) that is projected by the owner or operator to be mined; and

(B) on which a commercially minable coal resource is located;

the owner or operator shall provide notice of the intent to drill the well to the permittee of the mine under IC 14-34 or, in the case of an inactive underground mine, to the person that has the right to develop the coal resource.

(e) Except as provided in subsection (f), not more than fifteen (15) days after receipt of the notice required by subsection (d), the permittee of the mine under IC 14-34 or other person with the right to develop the coal resources shall state in writing whether the specific location selected for the drilling of the well is likely to result in either or both of the following:

(1) A significant waste of the volume of coal ultimately to be recovered from the underground mine.

(2) Endangerment of the health and safety of miners.

(f) Subsection (e) does not apply if the permittee of the mine under IC 14-34 consents in writing to the placement of the well.

(g) A person that makes an affirmative determination under subsection (e) shall:

(1) promptly provide a copy of the determination to the owner or operator and the director; and

(2) identify alternative well locations that would:

(A) reduce or avoid waste of the volume of coal ultimately to be recovered from the underground mine;

(B) eliminate the likelihood of endangerment of the health and safety of miners;

(C) not violate the drilling unit, well spacing, or other requirements of this article; and

(D) not result in waste.

(h) If:

(1) the permittee of a mine under IC 14-34 or other person with the right to develop the coal resources; and

(2) the owner or operator;

are unable to agree on a suitable location for the well that is not likely to result in endangerment of the health and safety of miners, the parties may request an informal hearing. Subject to subsection (i), the director shall conduct, within thirty (30) days after a request is made, an informal hearing under IC 14-37-3-16 to gather information to identify an alternative well location as described in subsection (g)(2).

(i) The information that the director gathers under subsection (h) may include the following:

(1) Whether the location is in an active, inactive, abandoned, or projected underground coal mine.

(2) Whether the location is in an unsealed inactive area or a sealed area of a coal mine with the potential for introducing oxygen into the area from drilling or the well.

(3) The proximity and size of coal pillars in an alternative location that might be drilled through, including whether in a panel or support for a submain or main entries.

(4) The equipment technology and operating or drilling experience history of the operator.

(j) If:

(1) after the informal hearing under subsection (h), the director does not identify a suitable location for the well that is not likely to result in endangerment of the health and safety of miners; and

(2) the location for the well for which notice was provided under subsection (d) is not likely to result in endangerment of the health and safety of miners;

the owner or operator is not required to modify the location of the proposed well and may proceed with the submittal of the permit application to the department under this article.

(k) An owner or holder of mineral interests shall comply with the requirements under IC 32-23-7-6.5.

As added by P.L.140-2011, SEC.8.

IC 14-37-7-4

Well owner's or operator's duties regarding coal mines

Sec. 4. (a) If a vertical or vertical part of a horizontal well is drilled and completed as a producing well:

(1) through a commercially minable coal resource; and

(2) within an area permitted under IC 14-34 or for which an affidavit and map has been filed under section 8 of this chapter;

an owner or operator shall set a production string of casing properly centralized and cemented to ensure that adequate cement is placed behind the casing in the area between fifty (50) feet below and one hundred (100) feet above the commercially minable coal seam.

(b) On completion of the coal seam protection requirements of subsection (a), the owner or operator shall prepare and submit to the director an affidavit on a form provided by the division that includes the following:

(1) Verification that the commercially minable coal resource was protected as required by subsection (a).

(2) A cross-section drawing of the well showing the location of each centralizer in the completed well.

(3) Evidence that adequate cement was circulated behind the casing as required by subsection (a).

(c) The director may require the owner or operator to run a cement bond-variable density log or other similar logging procedure to determine the adequacy of cement bonding if the director believes either or both of the following:

(1) That adequate cement has not been circulated to protect the commercially minable coal resource.

(2) That centralizers were not placed at locations necessary to properly centralize the casing through the coal seam.

(d) If the logging procedure under subsection (c) indicates that adequate cement bonding has not occurred between fifty (50) feet below and one hundred (100) feet above the commercially minable coal resource, the owner or operator shall perform remedial action, as ordered by the director, that results in adequate bonding.

(e) The owner or operator shall:

(1) submit:

(A) to the division the original affidavit required by subsection (b) and a copy of any logs required by subsection (c); and

(B) to the owner or operator of the commercially minable coal resource, if known, a copy of the affidavit required by subsection (b) and of any logs required by subsection (c); and

(2) complete the submission under subdivision (1) not later than thirty (30) days after the later of the following:

(A) The date of completion of the well.

(B) The date of completion of any logging procedure under subsection (c).

(f) If the director finds that coal seam protection measures taken by an owner or operator did not adequately protect the coal seam during coal mining operations in close proximity to a well that has not been plugged under IC 14-37-8-2 for which an affidavit is submitted under subsection (b), the owner or operator shall perform additional remedial action to ensure protection of the coal resource and the health and safety of miners. Significant water, gas, or other fluid movement into the underground mine that is transmitted through the annular space outside the protective casing string is evidence of a failure to adequately protect the coal seam.

(g) Preparation of the log and any remedial action required under this section are at the expense of the owner or operator.

As added by P.L.1-1995, SEC.30. Amended by P.L.140-2011, SEC.9.

IC 14-37-7-5
Repealed

(As added by P.L.1-1995, SEC.30. Repealed by P.L.140-2011, SEC.29.)

IC 14-37-7-6
Owner's or operator's obligations for plugging operations not limited

Sec. 6. This chapter does not limit the obligation of an owner or operator for plugging operations under this article.

As added by P.L.1-1995, SEC.30.

IC 14-37-7-7
Pollution of drinking water

Sec. 7. An owner or operator may not construct, operate, maintain, convert, plug, abandon, or conduct another injection activity in a manner that allows the movement of fluid containing pollution into an underground source of drinking water if the presence of the pollution may:

(1) cause a violation of a primary drinking water regulation under 40 CFR Part 142; or

(2) otherwise adversely affect the health of a person.

As added by P.L.1-1995, SEC.30.

IC 14-37-7-8

Area considered a commercially minable coal resource

Sec. 8. (a) The owner or lessee of coal or another person with an interest to develop a coal resource may file with the division an affidavit that:

(1) identifies by a map prepared by an engineer licensed under IC 25-31 or a geologist licensed under IC 25-17.6:

(A) the location of coal that the owner or lessee controls by deed, lease, or other instrument for later commercial production;

(B) the location of coal that is in an area targeted for later commercial production;

(C) the location of the coal seam or seams of interest; and

(D) the approximate depth of the coal seam or seams of interest; and

(2) states that the coal:

(A) can be mined using generally accepted underground mining practices; and

(B) is of sufficient quantity and quality to be commercially saleable.

(b) All coal in an area designated under subsection (a) is considered a commercially minable coal resource.

(c) An affidavit referred to in subsection (a) may be made before applying for permits for the actual mining of the commercially minable coal resource. The division shall:

(1) subject to subsection (e), keep the affidavit and map confidential; and

(2) use the affidavit and map solely for determining if a commercially minable coal resource is present in an area for which a permit application has been filed under IC 14-37.

(d) The division shall determine if the proposed well location is in an area underlain by coal identified in subsection (a) upon receipt of:

(1) a permit application referred to in subsection (c)(2); or

(2) an inquiry from a person interested in oil and gas explorations or drilling a well for oil and gas purposes.

(e) The name of the person who filed the map referred to in subsection (c) is not confidential.

As added by P.L.140-2011, SEC.10.

IC 14-37-7-9
Violations

Sec. 9. (a) The department may assess a civil penalty of not more than ten thousand dollars ($10,000) against an owner or operator who:

(1) violates section 4 or 7 of this chapter; or
(2) fails to comply with an order of the division under section 3.5 or 4 of this chapter.

(b) An owner or operator who knowingly or intentionally:

(1) violates section 4 or 7 of this chapter; or
(2) fails to comply with an order of the division under section 3.5 or 4 of this chapter;

commits a Level 6 felony if the violation or failure to comply relates to the operation of a Class II well.

(c) A civil penalty assessed under this section shall be deposited in the oil and gas environmental fund established by IC 14-37-10-2.
As added by P.L.195-2014, SEC.39.

IC 14-37-8
Chapter 8. Plugging and Abandonment

IC 14-37-8-1
When plugging and abandonment required; violations

Sec. 1. (a) An owner or operator shall plug and abandon a well that:

(1) is completed as a nonproductive well;
(2) ceases to produce oil or natural gas; or
(3) is no longer operated for the purpose for which the well is permitted;

unless the owner or operator is authorized to delay the plugging and abandonment of the well under section 8 of this chapter.

(b) The department may assess a civil penalty of not more than ten thousand dollars ($10,000) against an owner or operator of a well who:

(1) ceases to operate the well; and
(2) knowingly fails to plug and abandon the well in violation of subsection (a).

(c) An owner or operator who knowingly or intentionally violates this section commits a Level 6 felony if the violation or failure to comply relates to the operation of a Class II well.

(d) A civil penalty assessed under this section shall be deposited in the oil and gas environmental fund established by IC 14-37-10-2.

(e) Each day that the well remains not plugged and not abandoned constitutes a separate violation of subsection (a).

As added by P.L.1-1995, SEC.30. Amended by P.L.195-2014, SEC.40.

IC 14-37-8-2
Plugging methods

Sec. 2. (a) Plugging methods must be approved by the commission and must permanently confine all oil, natural gas, and water in their original strata. Mud-laden fluid, cement, mechanical plugs, or other methods or materials approved by the director must be used singly or in combination.

(b) Subject to subsection (c), the commission shall adopt rules under IC 4-22-2 to prescribe plugging methods for wells that impact commercially minable coal resources.

(c) The plugging methods under subsection (b) do not apply to a well if the consent of the coal owner or coal lessee is granted under IC 14-37-4-8.5(d)(2).

As added by P.L.1-1995, SEC.30. Amended by P.L.140-2011, SEC.11.

IC 14-37-8-3
Sealing and capping of wells

Sec. 3. An owner or operator of a well that:

(1) is required to be plugged under section 1 of this chapter; and
(2) is not converted under this chapter to another type of well for oil and gas purposes;

shall seal and cap the well at the casinghead until the plugging operations begin.

As added by P.L.1-1995, SEC.30.

IC 14-37-8-4

Plugging a well immediately after completion of drilling operations

Sec. 4. (a) This section applies to a well that is being plugged as a dry hole immediately following the completion of drilling or redrilling operations.

(b) Subject to subsection (c), an owner or operator must give verbal or written notice of intent to plug a well to an oil and gas inspector at least twelve (12) hours before beginning the plugging of the well under this chapter.

(c) Except as provided in subsection (d), an oil and gas inspector must be present during the plugging of a well.

(d) Subsection (c) does not apply if:

(1) the owner or operator notifies an oil and gas inspector under subsection (b);
(2) as part of the notice the owner or operator informs the oil and gas inspector of the plan for plugging the well; and
(3) the oil and gas inspector gives the owner or operator verbal or written approval of the plan.

As added by P.L.1-1995, SEC.30. Amended by P.L.140-2011, SEC.12.

IC 14-37-8-4.2

Plugging of a well

Sec. 4.2. (a) This section applies to the plugging of a well other than a well that is plugged under section 4 or 4.3 of this chapter.

(b) An owner or operator must give written notice of intent to plug a well to the department on a form provided by the department at least ten (10) days before beginning the plugging of the well under this chapter.

(c) The notice under subsection (b) must include a plan for plugging a well:

(1) that describes the specific methods that will be used; and
(2) that is sufficient to demonstrate compliance with the requirements of this chapter.

(d) The owner or operator may not begin the plugging of any well under this section until after receipt of written approval from the department of the plan referred to in subsection (c).

(e) The owner or operator shall give an oil and gas inspector verbal or written notice at least forty-eight (48) hours before the scheduled time to begin plugging operations on a well.

As added by P.L.140-2011, SEC.13.

IC 14-37-8-4.3
Emergency plugging of a well

Sec. 4.3. (a) This section applies to the plugging of a well other than a well referred to in section 4 of this chapter if an emergency or other urgent condition requires the immediate plugging of the well.

(b) An emergency condition exists if a well is found to be leaking or discharging oil, gas, or other fluids in quantities that are capable of:

(1) causing substantial harm to the environment; or

(2) posing an immediate threat to public health or safety.

(c) An urgent condition exists if delay in the plugging of a well will result in a substantial increase in the cost to plug the well due to impending weather or other conditions that are beyond the control of the owner or operator.

(d) An owner or operator may begin plugging a well under this chapter upon verbal approval from the division director or a designated representative of the division director.

(e) An oil and gas inspector must be present during the plugging of a well only if the presence of the inspector is required in the approval given under subsection (d).

As added by P.L.140-2011, SEC.14.

IC 14-37-8-4.4
Report of well plugging

Sec. 4.4. Not later than thirty (30) days after the completion of well plugging operations under this chapter, the operator shall submit a report of well plugging to the department describing in detail the specific methods used to plug the well. The report must:

(1) be on a form provided by the department; and

(2) include an affidavit that:

(A) certifies that the well was plugged in accordance with this chapter; and

(B) is signed by the person who performed the well plugging operations and the well owner or operator.

As added by P.L.140-2011, SEC.15.

IC 14-37-8-5
Repealed

(As added by P.L.1-1995, SEC.30. Repealed by P.L.140-2011, SEC.29.)

IC 14-37-8-6
Repealed

(As added by P.L.1-1995, SEC.30. Repealed by P.L.140-2011, SEC.29.)

IC 14-37-8-7
Redrilling and replugging of hole

Sec. 7. The director of the division of oil and gas may require an

owner or operator to redrill and replug a hole if the operator does not comply with section 4, 4.2, or 4.3 of this chapter.
As added by P.L.1-1995, SEC.30. Amended by P.L.140-2011, SEC.16.

IC 14-37-8-8
Delay or deferral of plugging and abandonment of well; temporary abandonment of well

Sec. 8. (a) An owner or operator may delay the plugging and abandoning of a well that has been drilled, completed, and cased for production if the owner or operator satisfies the requirements for:

(1) deferring abandonment of the well under subsection (b); or
(2) temporarily abandoning the well under subsection (c).

(b) An owner or operator of a well may defer abandoning the well for not more than one (1) year, or any lesser period prescribed by the division, if the well conforms to the requirements of this article and rules adopted under this article. To defer abandoning a well under this subsection, the owner or operator of the well must notify the department in writing that the owner or operator intends to defer abandonment of the well. The notice must be given to the department not more than sixty (60) days after the later of the following:

(1) The date of the completion and casing of the well.
(2) The date on which the operation of the well is terminated.

(c) An owner or operator of a well may temporarily abandon the well if the well conforms to the requirements of this article and rules adopted under this article. To temporarily abandon a well under this subsection, the owner or operator must file with the division, on a form prescribed by the division, an application for temporary abandonment. The application must be filed not more than sixty (60) days after any of the following:

(1) The date on which the drilling of the well is completed.
(2) The date on which the operation of the well is terminated.
(3) The expiration of the period during which the owner or operator defers abandoning the well under subsection (b).

As added by P.L.1-1995, SEC.30.

IC 14-37-8-9
Repealed

(As added by P.L.1-1995, SEC.30. Repealed by P.L.140-2011, SEC.29.)

IC 14-37-8-10
Hearing on oil or gas well leaks

Sec. 10. Any person may request a hearing before the commission under IC 4-21.5 to consider whether a well for oil and gas purposes is:

(1) leaking or may leak a deleterious substance into an aquifer containing fresh water or onto the surface of the land; or
(2) allowing oil or gas from the well to escape into the

atmosphere.
As added by P.L.1-1995, SEC.30.

IC 14-37-8-11
Notice of proceedings to persons responsible for plugging and abandoning wells

Sec. 11. Each person who is responsible for plugging and abandoning a well shall be notified of a proceeding under section 10 of this chapter.
As added by P.L.1-1995, SEC.30.

IC 14-37-8-12
Orders to remedy conditions causing environmental harm

Sec. 12. The commission may order any responsible person to:
(1) plug and abandon;
(2) replug; or
(3) repair;
a well to remedy a condition found to cause environmental harm or waste.
As added by P.L.1-1995, SEC.30.

IC 14-37-8-13
Authorization for department or person to enter land to perform remedial action

Sec. 13. (a) If after thirty (30) days from the service of an order under section 12 of this chapter the well has not been properly:
(1) plugged and abandoned;
(2) replugged; or
(3) repaired;
the commission may authorize the department or another person to enter upon the land where the well is located and to remedy the condition.

(b) A person who acts in accordance with an authorization under this section is not liable for damages resulting from operations reasonably necessary or proper to plug, abandon, replug, or repair the well, except for damages to growing crops and improvements.
As added by P.L.1-1995, SEC.30.

IC 14-37-8-14
Limited liability of person plugging, abandoning, replugging, or repairing well under commission authorization

Sec. 14. (a) A person who plugs, abandons, replugs, or repairs a well under an order or authorization entered under this chapter:
(1) does not assume responsibility for future remedial action on the well; and
(2) is not liable for conditions subsequently arising with respect to the well.

(b) A person who remedies or attempts to remedy a condition under this chapter does not by that action admit liability for:

(1) the condition; or
(2) damages resulting from the condition.
As added by P.L.1-1995, SEC.30.

IC 14-37-8-15
Expenses of remedial action
Sec. 15. A person:
(1) who has no obligation to plug, abandon, replug, or repair a well; but
(2) who does so under section 12, 13, 14, or 16 of this chapter;
may recover in a civil action against any responsible person the reasonable expenses of the remedial action or may apply to the oil and gas environmental fund under IC 14-37-10 to recover the reasonable expenses of the remedial action.
As added by P.L.1-1995, SEC.30. Amended by P.L.236-2001, SEC.2.

IC 14-37-8-16
Temporary action prior to remedial action
Sec. 16. The director may enter an order under IC 4-21.5-4 to provide temporary action to prevent or minimize injury that may occur before remedial action is performed under section 12 or 13 of this chapter if the director determines that substantial injury would otherwise result.
As added by P.L.1-1995, SEC.30.

IC 14-37-8-17
Repealed
(As added by P.L.1-1995, SEC.30. Repealed by P.L.80-2005, SEC.8.)

IC 14-37-8-18
Violations
Sec. 18. (a) The department may assess a civil penalty of not more than ten thousand dollars ($10,000) against an owner or operator who:
(1) violates; or
(2) fails to comply with an order of the division in relation to;
section 3, 4, or 4.2 of this chapter.
(b) An owner or operator who knowingly or intentionally:
(1) violates; or
(2) fails to comply with an order of the division in relation to;
section 3, 4, or 4.2 of this chapter commits a Level 6 felony if the violation or failure to comply relates to the operation of a Class II well.
(c) A civil penalty assessed under this section shall be deposited in the oil and gas environmental fund established by IC 14-37-10-2.
As added by P.L.195-2014, SEC.41.

IC 14-37-9
Chapter 9. Integration and Forced Pooling

IC 14-37-9-1
Agreement to integrate interests; commission requiring integration

Sec. 1. (a) If at least two (2) separately owned tracts of land are located:

(1) within an established drilling unit; or

(2) within a pool or part of a pool suitable for secondary recovery methods;

the owners of the separate tracts may agree to integrate their interests and to develop their land as a drilling unit.

(b) If the owners of separate tracts of land do not agree to integrate their interests, the commission shall, for the prevention of waste or to avoid the drilling of unnecessary wells, require the owners to integrate their interests and to develop the land as a drilling unit.

As added by P.L.1-1995, SEC.30.

IC 14-37-9-2
Order for integration

Sec. 2. An order for integration issued under this chapter must be based upon reasonable terms that give the owner of each tract an equitable share of oil and natural gas in the unit or pool. The part of the production allocated to the owner of each tract shall be considered as if produced from a well drilled on that tract. The commission may not limit well production under this chapter.

As added by P.L.1-1995, SEC.30.

IC 14-37-9-3
Costs of production from integrated well

Sec. 3. (a) As used in this section, "field" means a group of pools that are related to a single geologic feature by structure or stratigraphy.

(b) If an integration order is entered, the operator may assess each interested owner for the actual reasonable expenditures required in development and operations, including charges for supervision.

(c) The operator is entitled to receive the first production from a well that otherwise would be credited to the other owners of the integrated interests, so that the proportionate share owed by the other owners for expenditures under this chapter is paid to the operator from production.

(d) The value of the production shall be calculated at the market price in the field when the production is received by the operator or placed to the credit of the operator.

As added by P.L.1-1995, SEC.30.

IC 14-37-9-4
Deputies

Sec. 4. The commission shall determine any dispute that arises under this chapter.
As added by P.L.1-1995, SEC.30.

IC 14-37-10

Chapter 10. Oil and Gas Environmental Fund

IC 14-37-10-1

"Fund" defined

Sec. 1. As used in this chapter, "fund" refers to the oil and gas environmental fund established by this chapter.

As added by P.L.1-1995, SEC.30.

IC 14-37-10-2

Establishment and administration of fund

Sec. 2. The oil and gas environmental fund is established. The department shall administer the fund.

As added by P.L.1-1995, SEC.30.

IC 14-37-10-3

Deposits in fund

Sec. 3. The following shall be deposited in the fund:

(1) Annual fees for oil and gas wells received under IC 14-37-5.

(2) Accrued interest and other investment earnings of the fund.

(3) Civil penalties collected under IC 14-37.

(4) Bonds forfeited under IC 14-37-13-2.

(5) Gifts, grants, donations, or appropriations from any source.

As added by P.L.1-1995, SEC.30. Amended by P.L.236-2001, SEC.3; P.L.48-2002, SEC.5; P.L.151-2012, SEC.31; P.L.195-2014, SEC.42.

IC 14-37-10-4

Amount of money in fund; investments; transfer to state general fund

Sec. 4. (a) Except as provided in subsection (d), money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) The total amount of money in the fund may not exceed one million five hundred thousand dollars ($1,500,000). Any amount of money in the fund exceeding one million five hundred thousand dollars ($1,500,000) on November 1 of a year reverts to the oil and gas fund established by IC 6-8-1-27. The fund must maintain a balance of at least five hundred thousand dollars ($500,000) as a surety fund for operators who are not required to execute a bond under IC 14-37-6-1. Expenditures that would reduce the fund below five hundred thousand dollars ($500,000) must be approved by the budget agency.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) If the fund is abolished, all money in the fund is transferred to the state general fund.

(e) The expenses of administering the fund shall be paid from

money in the fund. However, the department may not expend more than five percent (5%) of the money in the fund for administering the fund each state fiscal year.
As added by P.L.1-1995, SEC.30. Amended by P.L.48-2002, SEC.6.

IC 14-37-10-5
Appropriations; emergency expenditures

Sec. 5. (a) Money paid into the fund shall be appropriated for the following purposes:

(1) To supplement the cost required to abandon a well that has had a permit revoked under IC 14-37-13-1.

(2) To cover the costs of remedial plugging and repairing of wells under IC 14-37-8, including the expenses of remedial action under IC 14-37-8-15.

(3) To cover the cost to:

(A) mitigate environmental damage; or

(B) protect public safety against harm;

caused by a well regulated under this article.

(4) Pipeline safety.

(b) The director may make expenditures from the fund for emergency purposes under section 6 of this chapter without the prior approval of the budget agency or the governor. An expenditure under this subsection may not exceed fifty thousand dollars ($50,000).

(c) The director may establish a program to reimburse an applicant for the reasonable expenses of remedial action incurred under IC 14-37-8-15. The director may make expenditures from the fund for this purpose and may establish any necessary guidelines and procedures to administer the program.
As added by P.L.1-1995, SEC.30. Amended by P.L.236-2001, SEC.4; P.L.150-2011, SEC.17.

IC 14-37-10-6
Exhausting other sources of funding before seeking appropriation

Sec. 6. The department shall make a reasonable effort to exhaust any other sources of funding available for the purposes described in section 5 of this chapter before seeking an appropriation from the fund. If, however, a delay in:

(1) plugging and repairing a well; or

(2) mitigating environmental damage as provided under section 5 of this chapter;

poses a hazard to health, safety, or the environment, the department may seek an immediate appropriation from the fund.
As added by P.L.1-1995, SEC.30.

IC 14-37-10-7
Liability of responsible person

Sec. 7. (a) An expenditure made from the fund under this chapter does not release a responsible person from liability for the purposes described in section 5 of this chapter.

(b) The department may seek reimbursement for expenses incurred under this chapter from a responsible person.
As added by P.L.1-1995, SEC.30.

IC 14-37-11
Chapter 11. Waste

IC 14-37-11-1
Waste prohibited
Sec. 1. Except as provided in this chapter, waste is prohibited.
As added by P.L.1-1995, SEC.30.

IC 14-37-11-2
Burning natural gas
Sec. 2. An owner or operator of a well producing both oil and natural gas may burn the natural gas in flares if there is not a market for the natural gas.
As added by P.L.1-1995, SEC.30.

IC 14-37-11-3
Burning coal bed methane
Sec. 3. The owner or operator of a coal mine may burn in flares the coal bed methane produced from a coal bed methane well if either or both of the following apply:
(1) The burning is necessary to protect coal miners' safety.
(2) It is not economical to market the coal bed methane.
As added by P.L.140-2011, SEC.17.

IC 14-37-11-4
Violations
Sec. 4. (a) An owner or operator who violates section 1 of this chapter commits a Class B infraction.
(b) The department may assess a civil penalty of not more than ten thousand dollars ($10,000) against an owner or operator who violates section 1 of this chapter.
(c) An owner or operator who knowingly or intentionally violates section 1 of this chapter commits a Level 6 felony if the violation concerns the operation of a Class II well.
(d) A civil penalty assessed under this section shall be deposited in the oil and gas environmental fund established by IC 14-37-10-2.
As added by P.L.195-2014, SEC.43.

IC 14-37-12
Chapter 12. Violations

IC 14-37-12-1
Inspector's entry onto property to determine violations of article

Sec. 1. An oil and gas inspector and any person authorized by the commission may at any reasonable time enter upon public or private property where a well for oil and gas purposes is being drilled or has been drilled to determine if there is a violation of:

(1) this article; or
(2) the rules adopted under this article.

As added by P.L.1-1995, SEC.30.

IC 14-37-12-2
Written notice of violation

Sec. 2. The department may issue a written notice of violation if a person violates:

(1) this article; or
(2) a rule adopted under this article.

As added by P.L.1-1995, SEC.30.

IC 14-37-12-3
Contents of notice of violation

Sec. 3. A notice of violation under this chapter is subject to IC 4-21.5-3-6. The notice must include the following:

(1) The nature of the violation.
(2) What action is appropriate to abate the violation.
(3) The date by which the violation must be abated.
(4) The procedure to obtain administrative review if the owner or operator is aggrieved by issuance of the notice of violation.

As added by P.L.1-1995, SEC.30.

IC 14-37-12-4
Effectiveness; administrative review

Sec. 4. A notice of violation issued under this chapter becomes effective without a proceeding under IC 4-21.5-3 unless a person requests administrative review under IC 4-21.5-3-6 within thirty (30) days of issuance.

As added by P.L.1-1995, SEC.30.

IC 14-37-12-5
Penalties; permit revocation

Sec. 5. An owner or operator who fails to abate a violation in a timely manner is liable for the following:

(1) A civil penalty.
(2) Permit revocation under IC 14-37-13.

As added by P.L.1-1995, SEC.30.

IC 14-37-13
Chapter 13. Penalties

IC 14-37-13-1
Permit revocation

Sec. 1. The commission may revoke a permit issued under this article if the commission finds any of the following:

(1) The permit was issued through fraud or misrepresentation.

(2) The owner or operator has violated:

(A) this article; or

(B) a rule adopted under this article.

(3) The information or conditions upon which a permit was issued have substantially changed since issuance.

(4) The operation of a well for oil and gas purposes is polluting the water or land in Indiana.

(5) The owner or operator has been issued a notice of violation under IC 14-37-12 and has failed to do at least one (1) of the following:

(A) Abate the violation within the prescribed period.

(B) Secure in writing from the division an extension of time in which to abate the violation before the expiration of the period established for abatement.

(C) Request a proceeding under IC 4-21.5-3-6 within:

(i) thirty (30) days after receipt of the notification; or

(ii) the period provided by the division for abatement;

whichever is longer.

As added by P.L.1-1995, SEC.30.

IC 14-37-13-2
Action following revocation of permit

Sec. 2. (a) If a permit is revoked under this chapter, the commission may do either of the following:

(1) Order the owner or operator to plug and abandon the well.

(2) Plug and abandon the well.

(b) The revocation of a permit under this chapter does not relieve the owner or operator of the well to which the permit relates of the responsibility imposed by IC 14-37-8 for the plugging and abandonment of the well.

(c) If the commission elects to plug and abandon a well under subsection (a)(2), the commission may apply the bond or other security provided under:

(1) IC 14-37-6; or

(2) IC 13-8-8 (before its repeal);

to the costs of plugging and abandoning the well.

(d) If the commission elects to plug and abandon a well under subsection (a)(2), the owner or operator of the well remains liable for the costs of plugging and abandoning the well.

(e) The state has a lien on:

(1) the casing and all equipment located on or removed from the well site;
(2) the leasehold of the land upon which the well is located; and
(3) any crude oil stored on the well site or recovered at the time the well is plugged and abandoned;

to secure the cost of plugging and abandoning. Except as provided in subsection (f), the lien may be foreclosed on order of the commission in the name of the state of Indiana by the attorney general in a circuit or superior court having jurisdiction in any county where the land is located.

(f) If the commission elects to plug and abandon a well under subsection (a)(2), the commission may also enter an order authorizing its agents, employees, or contractors to dispose of:

(1) casing and all equipment located on or removed from the well site; and
(2) any crude oil stored on the well site or recovered;

at the time the well is plugged and abandoned. An inventory of the casing and all equipment and any crude oil shall be made, and the salvage or other reasonable market value of the casing and all equipment and any crude oil shall be applied as a credit to offset the actual cost incurred by the commission to plug and abandon the well.
As added by P.L.1-1995, SEC.30. Amended by P.L.236-2001, SEC.5.

IC 14-37-13-3
Injunction

Sec. 3. In addition to any civil penalty imposed for a violation of this article, the department may bring an action to enjoin the violator from continuing the violation.
As added by P.L.1-1995, SEC.30. Amended by P.L.195-2014, SEC.44.

IC 14-37-13-4
Administrative review; effectiveness of civil penalty

Sec. 4. A civil penalty assessed under section 3 of this chapter is subject to IC 4-21.5-3-6 and becomes effective without a proceeding under IC 4-21.5-3 unless a person requests an administrative review within thirty (30) days of notice of the assessment.
As added by P.L.1-1995, SEC.30.

IC 14-37-13-5
Civil action in name of state to restrain person from commencing or continuing violations

Sec. 5. The commission may bring a civil action in the name of the state of Indiana through the attorney general, in a circuit or superior court having jurisdiction in any county in which land involved is located or in which a person resides, to restrain the person from commencing or continuing to violate any of the following:

(1) This article.
(2) A rule adopted under this article.

(3) An order of the commission.

As added by P.L.1-1995, SEC.30.

IC 14-37-13-6

Repealed

(As added by P.L.1-1995, SEC.30. Repealed by P.L.195-2014, SEC.45.)

IC 14-37-13-7

Costs and expenses

Sec. 7. If an order is issued:

(1) under this article or IC 13-8 (before its repeal); or

(2) as a result of any administrative proceeding under this article or IC 13-8 (before its repeal);

the court or the director may assess against any party to the proceeding the costs and expenses, including attorney's fees, reasonably incurred by that person with respect to the proceedings, including any judicial review of a final agency action. The director shall determine the amount of the costs and expenses.

As added by P.L.1-1995, SEC.30.

IC 14-38

ARTICLE 38. OTHER PETROLEUM REGULATION

IC 14-38-1

Chapter 1. Petroleum Exploration on State Property

IC 14-38-1-1

"Commence to drill a well" defined

Sec. 1. As used in this chapter, "commence to drill a well" means the institution of work in good faith with drilling equipment adequate for the drilling of a well to a depth that will reasonably test the oil and gas productiveness of the public land where the well is commenced.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-2

"Person" defined

Sec. 2. As used in this chapter, "person" means the following:

(1) A citizen of the United States.

(2) An individual who has, in good faith, declared the intention of becoming a citizen of the United States.

(3) An association of individuals described in subdivision (1) or (2).

(4) A corporation organized and existing under and by virtue of the laws of any state or territory of the United States and authorized to do business in Indiana.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-3

"Petroleum" defined

Sec. 3. As used in this chapter, "petroleum" means any liquid or gaseous hydrocarbon occurring in nature beneath the surface of the earth.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-4

"Proven territory" defined

Sec. 4. As used in this chapter, "proven territory" means territory so situated with reference to known producing wells as to establish the general opinion that, because of the territory's relation to the producing wells, petroleum is contained in the territory.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-5

"Public land" defined

Sec. 5. As used in this chapter, "public land" means land and area belonging to or subsequently acquired by the state or any of the state's institutions. The term includes land of every kind and nature.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-6
Permit issuance

Sec. 6. (a) The commission may enter into written contracts designating a person as the permittee of the state with the exclusive right to prospect and explore not to exceed three (3) sections, or an equivalent area, of the public land for the occurrence of petroleum. A contract must contain the conditions prescribed by the rules adopted by the commission under this chapter. A permit must be for a period of not more than one (1) year in the discretion of the commission. A permit shall be granted without cost, except:

(1) as provided in section 16 of this chapter; and

(2) that, if more than one (1) application for a permit is received with respect to the same public land, the commission shall grant the permit to the person offering the highest cash bonus.

(b) A permittee may, under a contract:

(1) enter in and upon the land; and

(2) prospect and explore the land to determine the occurrence of petroleum.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-7
No permits issued for proven territory

Sec. 7. A permit may not be issued upon public land classified by the commission as proven territory.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-8
Compensation of landowners and state

Sec. 8. A permittee may not commence an operation upon land covered by a permit until the permittee has compensated the following:

(1) The owners of private rights in the land according to law.

(2) The state for damage to the surface rights of the state in accordance with the rules adopted by the commission.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-9
Prosecution of operations with reasonable diligence

Sec. 9. A permit requires the immediate commencement of geological, geophysical, or core drilling operations. All operations shall be prosecuted with reasonable diligence in accordance with good oil field practice and must be continuous except when causes beyond the control of the permittee intervene and make continuous operations not feasible. Geological, geophysical, or core drilling operations may not include the actual operation of drilling for gas, oil, or other mineral deposits.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-10
Surrender of permit

Sec. 10. Every permittee has the option of surrendering a permit at any time and is relieved of all liability under the permit except for physical damage to the premises embraced by the permit that has been caused by the permittee's operations.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-11
Permittee's lease for petroleum extraction

Sec. 11. (a) A permittee is, at any time during the life of the permit or upon the termination of the permit, entitled to a lease for the extraction of petroleum from not to exceed one (1) section, or an equivalent area, of land to be selected by the permittee.

(b) A lease under subsection (a) must be at a royalty of:

(1) not more than twelve and one-half percent (12 1/2%) of all petroleum produced and saved from the lease; or

(2) the market value of the petroleum;

at the option of the commission.

(c) A lease must provide for an annual rental, payable in advance, of from one dollar ($1) to ten dollars ($10) per acre, as the commission determines. Rentals shall be credited against future royalties.

(d) A lease must be for a primary term of ten (10) years and as long thereafter as oil in commercial quality and commercial quantity can be produced from the land embraced in the lease.

(e) The form and terms of a lease must be the same as the standard commercial petroleum lease generally in use in the territory in which the oil, gas, or other petroleum deposits are located, with the additional terms provided in this chapter and the rules of the commission. If the conditions contained in a standard commercial lease conflict with this chapter, this chapter controls.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-12
Other leases for petroleum extraction

Sec. 12. (a) A petroleum lease other than a lease provided for in section 11 of this chapter may be granted in parcels as determined by the commission.

(b) A lease granted under this section must be at a royalty of:

(1) not less than twelve and one-half percent (12 1/2%) of all petroleum produced and saved from the land covered by the lease; or

(2) the market value of the petroleum;

at the option of the commission.

(c) A lease must provide for an annual rental, payable in advance, of from one dollar ($1) to ten dollars ($10) per acre, as the commission determines. Rentals shall be credited against future royalties.

(d) A lease must be for a primary term of ten (10) years.

(e) The forms and terms of a lease must be the same as the standard commercial petroleum lease generally in use in the territory in which the oil, gas, or other petroleum products are located, with the additional terms provided in this chapter and the rules of the commission. If the conditions contained in a standard commercial lease conflict with this chapter, this chapter controls.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-13

Proceeds

Sec. 13. (a) All proceeds derived:

(1) from or by virtue or by reason of a permit or lease executed or issued under this chapter; or

(2) from or by reason of any operations under this chapter;

shall, after deducting all costs incurred by the department, be paid to the treasurer of state for the use of the division of the department having the custody, control, possession, or authority of or over the real property involved.

(b) Except as provided in subsection (c), the proceeds shall be deposited in the proper fund of the appropriate division of the department.

(c) Except as provided in subsection (d), the proceeds from royalties or other compensation paid for minerals taken from beneath the navigable waters of the state shall be deposited in the state general fund.

(d) The proceeds from royalties or other compensation paid for minerals taken from beneath the navigable waters of the Wabash River (as defined in IC 14-13-6-4) shall be deposited in the Wabash River heritage corridor fund established by IC 14-13-6-23.

As added by P.L.1-1995, SEC.31. Amended by P.L.118-2009, SEC.4.

IC 14-38-1-14

Consideration for leases

Sec. 14. (a) A petroleum lease may not be issued on land that has not been classified by the commission as proven territory. With regard to proven territory to which no permit holder is entitled to a lease, the commission shall, in areas to be determined by the commission, lease any of the land in the proven territory to the responsible person offering the greatest consideration for the lease if the person files with the commission five (5) days before:

(1) the opening of the sealed bids; or

(2) the auction;

as provided in this chapter, a bid bond in an amount fixed by the commission to guarantee the posting of a performance bond if the person is the successful bidder.

(b) To obtain the best possible consideration for a lease the commission may offer leases under the following conditions:

(1) The commission may call for competitive offers by

prospective lessees as to the royalty rate to be included as a term of the lease. The commission may call for sealed bids as to the leases, but may temporarily reject all sealed bids and immediately offer the property for competitive bidding at public auction. If none of the bids received at public auction exceed the highest sealed bid received by the commission, the lease shall immediately be granted to the responsible person making the highest sealed bid.

(2) The commission may, with regard to any lease the commission offers, set a minimum acceptable royalty rate, which may not be less than twelve and one-half percent (12 1/2%) and call for competitive offers by prospective lessees for cash bonuses in addition to the set royalty provision. This competition may be conducted in the alternative manners provided for in subdivision (1).

(3) A permittee who qualifies for a lease of one (1) section, or an equivalent area, of the land embraced by the permittee's prospecting permit has a preferential right to leases on the remainder of the land embraced by the permittee's prospecting permit upon meeting the highest bid for royalty or bonus that the commission receives. The commission may reject any bid if the rejection of the bid of a permittee, if the permittee would otherwise be the successful bidder, is accompanied by a statement to the permittee of the reasons for the rejection.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-15

Cancellation of permit or lease

Sec. 15. (a) The commission may cancel any permit or lease issued under this chapter for:

(1) nonpayment of royalties; or

(2) nonperformance by the permittee or lessee of any provision or requirement of the permit or lease;

if before the cancellation the commission mails to the permittee or lessee by registered mail, addressed to the post office address of the permittee or lessee shown by the records of the office of the commission, a notice of intention to cancel the permit or lease specifying the default for which the permit or lease is subject to cancellation.

(b) If not later than thirty (30) days after the mailing of the notice to the permittee or lessee the permittee or lessee remedies the default specified in the notice, the commission may not cancel the permit or lease.

(c) If a cancellation occurs, all rights of the permittee or lessee under the permit or lease automatically terminate.

(d) Failure to pay fees required under a permit within the time prescribed automatically and without notice works a forfeiture of the permit and of all rights under the permit.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-16

Issuance of new permit following expiration or forfeiture

Sec. 16. Upon the expiration or forfeiture of a permit, a new permit covering the banks or any of the banks embraced by the expired or forfeited permit may not be issued for thirty (30) days following the date of expiration or forfeiture. If more than one (1) application for a permit covering any of the land is made during the thirty (30) day period, the commission shall issue a permit to the land to the person offering the greatest cash bonus for a permit at a public auction to be held at the time and place and in the manner that the commission prescribes by rule. The auction shall be held at any time after the expiration of the thirty (30) day period and the only notice is the entering in a book kept at the office of the commission for the purpose, date, place, and hour of the holding of the auction. The book is a public record.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-17

Agreement for production from same petroleum field

Sec. 17. (a) If the commission finds it is in the best interest of the state for the production of petroleum, the state, a permittee, a lessee, an operator, or any person owning or controlling royalty or other interest in separate properties of the same producing or prospective petroleum field may enter into agreement among each other, subject to the approval of the commission, for the following purposes:

(1) Cooperative exploration, development, and operation of all or a part of the field or exploration, development, or operation of all or part of the field as a pool or unit.

(2) Fixing the time, location, and manner of drilling.

(3) Regulating the location, sequence, and number of exploratory wells required for permits under unit operations and leases.

(4) Operating wells for the exploration of petroleum on state and private land.

(5) The apportionment of the petroleum between the state and the owners of land embraced within the field placed in the pool, taking into consideration the following:

(A) The relative character and geological nature of the tracts of land as far as the character and nature is reasonably ascertainable.

(B) The apparent probability of producing petroleum from all or any part of the land.

(6) All other apparent factors that tend to aid in arriving at a fair, just, and equitable participation by the state and the owners in the apportionment and distribution of the petroleum that is recovered and saved.

(b) The purpose of this section is to encourage the development and exploration of petroleum upon state land by and through the unit plan of development. If it is in the best interests of the state, the

commission shall compel the adoption of unit plans of operation if state land is included in a productive pool. If the permittee or lessee of the land fails to agree upon a plan of unit operation acceptable to the commission, the commission may fix the terms of the unit plan. A permittee or lessee affected who fails to abide by the plan forfeits the permit or lease upon notice as provided in this chapter.
As added by P.L.1-1995, SEC.31.

IC 14-38-1-18
Terms for protection of rights

Sec. 18. The commission may insert in a permit or lease issued under this chapter the terms that are customary and proper for the protection of the rights of:

(1) the state;
(2) the permittee or lessee; and
(3) the owner of the surface of the leased land;

not in conflict with this chapter.
As added by P.L.1-1995, SEC.31.

IC 14-38-1-19
Adoption of rules

Sec. 19. The commission may adopt rules under IC 4-22-2 to carry out this chapter.
As added by P.L.1-1995, SEC.31.

IC 14-38-1-20
Well not to be drilled within 330 feet of property boundaries

Sec. 20. (a) This section does not apply to the following:

(1) Shore lands.
(2) River beds.
(3) Lake beds.
(4) Submerged land.

(b) A lease of land containing petroleum made or issued under this chapter must contain a condition that a well may not be drilled within three hundred thirty (330) feet of any of the outer boundaries of the land held under permit or lease unless the right to petroleum in adjoining land is vested in private ownership.
As added by P.L.1-1995, SEC.31.

IC 14-38-1-21
Right-of-way grants

Sec. 21. A person granted a permit or lease under this chapter has a right-of-way over public land, as provided by law, when necessary for the drilling, recovering, saving, and marketing of petroleum. Before a right-of-way grant becomes effective, the following must occur:

(1) A written application for and a plat showing the location of the right-of-way and the land necessary for the well site and drilling operations, with reference to adjoining land, must be

filed with the commission.

(2) The commission shall appraise the timber on the right-of-way and the land necessary for the drilling operation and the person to whom the permit or lease is granted must pay for the timber.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-22
Development considerations

Sec. 22. (a) After the issuance of a petroleum lease the lessee shall proceed to develop the petroleum in the land through the drilling of the wells that will efficiently extract the petroleum. The development must take into account the following:

(1) The productiveness of the producing horizon.

(2) The depth at which the producing horizon occurs.

(3) The average cost of wells.

(4) The market requirements obtaining at any given time.

(5) The maintenance of proper oil and gas ratios.

(b) The commission shall determine, either by rule or by inclusion in the terms of a lease, the rapidity and extent of development of the oil, gas, or other petroleum field covered by the lease.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-23
Offset well

Sec. 23. (a) A lease must provide that the lessee shall drill an offset well to a well on adjoining land that:

(1) is within three hundred thirty (330) feet of an outer boundary of the land covered by the lease; and

(2) is producing petroleum in paying quantities and draining the land covered by the lease.

(b) The offset must be:

(1) started within ninety (90) days from the completion of the adjoining well; and

(2) drilled with due diligence to completion.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-24
Prospecting permits or leases

Sec. 24. (a) This section applies to an application for prospecting permits or leases for the following:

(1) Shore lands.

(2) River beds.

(3) Lake beds.

(b) The owner of the right to prospect for and develop and produce petroleum from the abutting land has a preferential right for thirty (30) days after the owner has received notice from the commission of the application for:

(1) a prospecting permit; or

(2) if petroleum has been discovered in commercial quantities in a structure underlying the abutting land, a lease;

for the part of the shore land, river bed, and lake bed that adjoins the abutting land upon the terms and conditions provided in this chapter, notwithstanding any acreage limitations provided in this chapter for permits and leases.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-25

Withholding land for prospecting or lease

Sec. 25. This chapter does not require the commission to offer a tract of land for prospecting or lease. The commission may withhold a tract from prospecting or leasing for petroleum purposes if in the commission's judgment the best interest of the state will be served by so doing.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-26

Royalties

Sec. 26. (a) This section applies when a royalty is required to be paid under this chapter:

(1) for oil, at the option of the commission:

(A) at the mouth of the wells into tanks provided by the commission; or

(B) into the pipeline with which the wells are connected, to the commission's credit; and

(2) for gas, including casinghead gas or other gaseous substance.

(b) The lessee shall account to the commission for the market value of the oil or gas at the well for all that is sold by the lessee or used by the lessee in the manufacture of gasoline or other products. At the election of the commission, instead of delivering the royalty, when oil in kind, the lessee shall purchase the oil at the oil's market value at the well when produced.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-27

Delegation of powers

Sec. 27. The commission may delegate any powers granted in this chapter to any officers or employees of the commission.

As added by P.L.1-1995, SEC.31.

IC 14-38-2
Chapter 2. Test Hole Pollution Control and Waste

IC 14-38-2-1
Applicability of chapter

Sec. 1. This chapter applies to a person who desires to drill at least one (1) test hole:

(1) for fluid disposal investigation, mineral resources investigation, engineering projects investigation, or geologic investigation; and

(2) to a depth of at least two hundred (200) feet below ground surface elevation at the test hole site.

As added by P.L.1-1995, SEC.31.

IC 14-38-2-2
Public interest in preventing pollution, impairment, and waste of natural resources

Sec. 2. It is in the public interest for the state to provide the means whereby test holes for or in connection with fluid disposal investigations, mineral resources investigations, engineering projects investigations, or geologic investigations are drilled, used, and plugged in a manner that prevents pollution, impairment, and waste of natural resources.

As added by P.L.1-1995, SEC.31.

IC 14-38-2-3
"Plug" or "plugging" defined

Sec. 3. As used in this chapter, "plug" or "plugging" means the stopping of the flow or migration of oil, gas, water, or other fluid or material up or down a test hole.

As added by P.L.1-1995, SEC.31.

IC 14-38-2-4
"Test hole" defined

Sec. 4. As used in this chapter, "test hole" means an exploratory hole, except for coal exploration, drilled for the purpose of obtaining information and data on the character, composition, sequence, thickness, age, and correlation of underground strata and formations for at least one (1) of the following and no other purposes:

(1) The feasibility of an area for fluid disposal.

(2) The existence, extent, and characteristics of an underground mineral deposit or deposits.

(3) The suitability of underground formations for use in or as a foundation for engineering projects or works.

(4) Expanding the store of scientific knowledge of the geology of an area.

As added by P.L.1-1995, SEC.31.

IC 14-38-2-5
Enforcement by department

Sec. 5. The department shall carry out and enforce this chapter.

As added by P.L.1-1995, SEC.31.

IC 14-38-2-6
Application and permit fee

Sec. 6. A person must do the following before drilling a test hole:

(1) File a written application for a permit with and receive a permit from the commission. A single permit may authorize the drilling of more than one (1) test hole.

(2) Submit a permit fee of one hundred dollars ($100) payable to the department.

As added by P.L.1-1995, SEC.31.

IC 14-38-2-7
Duties of commission

Sec. 7. The commission shall do the following:

(1) Adopt rules and orders necessary to administer this chapter.

(2) Hold hearings at any place in Indiana for the purpose of administering this chapter. A hearing may be conducted by a member of the commission or by the officer, agent, or employee that is designated by the commission. However, a proposed finding is not valid unless the commission approves the finding.

(3) Prescribe and adopt the form of an application for a permit to be filed by an applicant.

(4) Except as provided by subdivision (5), require a person drilling a test hole under this chapter to furnish at a reasonable time and place that the commission specifies the following:

(A) A copy of the driller's log of the test hole.

(B) A copy of a geophysical log taken in the drilling of the test hole.

(C) A copy of the drilling record.

(D) Typical drill cuttings or cores, if taken.

(5) Upon written application certifying that the withholding of the information is necessary for protection of the permittee:

(A) the commission shall excuse the permittee from furnishing the items required by subdivision (4); and

(B) the permittee shall furnish the location of each test hole by county, township, range, and quarter-quarter section, including the proper legal description and the size and depth of the hole.

(6) Require a person filing for a permit to drill a test hole, except for state or federal agencies, to execute and file with the commission:

(A) a bond not exceeding one thousand dollars ($1,000) for each test hole drilled; or

(B) a blanket bond not exceeding five thousand dollars ($5,000) for all test holes drilled by the applicant during the

duration of the bond;

to provide for compliance with this chapter and the rules of the commission adopted under this chapter with respect to the plugging of the test holes. The bond must be in the form approved by the commission, and the bond shall be renewed and continued in effect until the conditions have been fully complied with.

(7) Enter upon and inspect, at any reasonable time and by any member of the commission or the commission's agent, any location where test holes are being or have been drilled for fluid disposal, mineral resources investigation, engineering projects, or geologic information for the purpose of ascertaining whether this chapter and the rules and orders of the commission are being or have been complied with, including information on the drilling or completion depth of a test hole.

As added by P.L.1-1995, SEC.31.

IC 14-38-2-8
Expiration of permit

Sec. 8. A permit issued under this chapter expires one (1) year from the date of issuance unless a test hole is drilled within one (1) year.

As added by P.L.1-1995, SEC.31.

IC 14-38-2-9
Issuance of permit

Sec. 9. (a) Subject to subsection (b), if an applicant for a permit to drill or deepen a test hole has complied with this chapter and the rules of the commission, the commission shall issue a permit.

(b) The commission may refuse to issue a permit if the drilling of the test hole would violate this chapter or rules adopted under this chapter.

As added by P.L.1-1995, SEC.31.

IC 14-38-2-10
Plugging and abandoning hole

Sec. 10. Upon the completion of drilling, a permittee shall plug and abandon the hole in a manner that confines permanently all fluids or materials in the separate strata originally confining the fluids or materials by the use of mud-laden fluid, cement, or plugs used:

(1) singly; or

(2) in combinations approved by the commission.

As added by P.L.1-1995, SEC.31.

IC 14-38-2-11
Notice before plugging

Sec. 11. A permittee may not begin plugging procedures until the permittee has given notice to the commission or the commission's designated representative by personal oral or written notice,

telephone, or telegram.
As added by P.L.1-1995, SEC.31.

IC 14-38-2-12
Affidavit of plugging and abandoning

Sec. 12. (a) The commission's designated representative or the authorized representative of the permittee who supervises the plugging of the test hole shall make and furnish to the permittee an affidavit to the effect that the test hole has been plugged and abandoned in accordance with this chapter, reciting in the affidavit the pertinent information that is prescribed by the commission.

(b) The commission representative or the authorized representative of the permittee shall furnish to the commission an exact copy of the affidavit.

(c) The commission shall permanently retain the affidavit, which must be open to inspection by all persons.
As added by P.L.1-1995, SEC.31.

IC 14-38-2-13
Actions to restrain violations

Sec. 13. If it appears that a person is violating or is about to violate this chapter or the rules and orders of the commission adopted under this chapter or under IC 13-4-5 (before its repeal), the commission may, in the name of the state of Indiana through the attorney general, bring an action against the person in the circuit or superior court of the county in which:

(1) the land involved is located;
(2) the violator resides; or
(3) the authorized agent of a nonresident violator resides;

to restrain the person from continuing the violations.
As added by P.L.1-1995, SEC.31.

IC 14-38-2-14
Secretary of state as agent for service of process upon nonresident

Sec. 14. The ownership, operation, or other interest by a nonresident or by a nonresident's authorized agent in a test hole in Indiana is considered equivalent to an appointment by the nonresident of the secretary of state to be the nonresident's attorney, upon whom may be served all process in an action or a proceeding growing out of the operation or ownership by the nonresident or the nonresident's agent of a test hole in Indiana. The operation or ownership indicates the nonresident's agreement that the process served against the nonresident is of the legal force and validity as if served upon the nonresident personally, unless the nonresident maintains on file with the commission the designation of a resident agent for service of process.
As added by P.L.1-1995, SEC.31.

IC 14-38-2-15

Filing action against nonresident; service of process; affidavit; continuances

Sec. 15. (a) An action against a nonresident may be filed in the county:

(1) of residence of the plaintiff; or

(2) where the test hole is located;

at the election of the plaintiff.

(b) Service of process shall be made by leaving a copy of the process, with a fee of two dollars ($2) for the defendant to be served, with the secretary of state. The service is sufficient service upon a nonresident if:

(1) notice of the service and a copy of the process are immediately sent by registered mail to the defendant; and

(2) the defendant's return receipt is appended to the original process and filed in court.

(c) If the defendant refuses to accept or claim registered mail, the secretary of state shall return the registered mail to the plaintiff or to the plaintiff's attorney. The registered mail shall be appended to the original process, together with an affidavit of the plaintiff or the plaintiff's attorney or agent to the effect that the summons was:

(1) delivered to the secretary of state, together with a fee of two dollars ($2); and

(2) returned unclaimed by the United States Postal Service.

(d) The affidavit, together with the returned envelope and the summons, is considered sufficient service upon the nonresident defendant.

(e) The court in which the action is brought may order continuances that are reasonable to afford the defendant an opportunity to defend the action.

As added by P.L.1-1995, SEC.31.

IC 14-38-2-16

Department, person, or agency entering land to plug, replug, or repair test hole

Sec. 16. (a) This section does not do any of the following:

(1) Relieve a person otherwise legally responsible from an obligation to plug, replug, or repair a test hole.

(2) Limit the authority of the commission to require the proper plugging, replugging, or repair of a test hole.

(b) This section and sections 17 through 20 of this chapter are a supplemental remedy if any of the following conditions exist:

(1) A person obligated to plug, replug, or repair a test hole fails to do so.

(2) The identity of the obligated person cannot be determined.

(c) If:

(1) after notice and hearing the department finds that a test hole drilled has been abandoned and:

(A) is leaking; or

(B) may result in the leaking of;

fluid into a fresh water formation or onto the surface of the land in the vicinity of the test hole; and

(2) after thirty (30) days from the date of the finding by the department the test hole has not been properly plugged, replugged, or repaired to remedy the situation;

the department or a person or an agency authorized by order of the department may enter upon the land upon which the test hole is located and plug, replug, or repair the test hole as is reasonably required to remedy the condition.

As added by P.L.1-1995, SEC.31.

IC 14-38-2-17

Entry onto land without notice or hearing

Sec. 17. If:

(1) an emergency exists; and

(2) the department determines that irreparable injury will result unless immediate action is taken;

the department may enter or authorize the entry upon the land by order of the department without notice or hearing for the purpose of taking the temporary remedial action that the department considers necessary to prevent or minimize the injury pending the giving of notice and hearing. The operation shall be conducted in the manner prescribed by the department.

As added by P.L.1-1995, SEC.31.

IC 14-38-2-18

Liability of persons entering land to plug, replug, or repair test hole

Sec. 18. (a) This section applies to a person who:

(1) enters upon the land on which a test hole is located to plug, replug, or repair the test hole; or

(2) supports or contributes to the action under the authority and in accordance with the order of the department.

(b) A person:

(1) is not liable and may not be held responsible for any damages resulting from operations reasonably necessary or proper to plug, replug, or repair the test hole, except damages to growing crops and improvements;

(2) has not assumed responsibility for future remedial work on the test hole; and

(3) is not liable in damages or otherwise for conditions subsequently arising from or in connection with the test hole.

As added by P.L.1-1995, SEC.31.

IC 14-38-2-19

Remedying condition of test hole not admission of liability or discharge of action

Sec. 19. The fact that a person has initiated or supported a proceeding before the department or has remedied or attempted to remedy the condition of a test hole under this chapter:

(1) is not an admission of liability and may not be received in evidence against the person in an action or a proceeding in which responsibility for or damages from:

(A) surface or subsurface pollution; or

(B) injury to a fresh water, an oil, a gas, or a mineral bearing formation;

is or may become an issue; and

(2) does not release or discharge an action, a cause of action, or a claim against the person in favor of a third person for damages to property resulting from:

(A) surface or subsurface pollution; or

(B) injury to a fresh water, an oil, a gas, or a mineral bearing formation;

to the extent that the action, cause of action, or claim preexisted the initiation or support of the proceeding or the remedying or attempted remedying of the condition of the test hole.

As added by P.L.1-1995, SEC.31.

IC 14-38-2-20

Cause of action for plugging, replugging, or repairing test hole

Sec. 20. (a) A person who did not have an obligation to plug, replug, or repair a test hole, but who does so under this chapter, has the following:

(1) A cause of action against the person who was obligated by law to properly plug, replug, or repair the test hole for the reasonable cost and expense incurred in plugging, replugging, or repairing the test hole.

(2) A lien enforceable upon the interest of the obligated person in and to the equipment located on the test hole to the extent of the reasonable cost and expense.

(b) This section does not assign or impute any liability or obligation upon the owner of the land upon which the test hole is located, except if the owner is the person who was granted a permit to drill the test hole.

As added by P.L.1-1995, SEC.31.

IC 14-38-2-21

Repealed

(As added by P.L.1-1995, SEC.31. Repealed by P.L.195-2014, SEC.46.)

IC 14-38-2-22

Violations

Sec. 22. (a) An owner or operator who fails to comply with section 6, 10, or 11 of this chapter commits a Class C infraction.

(b) The department may assess a civil penalty of not more than ten thousand dollars ($10,000) against an owner or operator who knowingly fails to comply with section 6, 10, or 11 of this chapter.

(c) A civil penalty assessed under this section shall be deposited

in the oil and gas environmental fund established by IC 14-37-10-2.
As added by P.L.195-2014, SEC.47.

IC 14-38-3

Chapter 3. Interstate Oil and Gas Compact Commission

IC 14-38-3-1

Membership

Sec. 1. The department may join and become a member of the interstate oil and gas compact commission.

As added by P.L.1-1995, SEC.31.

IC 14-39

ARTICLE 39. CARBON DIOXIDE

IC 14-39-1

Chapter 1. Eminent Domain for Transportation of Carbon Dioxide by Pipeline

IC 14-39-1-1

"Carbon dioxide"

Sec. 1. As used in this chapter, "carbon dioxide" means a fluid consisting of more than ninety percent (90%) carbon dioxide molecules compressed to a supercritical state.

As added by P.L.150-2011, SEC.18.

IC 14-39-1-2

"Carbon dioxide transmission pipeline"

Sec. 2. As used in this chapter, "carbon dioxide transmission pipeline" means the part of a pipeline in Indiana, including appurtenant facilities, property rights, and easements, that is used exclusively for the purpose of transporting carbon dioxide to a carbon management application, including sequestration, enhanced oil recovery, and deep saline injection, within or outside Indiana.

As added by P.L.150-2011, SEC.18.

IC 14-39-1-3

Declaration of pipeline to be public use and service

Sec. 3. Because the movement conducted for:

(1) a person's own use or account; or

(2) the use or account of another person or persons;

of carbon dioxide by pipeline in Indiana for carbon management applications can assist efforts to reduce carbon dioxide emissions from the manufacture of gas using coal and the generation of electricity, the use of carbon dioxide transmission pipelines, including their routing, construction, maintenance, and operation, is declared as a matter of legislative determination to be a public use and service, in the public interest, and a benefit to the welfare and people of Indiana.

As added by P.L.150-2011, SEC.18.

IC 14-39-1-4

Application for certificate of authority; review; public information meeting; approval procedure

Sec. 4. (a) A carbon dioxide transmission pipeline company may apply to the department for issuance of a carbon dioxide transmission pipeline certificate of authority. The department shall prescribe the form of the application, which must:

(1) include a filing fee of one thousand dollars ($1,000);

(2) be signed by a responsible officer of the company;

(3) include a statement verifying that the information submitted is true, accurate, and complete to the best of that responsible officer's knowledge and belief; and

(4) include all information necessary for the department to find the following:

(A) That the applicant has the financial, managerial, and technical ability to construct, operate, and maintain a carbon dioxide transmission pipeline in Indiana.

(B) That the applicant has the requisite experience constructing, operating, and maintaining a carbon dioxide transmission pipeline.

(C) That the applicant has entered into a contract to transport carbon dioxide by pipeline in Indiana with:

(i) at least one (1) producer of carbon dioxide located in Indiana; and

(ii) unless all of the carbon dioxide to be transported in the proposed carbon dioxide transmission pipeline is for the applicant's own use or account, at least one (1) end user of carbon dioxide.

(D) That the applicant has provided documentation to the department showing the proposed length, diameter, and location of the proposed carbon dioxide transmission pipeline in Indiana.

(E) That the applicant will construct, operate, and maintain the proposed carbon dioxide transmission pipeline in accordance with applicable local, state, and federal law, including federal and state safety regulations and rules governing the construction, operation, and maintenance of carbon dioxide transmission pipelines, and related facilities and equipment, to ensure the safety of pipeline employees and the public.

(F) That the applicant has:

(i) entered into an agreement with the Indiana utility regulatory commission concerning the mitigation of agricultural impacts associated with the construction of the proposed carbon dioxide transmission pipeline; or

(ii) signed a statement indicating that the applicant agrees to use, in connection with the construction of the proposed carbon dioxide transmission pipeline, the guidelines adopted under IC 8-1-22.6-8 by the pipeline safety division of the Indiana utility regulatory commission.

(b) The department shall review an application filed under subsection (a). Subject to subsection (f), if the department determines that the application is incomplete or inaccurate, or both, the department shall return the application to the applicant, informing the applicant in writing of the applicant's right to file a corrected application with the department. If the department determines that the application is complete and accurate, the department shall provide notice to the applicant of:

(1) that determination; and

(2) the date, time, and location of the public information meeting to be held under subsection (d).

(c) The applicant shall:

(1) upon receipt of a notice under subsection (b):

(A) place for public inspection a copy of the application in a public library located in each county in which the carbon dioxide transmission pipeline is proposed to be located; and

(B) publish notice, in the same manner that would be required if the applicant were subject to IC 5-3-1, in each county in which the carbon dioxide transmission pipeline is proposed to be located, of:

(i) the name and address of each library in which a copy of the application is placed under clause (A); and

(ii) the date, time, and location of the public information meeting to be held under subsection (d);

(2) provide to the department proof of publication of notice under subdivision (1)(B); and

(3) have a representative present at the public information meeting held under subsection (d).

(d) The department shall:

(1) conduct a public information meeting in the county seat of one (1) of the counties, as determined by the department, in which the proposed carbon dioxide transmission pipeline will be located; and

(2) provide an opportunity at the meeting for members of the public to be briefed and to ask questions about the proposed carbon dioxide transmission pipeline.

(e) Not later than ninety (90) days after the public information meeting held under subsection (d), the department shall notify the applicant in writing that:

(1) the department:

(A) has made the findings described in subsection (a)(4); and

(B) has approved the application; or

(2) the department:

(A) has determined that the department is unable to make the findings described in subsection (a)(4); and

(B) has disapproved the application.

(f) The department shall process a corrected application that is filed as permitted under subsection (b) in the same manner the department processes an initially filed application under subsection (a).

(g) If the department fails to act under subsection (e) not later than ninety (90) days after the public information meeting held under subsection (d), the application is considered to be approved by the department.

(h) If:

(1) the department approves the application under subsection (e)(1); or

(2) the application is considered to be approved as described in subsection (g);

the department shall issue to the applicant a carbon dioxide transmission pipeline certificate of authority.

As added by P.L.150-2011, SEC.18.

IC 14-39-1-5

Confidential information

Sec. 5. (a) Except as provided in subsection (b), if a carbon dioxide transmission pipeline company files with the department a verified certificate stating the reasons that the designation of confidential information is necessary, the carbon dioxide transmission pipeline company may designate information that it submits in an application to the department, or in subsequent reports, as trade secret or confidential and proprietary information.

(b) Subsection (a) does not apply to information referred to in section 4(a)(4)(D) of this chapter.

(c) The department shall exercise all necessary caution to avoid public disclosure of confidential information designated under subsection (a).

As added by P.L.150-2011, SEC.18.

IC 14-39-1-6

Issuing a certificate of authority

Sec. 6. A certificate of authority issued by the department under this chapter must include at least the following:

(1) A grant of authority to construct and operate a carbon dioxide transmission pipeline as requested in the application.

(2) A grant of authority to use, occupy, and construct pipeline facilities in any designated public right-of-way for the construction and operation of the carbon dioxide transmission pipeline.

(3) A grant of authority to take and acquire possession by eminent domain of any property or interest in property for the construction, maintenance, or operation of a carbon dioxide transmission pipeline in the manner provided for the exercise of the power of eminent domain under sections 7, 8, and 9 of this chapter.

As added by P.L.150-2011, SEC.18.

IC 14-39-1-7

Right of company to condemn property

Sec. 7. If a carbon dioxide transmission pipeline company has received a carbon dioxide transmission pipeline certificate of authority from the department under this chapter and is not able to reach an agreement with a property owner for the construction, operation, and maintenance of the carbon dioxide transmission pipeline on the owner's property, the company may proceed to condemn a right-of-way or an easement necessary or useful for:

(1) constructing, maintaining, using, operating, and gaining access to a carbon dioxide transmission pipeline and all necessary machinery, equipment, pumping stations, appliances, and fixtures for use in connection with the carbon dioxide transmission pipeline; and

(2) obtaining all necessary rights of ingress and egress to construct, examine, alter, repair, maintain, operate, or remove a carbon dioxide transmission pipeline and all of its component parts.

As added by P.L.150-2011, SEC.18.

IC 14-39-1-8

Applicability of eminent domain statute

Sec. 8. Except as otherwise provided in this chapter, IC 32-24-1 applies to the condemnation of property under this chapter by a carbon dioxide transmission pipeline company.

As added by P.L.150-2011, SEC.18.

IC 14-39-1-9

Compensation attributable to exercise of eminent domain by company

Sec. 9. A carbon dioxide transmission pipeline company that exercises the authority set forth in section 7 of this chapter shall:

(1) compensate the property owner by making a payment to the owner equal to:

(A) one hundred twenty-five percent (125%) of the fair market value of the interest in the property acquired, if the right-of-way or easement involves agricultural land; or

(B) one hundred fifty percent (150%) of the fair market value of the interest in the property acquired, if the right-of-way or easement involves a parcel of property occupied by the owner as a residence; and

(2) pay to the property owner:

(A) any damages determined under IC 32-24-1; and

(B) any loss incurred in a trade or business;

that are attributable to the exercise of eminent domain.

As added by P.L.150-2011, SEC.18.

IC 14-39-1-10

Disclosure of pipeline's actual route

Sec. 10. Not later than one hundred eighty (180) days after the completion of a carbon dioxide transmission pipeline for which the department has issued a certificate of authority under this chapter, the carbon dioxide transmission pipeline company shall provide maps and other documentation to the department showing the actual route in Indiana of the carbon dioxide transmission pipeline.

As added by P.L.150-2011, SEC.18.

IC 14-39-1-11

Administrative review

Sec. 11. A determination of the department under section 4(e)(2) of this chapter is subject to administrative review under IC 4-21.5.

As added by P.L.150-2011, SEC.18.

IC 14-39-1-12

Disposition of fee revenue generated

Sec. 12. The department shall deposit fee revenue received under section 4(a)(1) of this chapter in the oil and gas environmental fund established by IC 14-37-10-2.

As added by P.L.150-2011, SEC.18.

IC 14-39-1-13

Expiration date of chapter

Sec. 13. This chapter expires July 1, 2021.

As added by P.L.150-2011, SEC.18.