

PERMIT REQUIREMENTS FOR DEVELOPMENT OF ENERGY
AND OTHER SELECTED NATURAL RESOURCES FOR THE
STATE OF INDIANA

PREPARED FOR
THE STATE OF INDIANA
AND THE
U.S. GEOLOGICAL SURVEY

BY INDIANA UNIVERSITY, ENVIRONMENTAL SYSTEMS APPLICATION CENTER

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Indianapolis, Indiana 46204

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STATE PERMIT REQUIREMENTS FOR DEVELOPMENT OF
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SECTION I.
INTRODUCTION

INTRODUCTION TO GUIDE

This guidebook is one of a series prepared for every State. The purpose of the guidebook is to summarize State regulations and permit requirements for natural resources management and development. The guidebook is intended not only for private developers and interest groups, but also for regulatory officials of Federal, State and local government as well.

All State agencies having jurisdiction over the permits, licenses, and approvals described in this guidebook helped to prepare it, and they reviewed the final draft of each summary for accuracy and completeness. Users of this guidebook should be aware, however, that changes in the laws, rules and regulations, or regulatory personnel since the guidebook was published may cause significant changes in permit requirements.

The guidebook should not be construed as a legal document or a final authority on permits for the State of Indiana. It is not intended to be a comprehensive reference to the specific requirements of each permit, but to provide concise, easy-to-use information on the State regulations that govern the development of such resources. Before attempting to obtain a permit or begin any activity that might require a permit, you should contact the appropriate State agency for further details.

The guidebook is divided into seven sections. Sections, I, II, and VII discuss introductory information, consolidated permit programs, and local regulatory policies, respectively. The remaining sections discuss permits that apply to resource extraction, land use regulation, environmental quality management, and social/ecological preservation. Each section is divided into chapters; each chapter summarizes one permit, license, or approval. Permits administered by a single agency are generally grouped together in each section.

PRESENTATION FORMAT

Each permit is discussed in the standard format shown below:

CHAPTER TITLE

A. AUTHORIZING STATUTE

Title of the statute, including its legal citation, which establishes the basis for regulation.

B. TITLE OF REGULATION

Title of the regulation(s) adopted to implement the statute.

C. SUMMARY OF REGULATION

Summary of the regulation or summary of the procedure for obtaining a permit, lease, license, etc. In general, information is presented according to the following format:

1. APPLICABILITY

Generally describes activities controlled by the regulation.

2. GENERAL REQUIREMENTS

Describes regulatory requirements which must be met by all activities covered.

3. SUBMISSION REQUIREMENTS

Briefly describes types of information which must be submitted to obtain approval of the proposed activity.

4. PROCEDURE FOR OBTAINING A PERMIT, LEASE, ETC.

Outlines procedures and time requirements which must be met by the applicant and (or) the agency, such as application submittal, public notification, public hearing, application review, preliminary and final decisions. Total processing time is also provided.

5. OPERATION REQUIREMENTS

Describes operation requirements that must be met by the operator to comply with regulatory requirements and continue operation.

6. FEES

Indicates administrative fees, if any, which are charged by the administering agency.

D. ADMINISTERING AGENCY

Provides the name, address, and telephone number of the agency responsible for administering the regulations or statutes.

The information in each chapter varies according to the type of control summarized (e.g., a statute, a regulation, a review process, a standard, etc.).

SECTION II.
STATE POLICY AND
PROCEDURES

CHAPTER 1

STATE CLEARINGHOUSE OR ONE-STOP PERMIT AGENCY

Indiana does not have a one-stop permitting authority. To obtain the state permits discussed in this report, the applicant must apply to the specific agency that issues the needed permit(s).

CHAPTER 2

STATE ENVIRONMENTAL POLICY STATUTES

A. AUTHORIZING STATUTE

Indiana Environmental Policy Act: Indiana Code §13-1-10 (Burn's 1981).

B. TITLE OF REGULATION

Environmental Policy; State Agencies: 320 Indiana Administrative Code, Article 2.

C. SUMMARY OF REGULATION

The regulation requires that an environmental impact statement (EIS) be completed for any "major state action significantly affecting the quality of the human environment." However, an action requiring only the issuance of a license or permit by a State agency is exempted by the act, and thus does not require the preparation of an EIS. Thus, neither private developers nor the State agencies, when issuing private developers permits for their activities, need prepare an EIS.

D. ADMINISTERING AGENCY

Environmental Management Board
Indiana State Board of Health
1330 W. Michigan Street
Indianapolis, Indiana 46206
(317) 633-8467

SECTION III.
RESOURCE EXTRACTION

CHAPTER 3

ENERGY RESOURCES

I. MINERAL EXPLORATION

INTRODUCTION

There are a number of regulatory areas within the broad subject of energy resources. For ease in understanding these areas, we have divided this chapter into four sections: mineral exploration; oil and gas extraction; coal, clay and shale resources; and uranium and geothermal resources.

A. AUTHORIZING STATUTE

Test Hole Drilling Law: Indiana Code §13-4-5 (Burn's 1981).

B. TITLE OF REGULATION

Rules and Regulations for Test Hole Drilling: 310 Indiana Administrative Code, Article 7.

C. SUMMARY OF REGULATION

1. APPLICABILITY

These regulations apply to the drilling of any hole 200 feet or deeper. Water wells, which are exempt from this regulation, are regulated separately by the Division of Water, Department of Natural Resources. These regulations generally apply to explorations or investigations undertaken to determine geologic structure, formation, and content. They do not apply to the production or extraction of resources. Activities specifically addressed by these regulations include: mineral resources investigations, fluid disposal investigations, engineering project investigations, and geologic investigations.

2. GENERAL REQUIREMENTS

The operator must have a permit to drill any hole 200 or more feet deep. A single permit may be obtained for an individual hole or for many holes drilled on a countywide basis.

3. SUBMISSION REQUIREMENTS

To obtain a permit, the operator must submit an application provided by the Division of Oil and Gas which includes such information as name and address of operator, location of activity, and projected depth of the hole.

4. PROCEDURE FOR OBTAINING A PERMIT

a. TIME REQUIREMENTS

The Division of Oil and Gas reviews the permit application and the Natural Resources Commission issues the permit. Most permit applications are processed in one day.

b. PUBLIC NOTIFICATIONS, HEARINGS

No public notice or hearing is required for the issuance of permits. Interested parties may request a hearing by the Natural Resources Commission concerning matters pertaining to test-hole activities. Public notice is necessary if the commission calls a hearing.

5. OPERATION REQUIREMENTS

When activity is completed, the operator must:

- a. completely plug holes with cement (coal seams and fresh water must be protected by the use of such plugs);
- b. clean up the site and restore the surface as nearly as possible to its condition before drilling;
- c. submit a log form describing the activity (stratigraphic information need not be stated).

6. FEES

Bonds: \$1000 (per individual hole)
\$5000 (per blanket permit)

D. ADMINISTERING AGENCY

Division of Oil and Gas
Indiana Department of Natural Resources
911 State Office Building
Indianapolis, Indiana 46204
(317) 232-4055

II. OIL AND GAS EXTRACTION

A. AUTHORIZING STATUTE

The oil and gas extraction regulations are authorized by Indiana Code §13-4-7 (Burn's 1981).

B. TITLE OF REGULATION

Rules and Regulations Affecting Oil and Gas Operations: 310
Indiana Administrative Code, Article 7.

C. SUMMARY OF REGULATION

1. APPLICABILITY

The regulations generally control the exploration, drilling, and production of oil and gas in Indiana.

2. GENERAL REQUIREMENTS

Permits must be obtained for the following oil and gas production activities:

- a. Drilling (in exploration and extraction),
- b. Water injection,
- c. Saltwater disposal,
- d. Gas storage, and
- e. Gas observation.

Permits must be obtained to conduct seismographic tests (permitted on a countywide basis) and stratigraphic tests (permitted on a site-specific as well as countywide basis).

3. SUBMISSION REQUIREMENTS

To obtain these permits, the operator must submit an application form provided by the Division of Oil and Gas which requests general information such as the location of the activity, owner of the property, projected depth of drilling, and the formation from which production is expected. The operator must also submit a bond and a survey by a registered land surveyor indicating the exact location of the well.

4. PROCEDURE FOR OBTAINING A PERMIT

a. TIME REQUIREMENTS

The Division of Oil and Gas reviews the permit application and the Natural Resources Commission issues the permit. Most permit applications are processed in one day.

b. PUBLIC NOTIFICATION; HEARING

No public notice or hearing is required for the issuance of permits. Interested parties may request a hearing by the Natural Resources Commission concerning matters pertaining to oil and gas activities. Public notice by publication is necessary if the Commission calls a hearing. To obtain a permit to inject anything into the ground, the operator must notify all other operators within a 0.5 mile radius of the proposed activity of the intent to inject substances into the formation. These operators have 10 days to object. If objections are made, the Natural Resources Commission will hold a formal hearing to determine the effects of injection.

5. OPERATION REQUIREMENTS

Operations must be conducted so as to protect fresh water, oil- and gas-bearing formations, and coal seams. Operators must comply with regulations concerning the disposal of salt water and other waste liquids and the construction of slush and mud pits. Division of Oil and Gas field inspectors check the operation periodically to insure compliance with the regulations. All wells must be plugged from top to bottom upon completion of use. Upon completion of the activity, inspectors ensure that plugging is completed, salt water and other waste liquid is disposed of, all pits are filled, machinery is removed, and the site is cleaned up. The operator must return the site as close as possible to its condition before the activity.

Upon completion of operations, the operator must file with the Division of Oil and Gas a copy of the drilling log and a copy of the geophysical log if the operator completed one. The Division must be notified of any change in management or ownership after the permit is issued.

6. FEES

Application fee: \$25.00

Bond: \$2000.00 (\$5000.00 for county-wide seismograph or stratigraphic tests)

D. ADMINISTERING AGENCY

Division of Oil and Gas
Indiana Department of Natural Resources
911 State Office Building
Indianapolis, Indiana 46204
(317) 232-4055

III. COAL, CLAY, AND SHALE

The Indiana Department of Natural Resources, Division of Reclamation regulates coal, clay, and shale exploration, extraction, reclamation, and conservation. The Department of Natural Resources is currently seeking approval from the Office of Surface Mining, U.S. Department of the Interior, of its State plan to implement the 1977 Federal Surface Mining Control and Reclamation Act (SMCRA). SMCRA applies only to coal mining. Clay and shale mining are regulated only under the Indiana strip-mining law.

Until a permanent coal-mining regulatory program under SMCRA is in place in Indiana, the Division of Reclamation will continue to enforce an interim program consisting of the existing Indiana strip-mining law and certain Federal interim laws and regulations, the latter of which are essentially performance standards for extracting coal and reclaiming land. New mines must obtain a permit under Indiana's existing law. Once the SMCRA permanent program is in place, all mines must reapply for permits under the SMCRA program.

A. AUTHORIZING STATUTES

- Strip Mining-Reclamation: Indiana Code §13-4-6 (Burn's 1981).
- Surface Mining Control and Reclamation Act of 1977: 30 U.S.C. §1201 et seq.

B. TITLE OF THE REGULATIONS

There are no officially promulgated regulations for coal, clay, or shale under the Indiana law. The Division of Reclamation is using the following Federal interim regulations as guidelines in enforcing the Indiana interim coal program:

Initial Program Regulations: 30 CFR Parts 710-725.

C. SUMMARY OF THE REGULATIONS

1. APPLICABILITY

The Federal interim regulations provide for sound environmental surface mining practices for coal, clay, and shale. Exploration, mining, and reclamation are regulated to provide for improved land-use practices, to improve the aesthetic value of the landscape, and to enhance the development of wildlife resources.

2. GENERAL REQUIREMENTS

The regulatory program for coal is comprised of the existing Indiana law and the Federal interim regulations (SMCRA). It includes a permit system, reclamation requirements, bonding, fees, and enforcement powers.

The regulatory program for clay and shale is comprised of the existing Indiana law only. The Federal SMCRA only applies to coal. The regulatory program for clay and shale also includes provisions for permits, reclamation, bonding, and enforcement. However, the annual operator's fee under the Indiana law does not apply to clay and shale.

3. SUBMISSION REQUIREMENTS

a. INDIANA LAW

To obtain a permit to mine coal, clay, or shale, the operator must submit an application to the Division of Reclamation which includes:

- 1) the firm's articles of incorporation;
- 2) the proposed site of the mine;
- 3) the legal description of the land;
- 4) a tabulation of fees; and
- 5) a plan of reclamation which should include a description of grading activities, post-mining land use, the minerals to be mined, overburden characteristics, equipment to be used, coal processing, disposal of toxic materials, operation methods,

erosion and drainage control, disposal of refuse and debris, revegetation plan, and soil amendments.

The operator must also file a bonding evaluation factor sheet so that the Division of Reclamation can assess the risk involved and set the bond accordingly.

b. FEDERAL INTERIM REGULATIONS

Under the Federal interim regulations, only coal operators must file information concerning soil types (including the extent and boundaries of prime farmland and proposed methods for topsoil handling), blasting schedules and procedures, sedimentation control, and water diversions. The operator must apply for variances to mine within the buffer zone (100 ft.) of a stream or within certain distances of roads and cemeteries, and to alter the post-mining land use from the land use prior to mining.

The operator must also apply for a National Pollution Discharge Elimination System (NPDES) permit if any pollutants will be discharged into a watercourse, and a water pollution control construction permit if any siltation structures will be constructed (see chapter 10, Water Quality Standards and Regulations). The operator must also get a permit from the Department of Natural Resources, Division of Water if the mining plan requires any construction in a floodway (see chapter 8, Flood Plain Management).

4. PROCEDURE FOR OBTAINING A PERMIT

a. INDIANA LAW

The operator must submit the application to the Division of Reclamation at least 60 days before mining is to begin.

Indiana law does not require any public notice, comment, or hearing on the permit application. There is currently no time frame which the Division must follow in processing permit applications.

b. FEDERAL INTERIM REGULATIONS

The Federal interim regulations require only that the operator notify the public by publication if he intends to mine within 100 feet of a county road. The notice must state that comments on the proposed mining may be submitted to the Division of Reclamation and that the public may request that the Department of Natural Resources hold a public hearing on the matter. The operator must submit proof of the public notice to the Division of Reclamation.

5. OPERATION REQUIREMENTS

Because the Federal interim regulations contain performance standards which are incompatible with those in the Indiana law, the Federal law only is enforced only for coal mining. However, the Indiana law applies to the operation of clay and shale mines.

a. INDIANA LAW

The Indiana law specifies operating requirements for grading, water impoundments, acid drainage, access roads and fire lanes, debris and refuse disposal, revegetation, and the timing of reclamation activities. The operator must file a report with the Division of Reclamation within 60 days after a permit expires or after a permitted operation is completed or abandoned. The report should identify the operator, permit, and location of the operation, describe the affected area, and include a surveyed map of the area.

b. FEDERAL INTERIM REGULATIONS

The Federal interim regulations specify operating requirements for topsoil handling, regrading, water quality, construction in a floodway, use of explosives, post-mining land use (especially for prime farmland), and revegetation.

6. FEES AND BONDS

Annual Operator's fee: \$2,000.00 (applies only to coal mining.)

Application fee: \$100.00

Mining fee: \$50.00 per acre mined, submitted with application

Bond: \$1,000.00 to \$5,000.00 per acre, depending on risk involved. Minimum bond on any mine is \$5,000.00.

Seventy percent of the bond is released after land has been regraded to the plan specifications and a cover crop has been established. The remaining 30 percent is released after the second growing season if the vegetation has matured and is stabilizing the mined area.

D. ADMINISTERING AGENCY

Division of Reclamation

Indiana Department of Natural Resources

309 W. Washington St.

Indianapolis, Indiana 46204

(317) 232-1555

IV. URANIUM AND GEOTHERMAL RESOURCES

There is no regulation of uranium or geothermal energy resources in the State of Indiana.

CHAPTER 4

METALLIFEROUS MINING

There is currently no regulation of metalliferous mining in Indiana.

CHAPTER 5

CONSTRUCTION MATERIALS

Clay and shale are the only construction materials currently regulated in Indiana. See chapter 3, Energy Resources, Part III. Coal, Clay, and Shale.

SECTION IV.
LAND USE REGULATION

CHAPTER 6

MAJOR FACILITY SITING

There are no Indiana laws which specifically regulate the siting of power plants or other major facilities. While the Indiana Public Service Commission regulates utility rates, it has no jurisdiction over the siting of power plants. The siting of major facilities may be indirectly affected by the atomic radiation (ch. 13), air quality (ch. 9), or water quality (ch. 10) permit processes.

CHAPTER 7

LAND USE

Nearly all land use powers are delegated to local government under Indiana Code §36-7-4 et seq. (Burn's 1981, as amended). The State Planning Services Agency advises local planning commissions and departments but has no enforcement powers. For additional information see chapter 19, Local Government Land Use and Natural Resource Control Enabling Laws.

CHAPTER 8

FLOOD PLAIN MANAGEMENT

INTRODUCTION

The Department of Natural Resources (DNR) - Division of Water is responsible for the planning, regulatory, construction, and administrative phases of water resources activities in Indiana. Indiana law covers a wide variety of water resources development activities, some of which, while included in this chapter, may also be relevant to other chapters in this guidebook. For further information, contact:

Division of Water
Indiana Department of Natural Resources
605 State Office Building
Indianapolis, Indiana 46204
(317) 232-4160

I. FLOOD PLAIN MANAGEMENT

A. AUTHORIZING STATUTE

Flood Plain Management Act: Indiana Code §§13-2-22.5 (Burn's 1981).

B. TITLE OF REGULATION

Flood Plain Management: 310 Indiana Administrative Code, Article 6.

C. SUMMARY OF REGULATION

The Act encourages local governments to adopt ordinances for the delineation and regulation of the flood hazard areas within their jurisdiction. All local ordinances must conform to the

minimum standards set by the Natural Resources Commission and must be approved by the Commission before becoming effective.

This Act supplements the Indiana Flood Control Act by providing that local governments may not issue permits for construction in the floodway of a flood plain or flood hazard area without prior written approval of the Commission. State authority only extends to the limits of the floodway. Flood hazard areas beyond that point are within the jurisdiction of the local unit. One of the minimum requirements that a local flood ordinance must include is that any development be protected against the 100-year frequency flood. A flood protection grade of 2 feet above the 100-year flood elevation must be provided.

II. CONSTRUCTION IN FLOODWAYS

A. AUTHORIZING STATUTE

Indiana Flood Control Act: Indiana Code §13-2-22 and §13-2-18.5 (Burn's 1981).

B. TITLE OF REGULATION

There are no officially promulgated regulations for this statute, only informal guidelines used by the Division to enforce the statute.

C. SUMMARY OF STATUTE

The Act requires a permit for any construction in the floodway of a stream, including flood-control works. A "floodway" is defined as the channel of a river or stream and those portions of the flood plain that are reasonably required to efficiently carry and discharge the peak flow of the 100-year frequency flood.

A permit application must include plans and specifications. The average processing time for an application is 2 months. No public participation is required. The Natural Resources Commission will approve or deny the permit. The applicant may request an administrative hearing if the permit is denied. Construction in a floodway generally must not restrict flood flows, pose an unreasonable hazard to the safety of life or property, or cause unreasonably detrimental effects to fish, wildlife, or vegetation. Permanent abodes are prohibited in the floodway, including hospitals, nursing homes, and schools. Access channels to a stream are permitted only if they do not increase pollution loading and are dedicated to public use. The construction of access channels requires a permit from the Stream Pollution Control Board, as well as a DNR-Division of Water permit. (See chapter 10, Water Quality Standards and Regulations.) There are no specific State design criteria for flood control works.

III. MAINTENANCE OF DAMS, LEVEES, AND FLOODWALLS

A. AUTHORIZING STATUTE

Maintenance and Repair of Dams, Levees, Dikes, and Floodwalls: Indiana Code §13-2-20 (Burn's 1981).

B. TITLE OF REGULATION

None.

C. SUMMARY OF STATUTE

The Department of Natural Resources is required to inspect dams, levees, and floodwalls to ensure that they are maintained in a good state of repair. Reports are made to owners urging their cooperation in correcting deficiencies. The Natural Resources Commission can take action to get the owner to make repairs.

IV. CONSERVANCY DISTRICTS

A. AUTHORIZING STATUTE

Indiana Conservancy Act: Indiana Code §13-3-3 (Burn's 1971, as amended).

B. TITLE OF REGULATION

None.

C. SUMMARY OF STATUTE

This act provides local landowners the opportunity to organize a special taxing district to accomplish works of improvement to solve water management problems. Landowners must petition their county circuit court to establish a conservancy district. The Natural Resources Commission serves as a technical advisor to the court in this process.

V. PUBLIC FRESH WATER LAKES

A. AUTHORIZING STATUTES

Indiana Code §13-2-11 and §13-2-14 (Burn's 1981).

B. TITLE OF REGULATION

None, informal guidelines only.

C. SUMMARY OF STATUTES

Persons proposing to alter the bed or shoreline of a public fresh water lake must first obtain a permit from the Natural Resources Commission prior to construction. The type of projects that may need permits include construction of access channels, boat wells, sea walls or sand beaches, excavation of channels in the lake, dredging of the lake bed, or filling in the lake. Permit applications take an average of 60 days to process. When work creates new water areas, the permit holder must dedicate them to the public.

The Natural Resources Commission has also adopted guidelines on wetlands along lakes, in lakes, boat wells, potential housing projects, and criteria for constructing, reconstructing and cleaning existing channels.

VI. LAKE MICHIGAN FILLS

A. AUTHORIZING STATUTE

Indiana Code §4-18-13 (Burn's 1971, as amended).

B. TITLE OF REGULATION

None.

C. SUMMARY OF STATUTE

The bed of Lake Michigan is owned by the State, and any person proposing to alter the bed or shoreline of the lake must get a permit from the Natural Resources Commission. Activities requiring a permit include, but are not limited to, building docks and wharves, and filling the bed of the lake.

VII. LAKE LEVEL LAWS

A. AUTHORIZING STATUTES

Lake Level Act: Indiana Code §§13-2-12,-13,-15,-16,-18 (Burn's 1981).

B. TITLE OF REGULATION

None.

C. SUMMARY OF STATUTES

Section 13-2-13 allows the Natural Resources Commission to establish specific water levels for each public fresh water lake by submitting a petition to the circuit court of the county in which the lake is located. Sections 13-2,-12,-15,-6, and -18

require persons proposing activities affecting the water levels of these lakes to obtain a permit first. An example of an activity requiring a permit is the construction or reconstruction of drainage ditches within 160 rods of a natural lake. Average processing time for a permit application is 60 days.

VIII. NAVIGABLE WATERS PERMITS

A. AUTHORIZING STATUTES

Indiana Code §14-3-1 to §14-3-14 (Burn's 1981).

B. TITLE OF REGULATION

None.

C. SUMMARY OF STATUTES

Persons desiring to remove sand, gravel, and other minerals from navigable streams and Lake Michigan must obtain a permit from the Natural Resources Commission. This authority is applied to those navigable streams where the State owns the stream bed. A permit fee of \$50.00 and royalties on the materials removed are charged.

Persons desiring to withdraw water from a navigable stream for such purposes as irrigation and cooling water for power generation or other industrial purposes must obtain a permit from the Natural Resources Commission. The primary concern in issuing permits is to preserve minimum flows in streams during low flow periods. The 7 day, 10-year low flow is the reference base. When stream flow drops to the 7-day, 10-year level, the applicant is required to provide a means of supplementing flows to preserve the 7-day, 10-year flow.

Permittees are required to submit reports of water withdrawn.

IX. INJECTION OF POTABLE WATER

A. AUTHORIZING STATUTE

Indiana Code §13-2-3 (Burn's 1981).

B. TITLE OF REGULATION

None.

C. SUMMARY OF STATUTE

Persons desiring to inject potable water from any source into an oil-bearing formation for a water flooding operation must obtain a permit. The purpose is to determine the need for potable water before it is wasted. The permit application must specify what quantity of water will be used, from where it will be obtained, and where it will be injected.

X. FLOOD CONTROL REVOLVING FUND

A. AUTHORIZING STATUTES

Indiana Flood Control Revolving Fund: Indiana Code §13-2-23 and §13-3-6.

B. TITLE OF REGULATION

None.

C. SUMMARY OF STATUTES

The laws establish a fund from which low-interest loans may be made to a city, town, county, or special taxing district for:

1. instituting, accomplishing, and administering a flood control program, and
2. constructing, modernizing, enlarging, or altering a water supply system where the population is less than 1,250 persons.

The flood control revolving fund is administered jointly by the State Board of Finance and the Natural Resources Commission.

XI. RESERVOIRS - LAND AQUISITION

A. AUTHORIZING STATUTE

Water Resources Act: Indiana Code §13-2-1 (Burn's 1981).

B. TITLE OF REGULATION

None.

C. SUMMARY OF STATUTE

This law establishes the water rights of riparian owners, allows the diversion of flood waters by riparian owners upon approval by the Natural Resources Commission, and provides that the Natural Resources Commission shall mediate disputes between users of surface water. The law also authorizes the Natural Resources Commission to sell raw water from State-owned or State-controlled impoundments.

SECTION V.
ENVIRONMENTAL QUALITY
MANAGEMENT

CHAPTER 9

AIR QUALITY

INTRODUCTION

The air quality program in Indiana implements certain provisions of the Federal Clean Air Act. The program includes regulations for preventing, abating, and controlling air pollution. The program is the responsibility of the Air Pollution Control Board (APCB), which is assisted in the administration of the program by the Air Pollution Control Division of the Indiana State Board of Health.

A. AUTHORIZING STATUTES

- Air Pollution Control Law: Indiana Code §13-1-1 et seq. (Burn's 1981).
- Environmental Management Act: Indiana Code §13-7 et seq. (Burn's 1981).

B. TITLE OF REGULATIONS

Air Pollution Control Board Regulations: 325 Indiana Administrative Code, Articles 1.1 to 12:

C. SUMMARY OF REGULATIONS

1. ARTICLE 1.1 - GENERAL PROVISIONS

- a. Establishes primary ambient air quality standards to protect public health and secondary standards necessary to protect public welfare for:

- 1) sulfur dioxide
- 2) total suspended particulates
- 3) carbon monoxide
- 4) ozone
- 5) hydrocarbons
- 6) nitrogen dioxide
- 7) lead

- b. Designates all geographical areas in the State as non-attainment, attainment, or unclassified areas for each regulated pollutant. Unclassified areas are treated as attainment areas for the purpose of establishing control strategies.
- c. Establishes air pollution episode levels based on concentrations of the criteria pollutants in the ambient air. Episode levels include "air pollution alert," "air pollution warning," and "air pollution emergency." When the APCB declares an episode level, the operators must put into effect their APCB-approved Emergency Reduction Plans.
- d. Establishes reporting procedures for malfunctions of pollution control equipment, requires operators to prepare preventative maintenance plans, and requires certain operators to submit Malfunction Emission Reduction Programs.
- e. Establishes stack height requirements for air pollution sources with exhaust gas stacks emitting 25 tons per year or more of particulate matter or sulphur dioxide.

2. ARTICLE 2. PERMITS AND NEW SOURCE REVIEW

- a. Establishes a system of construction and operating permits for facilities which have the potential to emit 25 tons per year or more of any regulated pollutant.
- b. Establishes a registration system for facilities which do not have the potential to emit 25 tons per year or more of any regulated pollutant.
- c. Establishes additional Prevention of Significant Deterioration (PSD) requirements for certain facilities which are proposing to locate in or impact upon an attainment area or an unclassified area for the applicable pollutant.

d. Establishes "Emission Offset" requirements that an operator must meet before constructing or modifying a facility in a non-attainment area or in an area where it will impact on a non-attainment area.

3. ARTICLE 3. MONITORING REGULATIONS

This article establishes regulations for the continuous monitoring and recording of air pollutant emissions from fossil fuel-fired steam generators, nitric acid plants, and sulfuric acid plants. The APCB may also require the emitter to monitor pollutants as provided under the construction permit section of Article 2. Article 7 contains additional monitoring requirements for sulfur dioxide emitters.

4. ARTICLE 4. BURNING REGULATIONS

This article establishes standards for open burning and for incinerators. It applies to all incinerators except those in residential units of four or fewer families.

5. ARTICLE 5. OPACITY REGULATIONS

This article establishes limitations on visible emissions of pollutants.

6. ARTICLE 6. PARTICULATE REGULATIONS

a. Establishes particulate emission limitations for non-attainment areas, both for sources of indirect heating and for process operations located anywhere in the State.

b. Establishes standards for maximum allowable fugitive dust for all sources. "Fugitive dust" is defined as particulate matter that escapes beyond the boundaries of the property, right-of-way, or easement on which the source is located.

7. ARTICLE 7. SULFUR DIOXIDE LIMITATIONS

This article establishes emission limitations for facilities with a potential to emit 25 tons per year or 10 pounds per hour of sulfur dioxide.

8. ARTICLE 8. VOLATILE ORGANIC COMPOUND REGULATIONS

This article establishes emission limitations for volatile organic compounds.

9. ARTICLE 9. CARBON MONOXIDE REGULATIONS

This article establishes emission limitations for stationary sources of carbon monoxide.

10. ARTICLE 10. NITROGEN OXIDE REGULATIONS

This article establishes emission limitations for stationary sources of nitrogen oxides from fuel-burning equipment with a capacity of 250 million Btu per hour or more.

11. ARTICLE 11. EMISSION LIMITATIONS FOR SPECIFIC TYPES OF SOURCES

This article establishes emission limitations for particulate matter from foundries, sulfuric acid production facilities, coke-oven batteries, and facilities that manufacture fiberglass insulation.

12. ARTICLE 12. NEW SOURCE PERFORMANCE STANDARDS

This article establishes more stringent air emission limitations for new sources, as opposed to existing sources. Specific limitations are set for a variety of industries.

D. SUMMARY OF THE PERMIT PROCESS

1. APPLICABILITY

Facilities (or proposed facilities) that emit any of the regulated pollutants must obtain one or more of the

following: construction permit, operating permit, registration letter, and exemption letter.

2. GENERAL REQUIREMENTS

a. CONSTRUCTION PERMIT

A construction permit is required for facilities which will result in a potential increase in emissions of 25 tons per year or more of any regulated pollutant. A construction permit is required to modify any stack having the potential to emit 100 tons of any regulated pollutant.

b. OPERATING PERMIT

An operating permit is required for any existing facility that has the potential to emit 25 tons per year or more of any regulated pollutant.

c. REGISTRATION LETTER

A registration letter is required for any facility that has the potential to emit less than 25 tons per year of a regulated pollutant if emissions exceed the minimum amounts specified in the regulations. A registration letter is also required for the construction, modification, or operation of emission control devices at facilities requiring construction or operating permits.

d. EXEMPTIONS

Facilities which will emit less than the minimum amounts of the regulated pollutants can be exempted from meeting the permit requirements. The operator must obtain an exemption letter.

e. EMISSION CONTROL DEVICES, STACK MODIFICATIONS

A registration letter is required for the construction, modification, or operation of emission

control devices at facilities requiring any of the above-mentioned permits. A construction permit is required to modify any stack having the potential to emit 100 tons of any regulated pollutant.

3. SUBMISSION REQUIREMENTS

To obtain a construction permit, operating permit, or a registration letter, the operator must submit the following information:

- a. A description of the nature, location, design capacity, and typical operating schedule of the proposed facility and (or) emission control device, including design specifications;
- b. A detailed schedule for construction, modification, or reconstruction of the facility; and
- c. Information on the nature and amount of the pollutants to be emitted, estimates of offset credits for facilities in non-attainment areas (construction and operating permits only), and any other information the APCB finds necessary to ensure that ambient air quality standards or Prevention of Significant Deterioration (PSD) standards are not violated.

4. PROCEDURE FOR OBTAINING A PERMIT

a. REVIEW

The Air Pollution Control staff will review the permit applications and issue permits that establish emission limitations, to ensure that the ambient air quality standards will be attained and maintained or that the PSD standards will not be exceeded. The operator must apply for the construction and operating permits separately.

b. TIME REQUIREMENTS

The average processing time for a completed construction permit application is 5 months. The

operator must reapply for a new operating permit 90 days before the expiration of the old permit. From the date that the staff receives a complete application, a construction permit must be issued or denied within 1 year for new sources and within 90 days for permits to modify existing sources.

c. PUBLIC NOTIFICATON, HEARING

The Air Pollution Control Board is required to publish public notice in a newspaper before issuing construction or operating permits, or before establishing emission limitations different from those in the regulations for a facility. A 30-day comment period is allowed and a public hearing may be held if requested.

5. FEES

Operating Permit: \$65.00 per point source

Construction Permit: \$235.00 per point source

If modeling is required as a part of the review of the construction permit for a new source or modification, an additional \$100.00 will be required.

E. ADMINISTERING AGENCY

Air Pollution Control Board
1330 W. Michigan Street
Indianapolis, Indiana 46206
(317) 633-0600

CHAPTER 10

WATER QUALITY STANDARDS AND REGULATIONS

INTRODUCTION

Three independent State agencies regulate the water pollution control program in Indiana. The program is fundamentally the responsibility of the Environmental Management Board (EMB). However, pursuant to State law, the EMB has delegated the responsibility of developing the overall program and of adopting and enforcing program regulations, subject to EMB overview, to the Stream Pollution Control Board (SPCB). Additionally, the SPCB derives independent enforcement and rulemaking authority regarding water pollution control from its enabling statute, though the exercise of such authority is now subject to EMB overview. The Water Pollution Control Division of the Indiana State Board of Health (ISBH) provides staff and technical assistance to the SPCB.

The water pollution control program includes State regulations and implementation of the National Pollution Discharge Elimination System (NPDES) permit program as mandated by the Federal Clean Water Act.

A. AUTHORIZING STATUTES

- Stream Pollution Control Act: Indiana Code §13-1-3 (Burn's 1981).
- Stream Pollution Control Board - State Agent Under Federal Law: Indiana Code §13-1-4 (Burn's 1981) and Indiana Code §13-7-2-10 (Burn's 1981).
- Waste Water Treatment Control Act: Indiana Code §13-1-6 (Burn's 1981).
- Environmental Management Act: Indiana Code §13-7 et seq. (Burn's 1981).

B. TITLE OF REGULATIONS

- Water Quality Standards: 330 Indiana Administrative Code, Article 1.
- Water Quality Standards, Specific Waters of the State: 330 Indiana Administrative Code, Article 2.
- Water Pollution Control, Issuance of Construction, Operation, and Discharge Permits: 330 Indiana Administrative Code, Article 3.
- Operator Certification: 320 Indiana Administrative Code: Article 3, Rule 10.1.

C. SUMMARY OF REGULATIONS

1. APPLICABILITY

The SPCB regulations control the amount of pollutants discharged into the ground and surface waters of Indiana. The regulations generally limit, rather than prohibit, discharges of pollutants from public and private wastewater treatment facilities.

2. GENERAL REQUIREMENTS

The SPCB program establishes:

- a. Water quality standards for the presence of certain pollutants in ground and surface waters;
- b. A system of construction and operation permits for water pollution control facilities, and discharge permits for the discharge of pollutants into ground and surface waters;
- c. A monitoring program;
- d. Spill-reporting and cleanup requirements; and
- e. A construction grants program for the construction of municipal wastewater treatment facilities.

3. SUBMISSION REQUIREMENTS

The water pollution control program includes three permits: Federally-mandated National Pollution Discharge Elimination System (NPDES) permits and State-mandated

construction and operating permits. If a facility will discharge pollutants into the surface waters of the State, the owner or operator of the facility must obtain an NPDES permit. If the NPDES permit is obtained before construction, it can serve as both the construction permit and later as the operating permit. However, the operator may optionally obtain a State construction permit before construction, and later an NPDES permit to operate the facility. State construction and operating permits are required where wastewater is either recycled in a closed system, sprayed in a land-application system, discharged into a municipal wastewater treatment facility, or injected underground. The operator may apply for both permits at the same time, prior to construction.

a. CONSTRUCTION PERMIT

A permit application must include specific plans and specifications for the type of treatment that the applicant will use, the amount and type of waste to be treated and discharged, the number of operators employed, and the location(s) from which the applicant will obtain water and ultimately discharge it.

b. OPERATING PERMIT

An application must include the plans and specifications of the facility and information regarding the type of wastewater generated, what will be done with it, and what kind of equipment will be used. If the wastewater is going to be sprayed, the applicant must describe the method to be used, the types and amounts of pollutants to be sprayed, where they will be sprayed, and the size of pumps to be used.

c. NPDES PERMIT

The application must include information regarding the volume, frequency, and location of the discharge; the

types of pollutants involved; the method of treatment; the chemicals used in treatment; the industry generating the discharge; whether multiple point sources of discharge are involved; and the names of the principal official and certified operator.

In addition to the above permits, the water pollution control program also requires immediate action to report to the SPCB, contain, and clean up spills of oil or a hazardous or otherwise objectionable substance. A spill is defined as "the unexpected, unintended, abnormal or unapproved dumping, leakage, drainage, seepage, discharge or other loss of such substances which enters or threatens to enter waters of the State." A spill is actionable if in "such volume or mass as to cause or threaten to cause damage to the public health, safety or welfare, aquatic biota, animal life, plant life, or recreational, domestic, commercial, industrial, or agricultural water uses."

4. PROCEDURE FOR OBTAINING A PERMIT

a. CONSTRUCTION AND OPERATING PERMITS

The Water Pollution Control Division of the Indiana State Board of Health reviews the applications. The SPCB issues the permits. Average processing time is 30 to 60 days. No public hearing or public notice is required for issuing these permits.

b. NPDES PERMIT

This application is first reviewed by the Water Pollution Control Division, (or in some cases, the Sanitary Engineering Division) of the Indiana State Board of Health. The application must also be reviewed by the United States Environmental Protection Agency, which must concur in the decision to issue the

permit, except for limited waiver categories of discharges. The permit is officially issued by the SPCB.

Public notice of intention to issue a NPDES permit must be given 30 days before the permit is issued, with a concurrent public comment period. The SPCB will hold a public hearing on the proposed permit before issuing it if public reaction and comment appear to warrant one.

The applicant must submit an NPDES permit application 180 days prior to discharge. Processing time for application is 2 to 6 months.

5. OPERATION REQUIREMENTS

Discharge Limitations are set for all water pollutants proposed to be discharged by the NPDES permit applicant. "Pollutant" is defined as anything discharged into water which alters the physical, thermal, chemical, biological, bacteriological, or radioactive properties of waters of the State, or which renders the water unfit for its intended use by humans or other biological organisms. Discharge limitations in NPDES permits are established on the basis of applicable water quality standards or technology-based effluent limitation guidelines, whichever are more stringent.

Water Quality Standards are set for many pollutants present in water. Some are mandated by the Federal Clean Water Act, others have originated at the State level. Examples include limitations on the amounts of heavy metals and toxic substances that may be present in water. These standards define technically acceptable amounts of pollutants that can be present without precluding intended public uses of the water.

Technology-based effluent limitation guidelines are established by Federal law for States to follow in regulating discharges from different types of industries, such as milk-processing industries, chemical industries, refineries, metal-plating industries, and meat-packing plants. Discharge limitations are based on the "best conventional technology" that industry has to control conventional pollutants (such as oxygen-demanding substances) and on the "best available technology" to control toxic and other pollutants. Where no guidelines have been adopted by the Federal government for a particular industry, the SPCB bases its discharge limitation on its best professional judgment as to required technology, or on the water quality standards. Implementation of water quality standards is frequently predicated on the mathematical modeling of the streams to determine the effects of the proposed addition of pollutants.

Effluent monitoring. Dischargers must submit monthly monitoring reports to the ISBH. The frequency of monitoring depends on the specific situation. The ISBH also monitors certain streams at various sites every two weeks.

Operator Certification. Operators of water pollution control facilities must take an examination and receive a license to be certified by the State. The license is renewed every 2 years.

6. FEES

NPDES: \$100 basic fee

\$50 for each additional outfall from the same facility

CHAPTER 11

PUBLIC WATER SUPPLY

INTRODUCTION

The Environmental Management Board (EMB) is responsible for the public water supply regulations. The Water Supply Section of the Indiana State Board of Health provides staff and technical assistance to the EMB for implementing and enforcing the regulations.

A. AUTHORIZING STATUTE

Environmental Management Act: Indiana Code §13-7-4 (Burn's 1981).

B. TITLE OF REGULATIONS

- Public Water Supply Construction Permit: 320 Indiana Administrative Code, Article 3.1.
- Drinking Water Standards: 320 Indiana Administrative Code, Articles 3-3.1.
- Certification of Water and Wastewater Treatment Plant Operators: 320 Indiana Administrative Code, Article 3-10-4.

C. SUMMARY OF REGULATIONS

1. APPLICABILITY

The drinking water standards and regulations apply to public water supply facilities serving more than 100 people. "Public water supply facilities" include water treatment plants, distribution systems, and storage facilities. The regulations require that the operator must obtain a construction permit before constructing new public water supply facilities or expanding existing facilities. Some activities, such as the replacement of worn-out equipment, are exempt from these regulations.

2. GENERAL REQUIREMENTS

The authorizing statute allows the EMB to set standards for drinking water, mandating that drinking water shall be safe and clean in quality, adequate in quantity, and of mineral characteristics satisfactory for ordinary domestic consumption. The regulations set quality standards and sampling frequencies for each drinking water parameter of health significance. The regulations also establish a permit system for the construction of new public water supply facilities and the expansion of existing facilities.

3. SUBMISSION REQUIREMENTS

The application for a permit to construct or expand a public water supply facility must include:

- a. the name and address of the owner, and the designing engineer;
- b. a brief description of what the project involves; and
- c. two copies of the plans and specifications of the project.

4. PROCEDURE FOR OBTAINING A PERMIT

a. REVIEW

When the operator submits a construction permit application, the Water Supply Section of the Indiana State Board of Health reviews it to see if the plans comply with their standards. These construction standards are the "Recommended Standards for Water Works" formulated by the Great Lakes - Upper Mississippi River Board of State Sanitary Engineers. The standards have been formally incorporated by reference into the regulations.

b. TIME REQUIREMENTS

The construction permits are issued by the EMB. Average processing time for an application is 60 days.

5. OPERATION REQUIREMENTS

Two regulations control the operation of public water supply facilities: the first requires certification of operators; the second establishes drinking water standards.

a. OPERATOR CERTIFICATION

This regulation describes the various types of facilities, classifies operators according to their functions within those facilities, and establishes testing procedures for certifying operators. The operator certification system takes the place of an operating permit. The certified operators must submit monthly reports to the EMB to retain their certification. Operator's certificates are renewed every 2 years. A fee is charged for renewal.

b. DRINKING WATER STANDARDS

- 1) Maximum contaminant levels are established for the following inorganic chemicals in drinking water: arsenic, barium, cadmium, chromium, lead, mercury, nitrate, selenium, and silver. Maximum allowable concentrations of fluoride are also established.
- 2) Maximum contaminant levels are established for the following organic chemicals in drinking water: endrin, lindane, methoxychlor, toxaphene, 2,4-Dichlorophenoxyacetic acid, and 2,4,5-TP Silvex.
- 3) Standards are also established for maximum levels of the following: turbidity, coliform bacteria, and radioactivity.
- 4) The regulations also establish the minimum frequencies at which the operator must sample each of the above categories of contaminants and the procedures to be followed if a contaminant level is exceeded.

6. FEES

Biennial Renewal Fee: \$10

D. ADMINISTERING AGENCY

Water Supply Section

Indiana State Board of Health

1330 W. Michigan St.

Indianapolis, Indiana 46206

(317) 633-0174

CHAPTER 12

SOLID WASTE MANAGEMENT

INTRODUCTION

This chapter summarizes the laws regulating facilities that dispose of solid waste and process refuse. The Environmental Management Board (EMB) is responsible for this solid waste management program. Staff and technical assistance to implement and enforce the program are provided to the EMB by the Solid Waste Management Section of the Indiana State Board of Health.

The Indiana program has been modified recently to comply with the requirements of the Federal Resource Conservation and Recovery Act (RCRA). Under the mandate of RCRA, the Solid Waste Management Section of the Indiana State Board of Health is conducting an inventory of open dumps to find those that do not hold valid operating permits issued by the EMB. In addition, the EMB is presently revising the solid waste regulations to meet RCRA criteria for the construction and operation of solid waste facilities, and is drafting a 5-year plan under which the EMB will implement RCRA in Indiana.

A. AUTHORIZING STATUTES

- Refuse Disposal Act: Indiana Code §19-2-1 (Burn's 1981).
- Indiana Environmental Management Act: Indiana Code §13-7 et seq. (Burn's 1981).

B. TITLE OF REGULATIONS

Solid Waste Management Permits: 330 Indiana Administrative Code, Article 4.

C. SUMMARY OF REGULATIONS

1. APPLICABILITY

These regulations apply to the handling of solid waste, the processing of solid waste for disposal or for other uses, and the disposal of solid waste.

2. GENERAL REQUIREMENTS

A permit is required for the construction and operation of solid waste disposal facilities or refuse processing facilities. "Refuse processing facilities" include incineration, recycling, composting, and shredding facilities. "Solid waste disposal facilities" are those in which solid wastes are ultimately deposited. In Indiana, solid waste disposal facilities are sanitary landfills.

3. SUBMISSION REQUIREMENTS

The various permits and the information that the operator must submit to obtain them are set out below. Each permit is valid for 2 years. Construction under a permit must begin within 2 years after it is issued; otherwise, it must be renewed before construction may begin. Operating permits must be renewed every 2 years. Applications for construction and operating permits for new sites may be submitted together, but an operating permit will not be issued until the Solid Waste Management Section of the Indiana State Board of Health makes a final site inspection after construction.

a. SOLID WASTE DISPOSAL FACILITIES

1) CONSTRUCTION PERMIT

An application for a construction permit requires:

- a) a set of engineering plans,
- b) hydrogeology information,
- c) pertinent information about the site and adjacent area, and
- d) proof of proper zoning.

The engineering plans must include three plot plans to scale showing:

- a) the existing contours of the site and other site-specific characteristics,
- b) operational plan of how the operation will proceed during the lifetime of the facility, and
- c) projected final contours of the site.

2) OPERATING PERMIT

An application for an operating permit must include:

- a) location of the site,
- b) acreage,
- c) a legal description of the site, and
- d) the name(s) of the owner(s) of the real property.

3) RENEWAL APPLICATION

An application to renew an operating permit must include a plot plan to scale indicating the status of the operation and the usable lifetime of the facility, and a cross-reference to the original construction plans.

b. REFUSE PROCESSING FACILITIES

1) CONSTRUCTION PERMIT

An application for a construction permit must include:

- a) engineering plans and specifications,
- b) pertinent information about the site and adjacent areas, and
- c) proof of proper zoning. The information required will vary depending on the type of facility that is proposed.

2) OPERATING PERMIT

An application for an operating permit must include:

- a) location of the site,
- b) acreage,
- c) a legal description of the site, and
- d) the name(s) of the owner(s) of the real property.

3) RENEWAL APPLICATION

An application to renew an operating permit must generally include:

- a) engineering plans and specifications,
- b) site-specific information, and
- c) a cross-reference to ensure compliance with the operating regulations.

4. PROCEDURE FOR OBTAINING A PERMIT

a. CONSTRUCTION PERMIT

The applicant must submit an application 60 days before the proposed date for starting construction of a solid waste disposal facility or refuse processing facility. The EMB will approve or deny the permit after the application is reviewed by the Solid Waste Management Section of the Indiana State Board of Health. Field representatives review the site for basic information, hydrogeologists examine the geology of the site to determine its acceptability, and engineers review the design of the facility.

b. OPERATING PERMIT

The operating permit will not be approved until construction is completed. The processing time for the operating permit also depends on how long it takes to obtain a favorable final inspection.

c. RENEWAL PERMIT

The operator must submit an application to renew a operating permit at least 90 days before the old permit expires. The application will be evaluated on the quality of operation during the period of the previous permit.

d. PUBLIC HEARING

The EMB must hold a public hearing on the issuance of an original permit (not a renewal) for a proposed solid waste disposal or refuse processing facility upon:

- 1) the request of the applicant;
- 2) the filing of a petition requesting a public hearing signed by 100 adults who reside in the county where the facility is to be located, or who own real property within 1 mile of the facility; or
- 3) the motion of the Board of an agency. If the EMB holds a hearing, the application review may be delayed.

e. PUBLIC NOTIFICATION, HEARING

Notice of intent to issue an original permit for any solid waste disposal facility must be published.

5. OPERATION REQUIREMENTS

a. SOLID WASTE DISPOSAL FACILITIES

The regulations include general standards on the placement of roads, feeding of livestock, and the proximity of the facility to residences.

Water quality regulations require ground water monitoring when the EMB deems it necessary and establishes parameters for sampling and analysis. The operator must report monitoring results to the EMB on

a quarterly basis. Standards are also established for surface water control to prevent contamination of water resources.

The regulations prohibit open burning.

The regulations concerning aesthetics establish standards for fencing, gates, vegetation, natural windbreaks, signs, on-site roads, and blowing litter.

Health and safety standards include safety devices on equipment, communication equipment on site, and a prohibition against scavenging on a landfill site.

Cover requirements include standards on compaction, daily cover, and final cover.

Finally, there is a prohibition on receiving hazardous wastes unless prior approval is obtained from the EMB (see Chapter 13, Hazardous/Toxic Waste Management).

b. REFUSE PROCESSING FACILITIES

The operator is required to maintain the premises in a litter-free condition. If a breakdown of the facility occurs, the operator must deposit the waste normally processed there in a sanitary landfill holding a valid operating permit.

6. FEES
None.

D. ADMINISTERING AGENCY

Environmental Management Board
Indiana State Board of Health
1330 W. Michigan Street
Indianapolis, Indiana 46206
(317) 633-0176

CHAPTER 13

HAZARDOUS /TOXIC WASTE MANAGEMENT

I. NONRADIOACTIVE WASTES

INTRODUCTION

The regulatory programs for hazardous waste disposal and liquid industrial waste are currently being revised to comply with the Federal Resource Conservation and Recovery Act (RCRA). Within 2 years, both programs will be replaced by the RCRA-mandated program which will incorporate Federal guidelines and minimum standards. The State Environmental Management Board (EMB) will implement the RCRA-mandated programs in Indiana with the staff and technical assistance of the Indiana State Board of Health. Currently, a RCRA interim program, containing regulations that hazardous waste handlers must follow until a permanent program is implemented in Indiana, is being enforced in Indiana by the United States Environmental Protection Agency (EPA) with the help of the Indiana State Board of Health.

The information below summarizes the present hazardous waste and liquid industrial waste management programs as mandated by Indiana statutes. The EMB is responsible for the hazardous waste disposal program. The Stream Pollution Control Board (SPCB) is responsible for the liquid industrial waste hauler program. Both the EMB and SPCB are assisted in implementing and enforcing these programs by the staff of the Solid Waste Management Section of the Indiana State Board of Health.

A. AUTHORIZING STATUTE

Indiana Environmental Management Act: Indiana Code §13-7 et seq. (Burn's 1981).

B. TITLE OF REGULATIONS

Solid Waste Management Permits; Industrial Waste Hauler Permits:
330 Indiana Administrative Code, Article 4.

C. SUMMARY OF REGULATIONS

1. APPLICABILITY

These regulations control the disposal of hazardous wastes and the transportation of liquid industrial wastes (hazardous and nonhazardous).

2. GENERAL REQUIREMENTS

a. LIQUID INDUSTRIAL WASTE HAULERS

The regulations require that waste haulers obtain a permit before transporting liquid industrial wastes (hazardous and nonhazardous) into, within, or out of the State. These regulations do not apply to haulers who transport wastes through the State only or to the generators of liquid industrial wastes hauling their wastes onsite in their own trucks, unless the trucks cross public rights-of-way.

b. HAZARDOUS WASTES

The regulations require that permit holders at solid waste disposal facilities get separate written approval by the EMB before accepting hazardous or potentially hazardous wastes at their facilities.

3. SUBMISSION REQUIREMENTS

a. LIQUID INDUSTRIAL WASTE HAULERS

To obtain a permit to haul liquid industrial wastes, the hauler must submit an application identifying the equipment to be used, its capacity, and what wastes will be hauled to what destinations.

b. APPROVAL TO DISPOSE OF HAZARDOUS WASTES

Each liquid, hazardous, or potentially hazardous waste is handled by the Solid Waste Management Section of the Indiana State Board of Health in conjunction with the Water Pollution Control and Air Pollution Control Divisions of the Indiana State Board of Health. A written request for approval must be submitted to the Solid Waste Management Section and it must include the following:

- 1) a statement of whether or not the waste is a U.S. EPA hazardous waste, and if it is, the EPA Hazardous Waste Number of the waste stream;
- 2) an analysis of the chemical constituents from a representative sample of the waste;
- 3) a description of the process involved in the generation of the waste;
- 4) the proposed disposal site and its EPA I.D. number;
- 5) the proposed hauler's name, address and EPA I.D. number;
- 6) the amounts of waste and frequency of removal; and
- 7) the contact name, phone, address, and EPA I.D. number of generator.

4. PROCEDURE FOR OBTAINING A PERMIT

a. LIQUID INDUSTRIAL WASTE HAULERS

This permit is issued by the Stream Pollution Control Board. Applications take an average of 2 months to review. An inspection of the hauler and his equipment may be required before the permit is issued.

b. DISPOSAL OF HAZARDOUS WASTES

The staff of the Solid Waste Management Section will review the application and will determine whether the waste is suited for land disposal and what disposal

method should be used. There is no time limit for permit application review established in the regulations. All wastes listed on the U.S. EPA hazardous waste list or considered hazardous because of ignitability, reactivity, toxicity, and corrosivity are to be disposed of in landfills that have obtained interim status under RCRA as acceptable disposal sites. Until formal approval is received, the waste cannot legally be disposed of at a landfill. Copies of the approval letter will be sent to the health department of the county in which the disposal site is located. Approval should be obtained from that health department prior to disposal.

5. OPERATION REQUIREMENTS

a. LIQUID INDUSTRIAL WASTE HAULERS

Haulers must keep a monthly log of all the wastes they have transported, the quantities of waste, and the disposal site. Haulers must dispose of wastes in facilities that are permitted or approved by the EMB. Generators of liquid industrial wastes must report on a quarterly basis the quantities of waste that have left their facility and the hauler's name.

b. DISPOSAL OF HAZARDOUS WASTES

Generators of hazardous wastes are generally required to notify disposal facilities before shipping the wastes. Because disposal of hazardous wastes is approved on a case-by-case basis, waste-specific conditions may be placed on the approval.

6. FEES

Liquid industrial

waste haulers: \$100.00 for the initial permit, including the first truck, and \$10.00 for each truck thereafter.

Disposal of hazardous wastes: No fees.

D. ADMINISTERING AGENCY

Solid Waste Management Section

Indiana State Board of Health

1330 W. Michigan Street

Indianapolis, Indiana 46206

Phone: Industrial Waste Hauler Program

(317) 633-0833

Hazardous Waste Program

(317) 633-0178

II. RADIOACTIVE WASTES

INTRODUCTION

Atomic radiation or its waste are excluded as hazardous or toxic waste from the Federal Resource Conservation and Recovery Act as well as from the recently adopted "Superfund" legislation and are regulated solely as a special entity under other specific legislation.

A. AUTHORIZING STATUTE

Environmental Management Act - Atomic Radiation: Indiana Code §13-7-9 (Burn's 1981).

B. TITLE OF REGULATION

None.

C. SUMMARY OF STATUTE

This statute requires the Environmental Management Board to issue a permit before any nuclear-powered generating facility or nuclear fuel reprocessing plant can be built, operated, or modified in Indiana. The EMB uses the Federal Nuclear Regulatory Commission's review of the technical and safety aspects of a nuclear facility, rather than duplicating that review on its own. The EMB will issue or deny a permit based on the NRC's review. The EMB will also monitor radioactivity levels before and after construction and operation.

D. ADMINISTERING AGENCY

Environmental Management Board
Indiana State Board of Health
1330 W. Michigan Street
Indianapolis, Indiana 46206
(317) 633-8405

CHAPTER 14

NOISE REGULATIONS

Indiana law does not specifically regulate noise. The Federal Occupational Health and Safety Administration (OHS) noise regulations, which are implemented by State law, regulate noise only inside factories.

SECTION VI.
SOCIAL/ECOLOGICAL
PRESERVATION

CHAPTER 15

RARE AND ENDANGERED SPECIES

INTRODUCTION

The Division of Fish and Wildlife in the Department of Natural Resources (DNR) is authorized by Indiana statutes to establish a comprehensive program for protecting non-game animal species in Indiana, including those that are rare and endangered. The Indiana General Assembly, however, has not yet appropriated money to the Division to establish the program. At present, rare and endangered species are protected in two ways: 1) by a prohibition on capturing, hunting, killing or harassing them, and 2) by the Division of Fish and Wildlife review for wildlife concerns of Division of Water permits.

The Division of Fish and Wildlife does not have any official role under the Federal endangered species laws. However, it enforces the laws against hunting, capturing, killing or harassing species on the Federal endangered species list if its officers encounter someone violating those laws.

There is no program for rare and endangered plant species. However, the Division of Nature Preserves in the Department of Natural Resources can protect both plant and animal species through the acquisition of nature preserves. The Division of Nature Preserves is also preparing a list of rare and endangered plants should such protective legislation be passed.

A. AUTHORIZING STATUTE

Fish and Wildlife Act: Indiana Code §14-2-1 to §14-2-8.5 (Burn's 1981).

B. TITLE OF REGULATION

Rare and endangered mammals: 310 Indiana Administrative Code, 3-3-6.

C. SUMMARY OF REGULATION

1. APPLICABILITY

The purpose of this regulation is to protect Indiana's rare and endangered animal species: big-eared bat, grey myotis bat, Indiana bat, southeastern myotis bat, badger, river otter, and bobcat.

2. GENERAL REQUIREMENTS

The law prohibits hunting, capturing, killing, or harassing rare and endangered species. Exceptions may be made for the collection of animals for scientific study.

3. SUBMISSION REQUIREMENTS

Permit applications to the DNR - Division of Water (see chapter 8, Flood Plain Management) must be reviewed by the Division of Fish and Wildlife if the Division of Water determines that fish and wildlife must be considered in issuing the permit.

4. PROCEDURE FOR OBTAINING A PERMIT

Once the Division of Fish and Wildlife has reviewed a Division of Water permit application, its comments are attached to the application for review by the Natural Resources Commission, which will approve or disapprove the permit. The Natural Resources Commission can take action on the permit application with or without conditions prescribed by the Division of Fish and Wildlife comments, at their discretion. Permits are issued by the Division of Water.

For further procedural details, see chapter 8, Flood Plain Management.

5. FEES

None.

D. ADMINISTERING AGENCY

Indiana Department of Natural Resources

Division of Fish and Wildlife

607 State Office Building

Indianapolis, Indiana 46204

(317) 232-4080

CHAPTER 16

ARCHEOLOGICAL AND HISTORICAL RESOURCES

A. AUTHORIZING STATUTES

- National Historic Preservation Act of 1966: 16 U.S.C. 470-470(m).
- Historic Preservation: Indiana Code §14-3-3.3 (Burn's 1981).

B. TITLE OF REGULATIONS

- Advisory Council on Historic Preservation: 36 CFR Part 800.
- Historic Preservation Rule #1: Establishment of Board: 310 Indiana Administrative Code 10-1-1.

C. SUMMARY OF THE REGULATION

1. APPLICABILITY

The National Historic Preservation Act (Federal law), requires that the State Historic Preservation Officer (SHPO) review all Federally funded, assisted, or licensed projects in his state to identify any properties that are on or are eligible for the National Register of Historic Places that the project may affect.

Similarly, the State law requires the SHPO to review State-funded projects and the transfer of State properties to determine the eligibility of the properties for the State Register of Historic Places. In both cases, he must determine whether the historic places will be adversely affected. If effect, the State law applies only to State-funded construction projects on State property.

2. GENERAL REQUIREMENTS

a. FEDERAL LAW

The Federal agency responsible for the project or the applicant seeking review of a property by the SHPO must submit adequate information so that the SHPO may

determine the property's eligibility for the National Register. If it is eligible, the SHPO must determine whether the project will have an "adverse impact," "no adverse impact," or "no impact" on the property. The Federal Advisory Council on Historic Preservation makes a final ruling on the impact of the project which will determine what mitigative measures, if any, the applicant must take to preserve the property.

b. STATE LAW

The State agency responsible for project must submit information on the project to the Director of the Division of Historic Preservation and Archeology (Director) who determines whether the site is eligible for the State Register of Historic Places. The Director also determines whether the project will impact the property. If he determines that historic sites or structures will be adversely affected, the State agency must obtain a certificate of approval from the State Professional Review Board for Historic Preservation before any construction.

If the State wishes to dispose of or transfer excess property, the Director must review the property and may recommend that the property be transferred with a deed covenant requiring the new owner to maintain the property, restore it, or submit plans of any proposed alterations to the SHPO. Anyone wishing to alter historic property located on State property must obtain a permit from the Director to do so.

3. SUBMISSION REQUIREMENTS

Applicants seeking Federal or State project review by the SHPO or a permit to alter a historic site on State property, must submit the following material and information:

- a. a description of the proposed action, including all construction and earth-moving activities and the estimated acreage or miles of construction;
- b. a description of the existing environment, including past land uses and surrounding land uses;
- c. a statement regarding known historic sites in or near the project areas;
- d. black and white photographs of the project site(s);
- e. black and white photographs of all manmade buildings, structures, and objects to be demolished;
- f. descriptions of building exteriors of all pre-1935 structures to be affected by the project, including estimated date or era of construction;
- g. a United States Geological Survey quadrangle map showing project area and the proposed construction;
- h. a letter from a qualified archeologist stating:
 - 1) that no recorded sites will be affected by the proposed construction and that an archeological survey is not necessary, or
 - 2) that an archeological survey is necessary and a survey report stating what was found and whether or not the site is significant enough to merit listing on the National Register of Historic Places; and
- i. a statement as to whether the activity will be funded, assisted, or licensed by the State or Federal government, and the agencies involved.

4. PROCEDURE FOR OBTAINING A REVIEW

a. FEDERAL LAW

On the basis of the information submitted, the SHPO determines whether the property is eligible for the Federal Register and submits his opinion to the Federal agency proposing the action. If no property is eligible, the agency or applicant may proceed with the

project. If the property is eligible, or at least a "question exists" as to its eligibility, the agency must get an official determination of eligibility from the U.S. Department of the Interior by submitting the SHPO's opinion and all the documents submitted to the SHPO.

If the Department of the Interior concurs that a property is eligible for the National Register, the SHPO must determine the impact of the project on the property according to guidelines in the Federal law. The project may proceed with a finding of "no impact." If there is a finding of either "no adverse impact" or "adverse impact", the issue must get a final ruling from the Federal Advisory Council on Historic Places. If the Council finds adverse impacts will occur, it suggests mitigative measures, although the Council does not have the power to stop any project after it has issued its formal comments.

b. STATE LAW

On the basis of the information submitted to the Director by the State agency responsible for the project, the Director determines whether the property is eligible for the State Register. If not, the State agency may proceed. If it is eligible, the Director asks the agency for additional information regarding the effect on the property. The Director may find "no impact," "no adverse impact," or "possible adverse impact." If the Director finds a "possible adverse impact," the agency may proceed with the project only if they obtain a certificate of approval from the State Professional Review Board for Historic Preservation.

c. REVIEW TIME

Average review time by the SHPO for eligibility and impacts is 30 days for both State and Federal projects. If a Federal project goes to the U.S. Department of the Interior, that agency has 10 to 45 days to determine the eligibility of the property.

d. PUBLIC NOTIFICATION, HEARING

There is no required public notification, comment period, or hearing for State projects because they normally take place on State property, not private property.

If a property is eligible for the Federal Register and is determined by the Advisory Council to be adversely impacted by the Federal project, the Council may request a public information meeting to get local opinion.

5. CRITERIA FOR NATIONAL AND STATE REGISTERS

a. NATIONAL REGISTER

Historical sites or properties are eligible for the National Register if they are significant in American history or display significant architecture, archeology, or culture. They may be districts, sites, buildings, structures, or objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

- 1) that are associated with events that have made a significant contribution to the broad patterns of our history;
- 2) that are associated with the lives of persons significant in our past;

- 3) that embody the distinctive characteristics of a type, period, or method of construction; represent the work of a master; possess high artistic values; or represent a significant and distinguishable entity whose components may lack individual distinction; or
- 4) that have yielded, or are likely to yield, information important in prehistory or history. Generally, cemeteries, graves, birthplaces, or religious structures are not eligible for the National Register. Exceptions to this general rule are specified in the Federal law.

b. STATE REGISTER

The criteria for the State Register are virtually the same as those for the National Register. However, there is no prohibition on religious structures, cemeteries, graves, or birthplaces.

6. FEES

None.

D. ADMINISTERING AGENCY

Division of Historic Preservation and Archaeology
Indiana Department of Natural Resources
Indiana State Museum
202 N. Alabama Street
Indianapolis, Indiana 46204
(317) 232-1646

CHAPTER 17

WETLANDS

There is no Indiana law specifically protecting wetlands. However, the Natural Resources Commission has adopted wetlands guidelines to preserve the remaining natural wetlands associated with public freshwater lakes under the jurisdiction of the State. Under this guideline anyone desiring to excavate, fill in, change the size, or affect the scenic beauty and contour below the waterline or shoreline of a lake must first secure the written approval of the Natural Resources Commission (see chapter 8, V. Public Fresh Water Lakes). It is the practice of the Commission not to approve excavating, filling in, or otherwise changing the contour of any wetland within the shoreline of a public freshwater lake, except where the wetland would be of no appreciable value to the water, plant life, minerals, or natural beauty of the lake.

The waterline or shoreline of a public freshwater lake is defined as the line formed on its bank or shore by the water surface at the legally established average normal level. Where the water level has not been legally established, the waterline or shoreline is the line formed by the water surface at its average level as determined by existing water level records, or if such records are not available, by the action of the water which has marked on the lakebed, a character distinct from that of the bank in respect to the vegetation and the nature of the soil.

ADMINISTERING AGENCY

Division of Water

Indiana Department of Natural Resources

605 State Office Building

Indianapolis, Indiana 46204

(317) 232-4160

CHAPTER 18

COASTAL ZONE REGULATIONS

Lake Michigan would be considered the only "coastal zone" in Indiana. Alterations to the bed or shoreline of Lake Michigan is regulated by Indiana Code §13-2-11 and §13-2-14 (see chapter 8, Part VI. Lake Michigan Fills) and the removal of minerals from the bed is regulated by Indiana Code §14-3-1 to §14-3-14 (see chapter 8, Part VIII. Navigable Waters).

SECTION VII.
LOCAL REGULATORY
POLICY

CHAPTER 19

LOCAL GOVERNMENT LAND USE AND NATURAL RESOURCE CONTROL ENABLING LAWS

A. AUTHORIZING STATUTE

Indiana Code §36-7-4 (Burn's 1981).

B. TITLE OF REGULATION

None.

C. SUMMARY OF STATUTE

1. APPLICABILITY

This statute reorganizes the forms and powers of Indiana's local governmental planning units and delegates various powers to local governments. These powers should allow local governments to use land use planning to improve the health, safety, convenience, and welfare of their citizens by ensuring that community growth will occur only with adequate utility, health, education, recreation, and transportation systems.

The statute controls:

- a. the creation of various local governmental planning units (advisory, area, and metropolitan planning commissions);
- b. the relationships between adjacent local plan commissions and departments;
- c. the unit's commission's powers and duties, as well as its jurisdiction and membership;
- d. specific issues relating to the creation and adoption of comprehensive plans; and
- e. the creation and specific powers of a board of zoning appeals.

2. CREATION OF COMPREHENSIVE PLANS

a. SUBJECT MATTER

Once a plan commission has been created, it should begin to prepare a comprehensive plan. This plan must include a composite of all plans adopted under any prior law. These prior laws and accompanying plans stay in effect until they become a part of, or are amended or superseded by, the new proposed comprehensive plan. Comprehensive plans can include the following subject areas:

- 1) land use, including building codes;
- 2) sanitation and waste disposal;
- 3) air, water, and land pollution;
- 4) flood control and irrigation; and
- 5) conservation of energy, water, soil, agricultural and mineral resources.

b. PUBLIC NOTIFICATION, HEARING

The plan commission (whether advisory, area or metropolitan) must give public notice and hold a public hearing, before any proposed comprehensive plan may be adopted. Specifically, area plan commissions must hold a public hearing in each participating municipality and township in the county.

c. APPROVAL

After public input has been received, the plan commission may, by resolution, adopt the comprehensive plan. The plan must then be sent to its legislative body for approval (for an area plan commission, each participating municipality must approve the plan). If any legislative body rejects or amends the plan, it must be sent back to the commission for further consideration, accompanied by a written statement detailing the reasons for its return. Any amendments

to an enacted comprehensive plan must be adopted according to the same procedure set forth above for the plan's initial adoption.

3. PASSAGE OF ZONING ORDINANCE(S) FROM COMPREHENSIVE PLANS

After a comprehensive plan is certified, the unit's legislative body can pass zoning ordinances covering any lands within the unit's jurisdiction. These ordinances can control:

- a. local building codes;
- b. the use and intensity of land use, including control over creating subdivisions;
- c. the classification of land according to agricultural, industrial, commercial, or residential uses and all reasonable subdivisions of the uses; and
- d. the dividing of incorporated and unincorporated areas, if any, in a county into districts of such kind, character, number, shape, and area as will best promote the objectives of the comprehensive plan.

As with comprehensive plans, the passage of a comprehensive zoning ordinance must be preceded by public notification and public hearings.

D. ADMINISTERING AGENCY

Contact local city/county government or planning commission.