

ARTICLE 17. WETLAND ACTIVITY PERMITS

Rule 1.	State Regulated Wetlands
Rule 2.	General Permit for Minimal Impacts to State Regulated Wetlands (Expired)
Rule 3.	Permit for Impacts in Class I State Regulated Wetlands (Expired)
Rule 4.	Individual Permit for Wetland Activities in Class II and Class III State Regulated Wetlands

Rule 1. State Regulated Wetlands

327 IAC 17-1-1	Purpose
327 IAC 17-1-2	Applicability
327 IAC 17-1-3	Definitions
327 IAC 17-1-4	Wetlands not considered disturbed or affected
327 IAC 17-1-5	Compensatory mitigation for state regulated wetlands
327 IAC 17-1-6	Exceptions to mitigation
327 IAC 17-1-7	Exempt activities
327 IAC 17-1-8	Denial of a permit
327 IAC 17-1-9	Notice of decision

327 IAC 17-1-1 Purpose

Authority: [IC 13-18-3-1](#); [IC 13-18-22-1](#); [IC 13-18-22-7](#)
Affected: [IC 13-18-3](#); [IC 13-18-4](#)

Sec. 1. (a) This article governs the issuance of general and individual permits for wetland activities in SRWs.

(b) The purpose of this article is to:

(1) promote a net gain in high quality isolated wetlands; and

(2) assure that compensatory mitigation will offset the loss of isolated wetlands allowed by the permitting program.

(Water Pollution Control Division; 327 IAC 17-1-1; filed May 25, 2005, 10:45 a.m.: 28 IR 2968; readopted filed Jun 15, 2011, 11:15 a.m.: [20110713-IR-327110193BFA](#); readopted filed Jun 29, 2017, 9:34 a.m.: [20170726-IR-327170225BFA](#); readopted filed May 12, 2023, 1:07 p.m.: [20230607-IR-327230079BFA](#))

327 IAC 17-1-2 Applicability

Authority: [IC 13-18-3-1](#); [IC 13-18-22-1](#); [IC 13-18-22-7](#)
Affected: [IC 13-18-3](#); [IC 13-18-4](#)

Sec. 2. This article applies to persons proposing to undertake wetland activities in SRWs. *(Water Pollution Control Division; 327 IAC 17-1-2; filed May 25, 2005, 10:45 a.m.: 28 IR 2969; readopted filed Jun 15, 2011, 11:15 a.m.: [20110713-IR-327110193BFA](#); readopted filed Jun 29, 2017, 9:34 a.m.: [20170726-IR-327170225BFA](#); readopted filed May 12, 2023, 1:07 p.m.: [20230607-IR-327230079BFA](#))*

327 IAC 17-1-3 Definitions

Authority: [IC 13-18-3-1](#); [IC 13-18-22-2](#); [IC 13-18-22-7](#)
Affected: [IC 13-18-3](#); [IC 13-18-4](#); [IC 13-18-22](#)

Sec. 3. The following definitions apply throughout this article:

(1) "Class I wetland" means an isolated wetland described by one (1) or both of the following:

(A) At least fifty percent (50%) of the wetland has been disturbed or affected by human activity or development by one (1) or more of the following:

(i) Removal or replacement of the natural vegetation.

(ii) Modification of the natural hydrology.

(B) The wetland supports only minimal wildlife or aquatic habitat or hydrologic function because the wetland does not provide critical habitat for threatened or endangered species listed in accordance with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and the wetland is characterized by at least one (1) of the following:

WETLAND ACTIVITY PERMITS

- (i) The wetland is typified by low species diversity.
 - (ii) The wetland contains greater than fifty percent (50%) areal coverage of nonnative invasive species of vegetation.
 - (iii) The wetland does not support significant wildlife or aquatic habitat.
 - (iv) The wetland does not possess significant hydrologic function.
- (2) "Class II wetland" means either of the following:
- (A) An isolated wetland that is not a Class I or Class III wetland.
 - (B) A type of wetland listed in subdivision (3)(B) that would meet the definition of Class I wetland if the wetland were not a rare or ecologically important type.
- (3) "Class III wetland" means an isolated wetland:
- (A) that:
 - (i) is located in a setting undisturbed or minimally disturbed by human activity or development; and
 - (ii) supports more than minimal wildlife or aquatic habitat or hydrologic function; or
 - (B) unless classified as a Class II wetland under subdivision (2)(B), that is of one (1) of the following rare and ecologically important types:
 - (i) Acid bog.
 - (ii) Acid seep.
 - (iii) Circumneutral bog.
 - (iv) Circumneutral seep.
 - (v) Cypress swamp.
 - (vi) Dune and swale.
 - (vii) Fen.
 - (viii) Forested fen.
 - (ix) Forested swamp.
 - (x) Marl beach.
 - (xi) Muck flat.
 - (xii) Panne.
 - (xiii) Sand flat.
 - (xiv) Sedge meadow.
 - (xv) Shrub swamp.
 - (xvi) Sinkhole pond.
 - (xvii) Sinkhole swamp.
 - (xviii) Wet floodplain forest.
 - (xix) Wet prairie.
 - (xx) Wet sand prairie.
- (4) "Clean Water Act" refers to:
- (A) 33 U.S.C. 1251 et seq.; and
 - (B) regulations adopted under 33 U.S.C. 1251 et seq.
- (5) "Compensatory mitigation" means the restoration or creation
- of wetlands to offset or compensate for a loss of wetlands resulting from an authorized wetland activity. Wetlands enlargement, enhancement, and preservation may be considered compensatory mitigation on a case-by-case basis, particularly for Class III wetlands.
- (6) "Dredged material" means material that is dredged or excavated from an isolated wetland.
- (7) "Exempt isolated wetland" means the following:
- (A) An isolated wetland that is a voluntarily created wetland unless:
 - (i) the wetland is:
 - (AA) approved by the department for compensatory mitigation purposes in accordance with a permit issued under Section 404 of the Clean Water Act or [IC 13-18-22](#); or

WETLAND ACTIVITY PERMITS

- (BB) reclassified as an SRW under [IC 13-18-22-6\(c\)](#); or
- (ii) the owner of the wetland declares, by a written instrument:
 - (AA) recorded in the office of the recorder of the county or counties where the wetland is located;
 - and
 - (BB) filed with the department;that the wetland is to be considered in all respects to be an SRW.
- (B) An isolated wetland that exists as an incidental feature in or on any of the following:
 - (i) A residential lawn.
 - (ii) A lawn or landscaped area of a commercial or governmental complex.
 - (iii) Agricultural land.
 - (iv) A roadside ditch.
 - (v) An irrigation ditch.
 - (vi) A manmade drainage control structure.
- (C) An isolated wetland that is a fringe wetland associated with a private pond.
- (D) An isolated wetland that is, or is associated with, a manmade body of surface water of any size created by:
 - (i) excavating;
 - (ii) diking; or
 - (iii) excavating and diking;dry land to collect and retain water for or incidental to agricultural, commercial, industrial, or aesthetic purposes.
- (E) An isolated wetland that is a Class I wetland with an area, as delineated, of one-half (1/2) acre or less.
- (F) An isolated wetland that is a Class II wetland with an area, as delineated, of one-fourth (1/4) acre or less.
- (G) An isolated wetland that is located on land:
 - (i) subject to regulation under the United States Department of Agriculture wetland conservation rules, also known as Swampbuster (16 U.S.C. 3801-3862), because of voluntary enrollment in a federal farm program; and
 - (ii) used for agricultural or associated purposes allowed under the rules referred to in this clause.
- (H) For purposes of clause (B), an isolated wetland exists as an incidental feature:
 - (i) if:
 - (AA) the owner or operator of the property or facility described in clause (B) does not intend the isolated wetland to be a wetland;
 - (BB) the isolated wetland is not essential to the function or use of the property or facility; and
 - (CC) the isolated wetland arises spontaneously as a result of damp soil conditions incidental to the function or use of the property or facility; and
 - (ii) if the isolated wetland satisfies any other factors or criteria established in rules that are:
 - (AA) adopted by the board; and
 - (BB) not inconsistent with the factors and criteria described in this clause.
- (I) The total acreage of Class I wetlands on a tract to which the exemption described in clause (E) may apply is limited to the larger of the following:
 - (i) The acreage of the largest individual isolated wetland on the tract that qualifies for the exemption described in clause (E).
 - (ii) Fifty percent (50%) of the cumulative acreage of all individual isolated wetlands on the tract that would qualify for the exemption described in clause (E) but for the limitation of this subdivision.
- (J) The total acreage of Class II wetlands on a tract to which the exemption described in clause (F) may apply is limited to the larger of the following:
 - (i) The acreage of the largest individual isolated wetland on the tract that qualifies for the exemption described in clause (F).
 - (ii) Thirty-three and one-third percent (33 1/3%) of the cumulative acreage of all individual isolated wetlands on the tract that would qualify for the exemption described in clause (F) but for the limitation of this subdivision.
- (K) An isolated wetland described in clause (E) or (F) does not include an isolated wetland on a tract that contains more than one (1) of the same class of wetland until the owner of the tract notifies the department that the owner has selected the isolated wetland to be an exempt isolated wetland under clause (E) or (F) consistent with the applicable

WETLAND ACTIVITY PERMITS

- limitations described in clauses (I) and (J).
- (8) "Isolated wetland" means a wetland that is not subject to regulation under Section 404(a) of the Clean Water Act.
- (9) "Notice of intent" means a notice submitted by a person proposing the wetland activity as a prerequisite to applicability of a general permit under either 327 IAC 17-2 or 327 IAC 17-3. This notice must contain the following information:
- (A) An identification of the wetlands to be affected by the wetland activity including the following:
- (i) The location of the tract and location of the wetlands on the tract.
 - (ii) A delineation of all wetlands on the tract.
 - (iii) A classification of all SRWs on the tract.
 - (iv) A description of the proposed wetland activities and project at the site.
 - (v) For the purpose of making the determinations at subdivision (7)(A) and (7)(K), section 4 of this rule, [IC 13-18-22-2\(c\)](#), [IC 13-18-22-10](#), and [IC 13-18-22-11](#), the person proposing the activity shall disclose dates for the following:
 - (AA) Actions that disturb or affect isolated wetlands under subdivision (1)(A) that occurred after January 1, 2004.
 - (BB) Wetland activities exempted by subdivision (7)(E) or (7)(F) that occurred after January 1, 2004.
 - (CC) Voluntary creations of isolated wetlands under subdivisions (7)(A) and (12).
 - (DD) Restoration of isolated wetlands under [IC 13-18-22-2\(c\)](#).
 - (EE) Filling, draining, or elimination by other means of isolated wetlands not removed from the department's authority by [IC 13-18-22-10](#).
 - (FF) Wetland activities that occurred on land previously exempted by subdivision (7)(G) if:
 - (aa) the land is no longer subject to; and
 - (bb) the wetland activities were not in compliance with;
the United States Department of Agriculture wetland conservation rules.
- (B) A compensatory mitigation plan to reasonably offset the loss of wetlands allowed, unless an exception to mitigation has been granted by the department under section 6 of this rule.
- (C) A statement signed by the applicant stating, "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. The information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."
- (D) Correspondence from the United States Army Corps of Engineers (USACOE) that states that the wetland is not subject to regulation under Section 404(a) of the Clean Water Act.
- (10) "State regulated wetland" or "SRW" means an isolated wetland located in Indiana that is not an exempt isolated wetland.
- (11) "Tract" means any area of land that is:
- (A) under common ownership; and
 - (B) contained within a continuous border.
- (12) "Voluntarily created wetland", for purposes of this article, means an isolated wetland that:
- (A) was restored or created in the absence of a governmental order, directive, or regulatory requirement concerning the restoration or creation of the wetland; and
 - (B) has not been applied for or used as compensatory mitigation or another regulatory purpose that would have the effect of subjecting the wetland to regulation as waters by:
 - (i) the department; or
 - (ii) another governmental entity.
- (13) "Waters" means the accumulations of water, surface and underground, natural and artificial, public and private, or a part of the accumulations of water that are wholly or partially within, flow through, or border upon Indiana. The term does not include any of the following:
- (A) An exempt isolated wetland.
 - (B) A private pond.

WETLAND ACTIVITY PERMITS

(C) An off-stream pond, reservoir, wetland, or other facility built for reduction or control of pollution or cooling of water before discharge.

The term includes all waters of the United States, as defined in Section 502(7) of the federal Clean Water Act (33 U.S.C. 1362(7)), that are located in Indiana.

(14) "Waters of the United States" means waters described by 33 CFR 328.3(a)(3).

(15) "Wetland activity" means the discharge of dredged or fill material into an isolated wetland.

(16) "Wetlands" means areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support and that, under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions. The term generally includes the following:

(A) Swamps.

(B) Marshes.

(C) Bogs.

(D) Similar areas.

(17) "Wetlands delineation" or "delineation", for purposes of this rule, means a technical assessment of:

(A) whether a wetland exists on an area of land; and

(B) if so, the type and quality of the wetland based on the presence or absence of wetlands characteristics, as determined consistently with the Wetlands Delineation Manual, Technical Report Y-87-1 of the United States Army Corps of Engineers.

(Water Pollution Control Division; 327 IAC 17-1-3; filed May 25, 2005, 10:45 a.m.: 28 IR 2969; readopted filed Jun 15, 2011, 11:15 a.m.: [20110713-IR-327110193BFA](#); readopted filed Jun 29, 2017, 9:34 a.m.: [20170726-IR-327170225BFA](#); filed Sep 6, 2018, 11:50 a.m.: [20181003-IR-327170278FRA](#); readopted filed May 12, 2023, 1:07 p.m.: [20230607-IR-327230079BFA](#))

327 IAC 17-1-4 Wetlands not considered disturbed or affected

Authority: [IC 13-18-3-1](#); [IC 13-18-22-1](#); [IC 13-18-22-7](#)

Affected: [IC 13-18-22](#)

Sec. 4. For purposes of the definitions of Class I wetland, Class II wetland, and Class III wetland, a wetland or setting is not considered disturbed or affected as a result of an action taken after January 1, 2004, for which a permit is required under [IC 13-18-22](#) but has not been obtained. *(Water Pollution Control Division; 327 IAC 17-1-4; filed May 25, 2005, 10:45 a.m.: 28 IR 2971; readopted filed Jun 15, 2011, 11:15 a.m.: [20110713-IR-327110193BFA](#); readopted filed Jun 29, 2017, 9:34 a.m.: [20170726-IR-327170225BFA](#); readopted filed May 12, 2023, 1:07 p.m.: [20230607-IR-327230079BFA](#))*

327 IAC 17-1-5 Compensatory mitigation for state regulated wetlands

Authority: [IC 13-18-3-1](#); [IC 13-18-22-1](#); [IC 13-18-22-6](#); [IC 13-18-22-7](#)

Affected: [IC 13-18-3](#); [IC 13-18-4](#)

Sec. 5. (a) Except as otherwise specified in subsection (b), compensatory mitigation, where required under this article, shall be provided in accordance with the following table:

Wetland Class	Replacement Class	On-Site Ratio	Off-Site Ratio
Class I	Class II or III	1 to 1	1 to 1
Class I	Class I	1.5 to 1	1.5 to 1
Class II	Class II or III	1.5 to 1 Nonforested 2 to 1 Forested	2 to 1 Nonforested 2.5 to 1 Forested
Class III	Class III	2 to 1 Nonforested 2.5 to 1 Forested	2.5 to 1 Nonforested 3 to 1 Forested

(b) The compensatory mitigation ratio shall be lowered to one to one (1:1) if the compensatory mitigation is completed before the initiation of the wetland activity.

(c) The off-site location of compensatory mitigation must be within the same:

(1) eight (8) digit U.S. Geological Service hydrologic unit code; or

(2) county;

as the isolated wetlands subject to the authorized wetland activity.

(d) Exempt isolated wetlands may be used to provide compensatory mitigation for wetlands activities in SRWs. An exempt

WETLAND ACTIVITY PERMITS

isolated wetland that is used to provide compensatory mitigation becomes a SRW.

(e) Mitigation plans required under section 3(9)(B) of this rule and 327 IAC 17-4-3(7) shall contain monitoring provisions that are sufficient to monitor the performance of the compensatory mitigation wetland until it is demonstrated to successfully offset the loss of wetlands authorized by the permit.

(f) If, after a reasonable monitoring period, the department finds that the compensatory mitigation does not successfully offset the loss of wetlands authorized by the permit consistent with section 1(b)(2) of this rule, the department shall take actions as necessary to ensure compliance with this article. (*Water Pollution Control Division; 327 IAC 17-1-5; filed May 25, 2005, 10:45 a.m.: 28 IR 2971; readopted filed Jun 15, 2011, 11:15 a.m.: [20110713-IR-327110193BFA](#); readopted filed Jun 29, 2017, 9:34 a.m.: [20170726-IR-327170225BFA](#); readopted filed May 12, 2023, 1:07 p.m.: [20230607-IR-327230079BFA](#)*)

327 IAC 17-1-6 Exceptions to mitigation

Authority: [IC 13-18-3-1](#); [IC 13-18-22-1](#); [IC 13-18-22-7](#)

Affected: [IC 13-18-3](#); [IC 13-18-4](#)

Sec. 6. At the discretion of the commissioner, the department may allow exceptions to compensatory mitigation in specific, limited circumstances. (*Water Pollution Control Division; 327 IAC 17-1-6; filed May 25, 2005, 10:45 a.m.: 28 IR 2972; readopted filed Jun 15, 2011, 11:15 a.m.: [20110713-IR-327110193BFA](#); readopted filed Jun 29, 2017, 9:34 a.m.: [20170726-IR-327170225BFA](#); readopted filed May 12, 2023, 1:07 p.m.: [20230607-IR-327230079BFA](#)*)

327 IAC 17-1-7 Exempt activities

Authority: [IC 13-18-3-1](#); [IC 13-18-22-1](#); [IC 13-18-22-7](#)

Affected: [IC 13-18-3](#); [IC 13-18-4](#)

Sec. 7. The following wetland activities are exempt from permitting under this article:

- (1) The discharge of any of the following in a de minimis amount:
 - (A) Dirt.
 - (B) Sand.
 - (C) Rock.
 - (D) Stone.
 - (E) Concrete.
 - (F) Other inert fill materials.
- (2) A wetland activity at a surface coal mine for which the department of natural resources has approved a plan to:
 - (A) minimize, to the extent practical using best technology currently available, disturbances and adverse effects on fish and wildlife;
 - (B) otherwise effectuate environmental values; and
 - (C) enhance those values where practicable.
- (3) Any activity listed under Section 404(f) of the Clean Water Act, including the following:
 - (A) Normal farming, silviculture, and ranching activities, such as any of the following:
 - (i) Plowing.
 - (ii) Seeding.
 - (iii) Cultivating.
 - (iv) Minor drainage.
 - (v) Harvesting for the production of food, fiber, and forest products.
 - (vi) Upland soil and water conservation practices.
 - (B) Maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures, such as the following:
 - (i) Dikes.
 - (ii) Dams.
 - (iii) Levees.
 - (iv) Groins.

WETLAND ACTIVITY PERMITS

- (v) Riprap.
- (vi) Breakwaters.
- (vii) Causeways and bridge abutments or approaches.
- (viii) Transportation structures.

(C) Construction or maintenance of farm or stock ponds or irrigation ditches or the maintenance of drainage ditches.
(D) Construction of temporary sedimentation basins on a construction site that does not include placement of fill material into the navigable waters.

(E) Construction or maintenance of farm roads or forest roads, or temporary roads for moving mining equipment, where the roads are constructed and maintained, in accordance with best management practices to assure the following:

- (i) Flow and circulation patterns and chemical and biological characteristics of the navigable waters are not impaired.
- (ii) The reach of the navigable waters is not reduced.
- (iii) Any adverse effect on the aquatic environment will be otherwise minimized.

(Water Pollution Control Division; 327 IAC 17-1-7; filed May 25, 2005, 10:45 a.m.: 28 IR 2972; readopted filed Jun 15, 2011, 11:15 a.m.: [20110713-IR-327110193BFA](#); readopted filed Jun 29, 2017, 9:34 a.m.: [20170726-IR-327170225BFA](#); readopted filed May 12, 2023, 1:07 p.m.: [20230607-IR-327230079BFA](#))

327 IAC 17-1-8 Denial of a permit

Authority: [IC 13-18-3-1](#); [IC 13-18-22-1](#); [IC 13-18-22-7](#)
Affected: [IC 13-18-3](#); [IC 13-18-4](#)

Sec. 8. The department may deny a permit for cause. The department must support a denial by a written statement of reasons.
(Water Pollution Control Division; 327 IAC 17-1-8; filed May 25, 2005, 10:45 a.m.: 28 IR 2972; readopted filed Jun 15, 2011, 11:15 a.m.: [20110713-IR-327110193BFA](#); readopted filed Jun 29, 2017, 9:34 a.m.: [20170726-IR-327170225BFA](#); readopted filed May 12, 2023, 1:07 p.m.: [20230607-IR-327230079BFA](#))

327 IAC 17-1-9 Notice of decision

Authority: [IC 13-18-3-1](#); [IC 13-18-22-1](#); [IC 13-18-22-7](#); [IC 13-18-22-8](#)
Affected: [IC 4-21.5-3-5](#); [IC 13-18-3](#); [IC 13-18-4](#)

Sec. 9. The department shall issue notices of decision in accordance with [IC 4-21.5-3-5\(b\)](#). *(Water Pollution Control Division; 327 IAC 17-1-9; filed May 25, 2005, 10:45 a.m.: 28 IR 2972; readopted filed Jun 15, 2011, 11:15 a.m.: [20110713-IR-327110193BFA](#); readopted filed Jun 29, 2017, 9:34 a.m.: [20170726-IR-327170225BFA](#); readopted filed May 12, 2023, 1:07 p.m.: [20230607-IR-327230079BFA](#))*

Rule 2. General Permit for Minimal Impacts to State Regulated Wetlands (Expired)

(Expired under [IC 13-14-9](#), effective January 1, 2024)

Rule 3. Permit for Impacts in Class I State Regulated Wetlands (Expired)

(Expired under [IC 13-14-9](#), effective January 1, 2024)

Rule 4. Individual Permit for Wetland Activities in Class II and Class III State Regulated Wetlands

327 IAC 17-4-1	Purpose
327 IAC 17-4-2	Applicability
327 IAC 17-4-3	Permit application requirements
327 IAC 17-4-4	Conditions
327 IAC 17-4-5	Review requirements
327 IAC 17-4-6	Review deadlines
327 IAC 17-4-7	Denial of a permit

WETLAND ACTIVITY PERMITS

[327 IAC 17-4-8](#)
[327 IAC 17-4-9](#)
[327 IAC 17-4-10](#)

Reasonable alternative demonstration
Reasonably necessary or appropriate demonstration
Public notice of applications for individual permits for wetland activities in Class II and Class III state regulated wetlands

327 IAC 17-4-1 Purpose

Authority: [IC 13-18-3-1](#); [IC 13-18-22-1](#); [IC 13-18-22-3](#); [IC 13-18-22-5](#); [IC 13-18-22-7](#)
Affected: [IC 13-18-3](#); [IC 13-18-4](#)

Sec. 1. This rule governs the issuance of wetland activity individual permits and establishes procedures and criteria for the review of applications for wetland activity individual permits in Class III and certain Class II wetlands. (*Water Pollution Control Division*; [327 IAC 17-4-1](#); filed May 25, 2005, 10:45 a.m.: 28 IR 2978; readopted filed Jun 15, 2011, 11:15 a.m.: [20110713-IR-327110193BFA](#); readopted filed Jun 29, 2017, 9:34 a.m.: [20170726-IR-327170225BFA](#); readopted filed May 12, 2023, 1:07 p.m.: [20230607-IR-327230079BFA](#))

327 IAC 17-4-2 Applicability

Authority: [IC 13-18-3-1](#); [IC 13-18-22-1](#); [IC 13-18-22-3](#); [IC 13-18-22-5](#); [IC 13-18-22-7](#)
Affected: [IC 13-18-3](#); [IC 13-18-4](#)

Sec. 2. This rule applies to persons who propose to undertake wetland activities in a:

(1) Class III wetland; and

(2) Class II wetland, except wetland activities that are regulated by a minimal impact general permit under 327 IAC 17-2. (*Water Pollution Control Division*; [327 IAC 17-4-2](#); filed May 25, 2005, 10:45 a.m.: 28 IR 2978; readopted filed Jun 15, 2011, 11:15 a.m.: [20110713-IR-327110193BFA](#); readopted filed Jun 29, 2017, 9:34 a.m.: [20170726-IR-327170225BFA](#); readopted filed May 12, 2023, 1:07 p.m.: [20230607-IR-327230079BFA](#))

327 IAC 17-4-3 Permit application requirements

Authority: [IC 13-18-3-1](#); [IC 13-18-22-1](#); [IC 13-18-22-3](#); [IC 13-18-22-5](#); [IC 13-18-22-7](#)
Affected: [IC 13-18-22](#)

Sec. 3. A person proposing a wetland activity is required to submit to the department an application that includes the following:

(1) Applicant information.

(2) Agent information if applicable.

(3) Purpose and description of activity.

(4) Current and proposed use of the tract.

(5) Correspondence from the USACOE that states that the wetland is not subject to regulation under Section 404(a) of the Clean Water Act.

(6) Identification of the wetlands to be affected by the wetland activity including the following:

(A) The location of the tract and location of the wetlands on the tract.

(B) A delineation of all wetlands on the tract.

(C) A classification of all SRWs on the tract.

(D) For the purpose of making the determinations at 327 IAC 17-1-4, 327 IAC 17-1-3(7)(A), 327 IAC 17-1-3(7)(K), [IC 13-18-22-2\(c\)](#), [IC 13-18-22-10](#), and [IC 13-18-22-11](#), the person proposing the activity shall disclose dates for the following:

(i) Actions that disturb or affect isolated wetlands under 327 IAC 17-1-3(1)(A) that occurred after January 1, 2004.

(ii) Wetland activities exempted by 327 IAC 17-1-3(7)(E) or 327 IAC 17-1-3(7)(F) that occurred after January 1, 2004.

(iii) Voluntary creation of isolated wetlands under 327 IAC 17-1-3(7)(A) and 327 IAC 17-1-3(12).

WETLAND ACTIVITY PERMITS

- (iv) Restoration of isolated wetlands under [IC 13-18-22-2\(c\)](#).
 - (v) Filling, draining, or elimination by other means isolated wetlands not removed from the department's authority by [IC 13-18-22-10](#).
 - (vi) Wetland activities that occurred after January 1, 2004, on land previously exempted by 327 IAC 17-1-3(7)(G) if the land is no longer subject to United States Department of Agriculture wetland conservation rules under [IC 13-18-22-11](#).
- (7) A compensatory mitigation plan to reasonably offset the loss of wetlands allowed, unless an exception to mitigation has been granted by the department under 327 IAC 17-1-6.
- (8) The applicant shall demonstrate, as a prerequisite to the issuance of the permit, that the wetland activity is as follows:
- (A) Without a reasonable alternative under section 8 of this rule.
 - (B) Reasonably necessary or appropriate to achieve a legitimate use proposed by the applicant on the property on which the wetland is located under section 9 of this rule.
 - (C) For a Class III wetland, as follows:
 - (i) Without a practical alternative.
 - (ii) Will be accompanied by taking steps that are practicable and appropriate to minimize potential adverse impacts of the discharge on the aquatic ecosystem of the wetland.
 - (D) For a Class III wetland, an applicant's demonstration in clause C(i) and C(ii) is not satisfied by the demonstrations in section 8 or 9 of this rule.
- (9) A statement signed by the applicant stating, "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. The information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

(Water Pollution Control Division; 327 IAC 17-4-3; filed May 25, 2005, 10:45 a.m.: 28 IR 2979; readopted filed Jun 15, 2011, 11:15 a.m.: [20110713-IR-327110193BFA](#); readopted filed Jun 29, 2017, 9:34 a.m.: [20170726-IR-327170225BFA](#); readopted filed May 12, 2023, 1:07 p.m.: [20230607-IR-327230079BFA](#))

327 IAC 17-4-4 Conditions

Authority: [IC 13-18-3-1](#); [IC 13-18-22-1](#); [IC 13-18-22-3](#); [IC 13-18-22-7](#)
Affected: [IC 13-18-3](#); [IC 13-18-4](#)

Sec. 4. The department shall condition an approval as necessary to do the following:

- (1) Achieve the goals of the permitting program under 327 IAC 17-1-1.
- (2) Provide compensatory mitigation to reasonably offset the loss of wetlands allowed by the permits except as provided in 327 IAC 17-1-6.

(Water Pollution Control Division; 327 IAC 17-4-4; filed May 25, 2005, 10:45 a.m.: 28 IR 2979; readopted filed Jun 15, 2011, 11:15 a.m.: [20110713-IR-327110193BFA](#); readopted filed Jun 29, 2017, 9:34 a.m.: [20170726-IR-327170225BFA](#); readopted filed May 12, 2023, 1:07 p.m.: [20230607-IR-327230079BFA](#))

327 IAC 17-4-5 Review requirements

Authority: [IC 13-18-3-1](#); [IC 13-18-22-1](#); [IC 13-18-22-7](#); [IC 13-18-22-8](#)
Affected: [IC 13-18-3](#); [IC 13-18-4](#)

Sec. 5. The department may notify the applicant that the completed application is deficient. If the department fails to give notice to the applicant under this section not later than fifteen (15) days after the department's receipt of the completed application, the application is considered not to have been deficient. After receipt of a notice under this section, the applicant may submit an amended application that corrects the deficiency. The department shall make a decision to issue or deny an individual permit under the amended application within a period that ends a number of days after the date the department receives the amended application equal to the remainder of:

- (1) one hundred twenty (120) days; minus

WETLAND ACTIVITY PERMITS

(2) the number of days the department held the initial application before giving a notice of deficiency under this section. (*Water Pollution Control Division; 327 IAC 17-4-5; filed May 25, 2005, 10:45 a.m.: 28 IR 2979; readopted filed Jun 15, 2011, 11:15 a.m.: [20110713-IR-327110193BFA](#); readopted filed Jun 29, 2017, 9:34 a.m.: [20170726-IR-327170225BFA](#); readopted filed May 12, 2023, 1:07 p.m.: [20230607-IR-327230079BFA](#)*)

327 IAC 17-4-6 Review deadlines

Authority: [IC 13-18-3-1](#); [IC 13-18-22-1](#); [IC 13-18-22-7](#); [IC 13-18-22-8](#)

Affected: [IC 13-18-3](#); [IC 13-18-4](#)

Sec. 6. Subject to section 5 of this rule, the department shall make a decision to issue or deny an individual permit not later than one hundred twenty (120) days after receipt of the completed application. If the department fails to make a decision on a permit application by the deadline under this section or section 5 of this rule, a permit is considered to have been issued by the department in accordance with the application. (*Water Pollution Control Division; 327 IAC 17-4-6; filed May 25, 2005, 10:45 a.m.: 28 IR 2980; readopted filed Jun 15, 2011, 11:15 a.m.: [20110713-IR-327110193BFA](#); readopted filed Jun 29, 2017, 9:34 a.m.: [20170726-IR-327170225BFA](#); readopted filed May 12, 2023, 1:07 p.m.: [20230607-IR-327230079BFA](#)*)

327 IAC 17-4-7 Denial of a permit

Authority: [IC 13-18-3-1](#); [IC 13-18-22-1](#); [IC 13-18-22-7](#); [IC 13-18-22-8](#)

Affected: [IC 13-18-3](#); [IC 13-18-4](#)

Sec. 7. The department may deny an application for a permit for cause before the period in section 5 or 6 of this rule expires. The department must support a denial by a written statement of reasons. (*Water Pollution Control Division; 327 IAC 17-4-7; filed May 25, 2005, 10:45 a.m.: 28 IR 2980; readopted filed Jun 15, 2011, 11:15 a.m.: [20110713-IR-327110193BFA](#); readopted filed Jun 29, 2017, 9:34 a.m.: [20170726-IR-327170225BFA](#); readopted filed May 12, 2023, 1:07 p.m.: [20230607-IR-327230079BFA](#)*)

327 IAC 17-4-8 Reasonable alternative demonstration

Authority: [IC 13-18-3-1](#); [IC 13-18-22-1](#); [IC 13-18-22-7](#)

Affected: [IC 13-18-3](#); [IC 13-18-4](#)

Sec. 8. A wetland activity is considered to be without reasonable alternative if:

- (1) an executive of the county or municipality in which the wetland is located issues a resolution stating that the wetland activity is without reasonable alternative to achieve a legitimate use proposed by the applicant on the property on which the wetland is located;
- (2) a local government entity that has authority over the proposed use of the property on which the wetland is located issues a permit or other approval stating that the wetland activity is without reasonable alternative to achieve a legitimate use proposed by the applicant on the property on which the wetland is located; or
- (3) the department, in the absence of a local determination under this section, determines the wetland activity is without reasonable alternative to achieve a legitimate use proposed by the applicant on the property on which the wetland is located.

(*Water Pollution Control Division; 327 IAC 17-4-8; filed May 25, 2005, 10:45 a.m.: 28 IR 2980; readopted filed Jun 15, 2011, 11:15 a.m.: [20110713-IR-327110193BFA](#); readopted filed Jun 29, 2017, 9:34 a.m.: [20170726-IR-327170225BFA](#); readopted filed May 12, 2023, 1:07 p.m.: [20230607-IR-327230079BFA](#)*)

327 IAC 17-4-9 Reasonably necessary or appropriate demonstration

Authority: [IC 13-18-3-1](#); [IC 13-18-22-1](#); [IC 13-18-22-7](#)

Affected: [IC 13-18-3](#); [IC 13-18-4](#)

Sec. 9. A wetland activity is considered to be reasonably necessary or appropriate if:

- (1) an executive of the county or municipality in which the wetland is located issues a resolution stating that the wetland activity is reasonably necessary or appropriate to achieve a legitimate use proposed by the applicant on the property on which the wetland is located;

WETLAND ACTIVITY PERMITS

(2) a local government entity, having authority over the proposed use of the property on which the wetland is located, issues a permit or other approval stating that the wetland activity is reasonably necessary or appropriate to achieve a legitimate use proposed by the applicant on the property on which the wetland is located; or

(3) the department, in the absence of a local determination under this section, makes a determination that the wetland activity is reasonably necessary or appropriate to achieve a legitimate use proposed by the applicant on the property on which the wetland is located.

(Water Pollution Control Division; 327 IAC 17-4-9; filed May 25, 2005, 10:45 a.m.: 28 IR 2980; readopted filed Jun 15, 2011, 11:15 a.m.: [20110713-IR-327110193BFA](#); readopted filed Jun 29, 2017, 9:34 a.m.: [20170726-IR-327170225BFA](#); readopted filed May 12, 2023, 1:07 p.m.: [20230607-IR-327230079BFA](#))

327 IAC 17-4-10 Public notice of applications for individual permits for wetland activities in Class II and Class III state regulated wetlands

Authority: [IC 13-18-22-3](#); [IC 13-18-22-8](#)

Affected: [IC 4-21.5-3-5](#)

Sec. 10. (a) The commissioner shall provide public notice of and an opportunity to comment on complete applications submitted to the department under this rule.

(b) The public notice must contain the following information:

(1) The applicable statutory and regulatory authority.

(2) The name and address of the applicant and, if any, the applicant's agent.

(3) The name, address, and telephone number of the department's employee who may be contacted concerning the application.

(4) The location of the tract.

(5) A brief description of the proposed project, including the following:

(A) The purpose and a description of the wetland activity.

(B) The current and proposed use of the tract.

(C) A summary of the number, size, and class of the SRW on the tract.

(D) A description of the compensatory mitigation proposed by the applicant.

(6) A statement telling where the public may view or obtain a copy of the application.

(7) A statement that the comment period deadline is thirty (30) calendar days from the date of mailing of the public notice unless otherwise specified.

(8) A statement that any person may request in writing that a public hearing or meeting be held to consider the application.

(c) The department shall provide notice of a complete application to the following:

(1) The applicant.

(2) Adjacent property owners and other potentially affected persons, as provided by the applicant.

(3) The following agencies:

(A) The department of natural resources.

(B) The United States Fish and Wildlife Service.

(C) Affected county and local plan commissions.

(4) Any person who requests copies of public notices of applications.

(d) The department shall consider comments received during any public comment period under this section in making a determination under this rule. The department may hold a public hearing in response to a request for a public hearing under subsection (b). *(Water Pollution Control Division; 327 IAC 17-4-10; filed May 25, 2005, 10:45 a.m.: 28 IR 2980; errata filed Oct 11, 2005, 12:00 p.m.: 29 IR 548; readopted filed Jun 15, 2011, 11:15 a.m.: [20110713-IR-327110193BFA](#); readopted filed Jun 29, 2017, 9:34 a.m.: [20170726-IR-327170225BFA](#); readopted filed May 12, 2023, 1:07 p.m.: [20230607-IR-327230079BFA](#))*

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