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## TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #03-215(F)

### DIGEST

Amends 312 IAC 10-5, governing general licenses within floodways (with application, as well, to navigable waters under limited circumstances), by restructuring so provisions having universal application to these general licenses are set forth at the beginning of the rule in new 312 IAC 10-5-0.3 and 312 IAC 10-5-0.6, to allow logjam and obstruction removal activities, from a qualified waterway listed on the Outstanding Rivers List, according to the approval requirements that ordinarily apply to logjam and obstruction removals under a general license, and to place time restrictions on the effectiveness of these general licenses. Effective 30 days after filing with the secretary of state.

<b>312 IAC 10-5-0.3</b>	<b>312 IAC 10-5-5</b>
<b>312 IAC 10-5-0.6</b>	<b>312 IAC 10-5-6</b>
<b>312 IAC 10-5-3</b>	<b>312 IAC 10-5-7</b>
<b>312 IAC 10-5-4</b>	<b>312 IAC 10-5-8</b>

SECTION 1. 312 IAC 10-5-0.3 IS ADDED TO READ AS FOLLOWS:

#### **312 IAC 10-5-0.3 Determining project eligibility for a general license; general criteria**

**Authority:** IC 14-10-2-4; IC 14-28-1-5

**Affected:** IC 14-28-1; IC 14-29-1

**Sec. 0.3. (a) Except as provided in subsections (b) and (c), a project for a utility line crossing, the removal of logjams and obstructions, or the placement of outfall projects within a floodway is eligible for a general license if the project satisfies the requirements of this rule. For the removal of logjams and obstructions, these requirements include the procedures established by section 0.6 of this rule.**

**(b) Subsection (a) does not authorize a project in any of the following circumstances:**

- (1) Within a river or stream listed in the Indiana Register at 16 IR 1677 in the Outstanding Rivers List for Indiana unless prior written approval from the division of water's environmental unit has been obtained.**
- (2) Within a salmonid stream designated under 327 IAC 2-1.5-5(a)(3).**
- (3) Within a natural, scenic, or recreational river or stream designated under 312 IAC 7-2.**
- (4) For a utility line crossing, below the ordinary high watermark of a navigable waterway listed in the Indiana Register at 20 IR 2920 in the Roster of Indiana Waterways Declared Navigable or Nonnavigable unless the utility line is placed beneath the bed of the waterway under section 4(b) of this rule.**
- (5) Where the project requires an individual permit from the United States Army Corps of Engineers under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act.**

**(c) Subsection (a) does not authorize the removal of logjams or obstructions within one-half (½) mile of any of the following:**

- (1) A species listed in the Indiana Register at 15 IR 1312 in the Roster of Indiana Animals and Plants Which Are Extirpated, Endangered, Threatened, or Rare.**
- (2) A known mussel resource.**
- (3) An outstanding natural area, as contained on the registry of natural areas maintained in the natural heritage data center of the department.**

**(d) The limitations contained in subsection (b) and subsection (c) [subsections (b) and (c)] do not apply to section 7 of this rule. (Natural Resources Commission; 312 IAC 10-5-0.3; filed Aug 2, 2004, 3:18 p.m.: 27 IR 3875)**

SECTION 2. 312 IAC 10-5-0.6 IS ADDED TO READ AS FOLLOWS:

**312 IAC 10-5-0.6 Relief from general criteria for determining project eligibility for a general license**

**Authority:** IC 14-10-2-4; IC 14-28-1-5

**Affected:** IC 14-28-1; IC 14-29-1

**Sec. 0.6. (a)** This section establishes procedures by which a person may seek a general license for the removal of logjams and obstructions or for an activity that is governed by section 0.3(b)(1) of this rule.

**(b)** A person must file a written notice, upon a department form if for a logjam removal, with the division of water's environmental unit, including the following information:

**(1)** A description of the river or stream where the project would occur, including the terminal points, access routes, and disposal sites of the project referenced to readily discernible landmarks (for example, a bridge or a dam). The project shall be designated with access routes to the site on:

**(A)** a United States Geological Survey topographic map;

**(B)** a national wetlands inventory map; or

**(C)** another map determined by the department to satisfy the purposes of this section.

**(2)** The name, address, and telephone number of the person who is seeking the general authorization. If all or some of the activities will be performed on behalf of the person by an independent contractor, the name, address, and telephone number of the independent contractor must also be provided.

**(3)** The person is the owner of the river or stream (or the sole riparian owner along a navigable river or stream), or another basis by which the person demonstrates permission to enter upon the project site and to perform the proposed work. Permission must be demonstrated for an access route and disposal site.

**(4)** Photographs, videotapes, or other graphic documentation that demonstrate existing site conditions.

**(c)** Within ten (10) days (excluding Saturdays, Sundays, and legal holidays) after the receipt of a written notice under subsection (b), the department shall provide a written response that does one (1) of the following:

**(1)** Approves the terms of the notice.

**(2)** Provides additional conditions to the approval.

**(3)** Requires additional information.

**(4)** Requires the person to obtain a permit for the activity under IC 14-28-1 or IC 14-29-1, or both.

**(5)** A statement by the person seeking a general license that their project will be completed subject to the conditions set forth under the applicable sections of sections 4, 6, and 8 of this rule.

**(d)** If the department does not respond in a timely fashion under subsection (c), the written notice is deemed approved.

**(e)** A copy of the written notice provided under subsection (b), and any additional conditions provided by the department under subsection (c), must be posted by the person in a conspicuous location at the site of the project.

**(f)** A person who acts under this general license must comply with each of the following:

**(1)** The terms of the written notice provided under subsection (b).

**(2)** The applicable conditions set forth under sections 4, 6, and 8 of this rule.

**(3)** Any additional conditions provided by the department under subsection (c).

Failure to comply with this subsection may result in the revocation of the general license, a civil penalty, a commission charge, and any other sanction provided by law for the violation of a license issued under IC 14-28-1 or, if the waterway is navigable, the violation of a license issued under IC 14-29-1. (*Natural Resources Commission; 312 IAC 10-5-0.6; filed Aug 2, 2004, 3:18 p.m.: 27 IR 3875*)

SECTION 3. 312 IAC 10-5-3 IS AMENDED TO READ AS FOLLOWS:

**312 IAC 10-5-3 Aerial electric, telephone, or cable television lines; general license**

**Authority:** IC 14-10-2-4; IC 14-28-1-5

**Affected: IC 14-28-1; IC 14-29-1; IC 14-29-6**

Sec. 3. The placement of an aerial electric, telephone, or cable television line is ~~exempted from the licensing requirements of authorized without a written license issued by the department under IC 14-28-1, IC 14-29-1, and 312 IAC 10-4 if:~~

- (1) the activity does not disturb the bed of the waterway beneath the line;
- (2) the activity conforms with the minimum clearance requirements of section ~~4(c)(9)~~ **4(b)(9)** of this rule;
- (3) the support mechanisms are located at least seventy-five (75) feet from the top of the bank; and
- (4) the utility line crossing is not within the floodway of a natural river, scenic river, or recreational river designated under 312 IAC 7-2.

*(Natural Resources Commission; 312 IAC 10-5-3; filed Jul 5, 2001, 9:12 a.m.: 24 IR 3394, eff Jan 1, 2002; filed Aug 2, 2004, 3:18 p.m.: 27 IR 3876)*

SECTION 4. 312 IAC 10-5-4 IS AMENDED TO READ AS FOLLOWS:

**312 IAC 10-5-4 Qualified utility line crossings; general license**

**Authority: IC 14-10-2-4; IC 14-28-2-24**

**Affected: IC 13-11-2-260; IC 14-27-7; IC 14-28-1-29; IC 14-33; IC 36-9-27**

Sec. 4. (a) This section establishes ~~an exemption a~~ **general license** for the placement of a qualified utility line crossing in a floodway.

~~(b) This section does not authorize the placement of a qualified utility line crossing in the following locations:~~

- ~~(1) Within a river or stream listed in the Indiana Register at 16 IR 1677 in the Outstanding Rivers List for Indiana.~~
- ~~(2) Within a salmonid stream designated under 327 IAC 2-1.5-5(a)(3).~~
- ~~(3) Below the ordinary high watermark of a navigable waterway listed in the Indiana Register at 20 IR 2920 (1997) in the Roster of Indiana Waterways Declared Navigable or Nonnavigable unless the utility line is placed beneath the bed of waterway under subsection (c)(8).~~
- ~~(4) Where the project requires an individual permit from the United States Army Corps of Engineers under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act.~~

~~(c)~~ **(b)** A person who wishes to ~~place~~ **implement a project for the placement of a qualified** utility line crossing ~~under this section must conform on a river or stream, other than on a river or stream identified in section 0.3(b) or 0.3(c) of this rule, may do so without notice to the department if the project conforms to the following conditions:~~

- (1) Tree removal and brush clearing shall be contained and minimized within the utility line crossing area. No more than one (1) acre of trees shall be removed within the floodway.
- (2) Construction activities within the waterway from April 1 through June 30 shall not exceed a total of two (2) calendar days.
- (3) Best management practices shall be used during and after construction to minimize erosion and sedimentation.
- (4) Following the completion of construction, disturbed areas shall be reclaimed and revegetated. Disturbed areas shall be mulched with straw, wood fiber, biodegradable erosion blanket, or other suitable material. To prevent erosion until revegetated species are established, loose mulch shall be anchored by crimping, tackifiers, or netting. To the extent practicable, revegetation must restore species native to the site. If revegetation with native species is not practicable, revegetation shall be performed by the planting of a mixture of red clover, orchard grass, timothy, perennial rye grass, or another species that is approved by the department as being suitable to site and climate conditions. In no case shall tall fescue be used to revegetate disturbed areas.
- (5) Disturbed areas with slopes of three to one (3:1) or steeper, or areas where run-off is conveyed through a channel or swale, shall be stabilized with erosion control blankets or suitable structural armament.
- (6) No pesticide will be used on the banks.
- (7) If a utility line transports a substance that may cause water pollution as defined in IC 13-11-2-260, the utility line will be equipped with an emergency closure system.
- (8) If a utility line is placed beneath the bed of a river or stream, the following conditions are met:
  - (A) Cover of at least three (3) feet measured perpendicularly to the utility line is provided between the utility line

and the banks.

(B) If the placement of a utility line is not subject to regulation under IC 14-28-1-29, IC 14-33, or IC 36-9-27, cover is provided as follows:

(i) At least three (3) feet, measured perpendicularly to the utility line, between the lowest point of the bed and the top of the utility line or its encasement, whichever is higher, if the bed is composed of unconsolidated materials.

(ii) At least one (1) foot, measured perpendicularly to the line, between the lowest point of the bed and the top of the utility line or its encasement, whichever is higher, if the bed is composed of consolidated materials.

(C) If the placement of the utility line is subject to regulation under IC 14-28-1-29, IC 14-33, or IC 36-9-27, cover is provided as follows:

(i) At least three (3) feet, measured perpendicularly to the utility line, between the design bed and the top of the line or its encasement, whichever is higher, if the bed is composed of unconsolidated materials.

(ii) At least one (1) foot, measured perpendicularly to the line, between the design bed and the top of the line or its encasement, whichever is higher, if the bed is composed of consolidated materials.

(D) Negative buoyancy compensation is provided where the utility line has a nominal diameter of at least eight (8) inches and transports a substance having a specific gravity of less than one (1).

(9) If a utility line is placed above the bed of a river or stream, the following conditions are met:

(A) Except as provided in clauses (B) and (C), minimum clearance is provided from the lowest point of the utility line (determined at the temperature, load, wind, length of span, and type of supports that produce the greatest sag) calculated as the higher of the following:

(i) Twelve and one-half (12½) feet above the ordinary high watermark.

(ii) Three (3) feet above the regulatory flood elevation.

(B) If the river or stream is a navigable waterway that is subject to IC 14-28-1, the utility line that crosses over the waterway must be placed to provide the greater of the following:

(i) The minimum clearance required under clause (A).

(ii) The minimum clearance required for the largest watercraft that is capable of using the waterway. The utility must consult in advance with the department to determine the minimum clearance for watercraft at the crossing.

(C) If a utility line is attached to or contained in the embankment of an existing bridge or culvert, no portion of the utility line or its support mechanism may project below the low structure elevation or otherwise reduce the effective waterway area.

(10) A utility line placed in a dam or levee regulated under IC 14-27-7 does not qualify for ~~an exemption~~ **a general license** under this subsection.

~~(c)~~ **(b)** A person who elects to act under this section must comply with the general conditions under subsection ~~(c)~~. Failure to comply with these terms and conditions may result in the revocation of the general ~~authorization~~ **license**, a civil penalty, a commission charge, and any other sanction provided by law for the violation of a **permit license** issued under IC 14-28-1 and, if the waterway is navigable, the violation of a license issued under IC 14-29-1. (*Natural Resources Commission; 312 IAC 10-5-4; filed Jul 5, 2001, 9:12 a.m.: 24 IR 3394, eff Jan 1, 2002; filed Dec 26, 2001, 2:42 p.m.: 25 IR 1545; errata filed Mar 13, 2002, 11:51 a.m.: 25 IR 2521; filed Aug 2, 2004, 3:18 p.m.: 27 IR 3876*)

SECTION 5. 312 IAC 10-5-5 IS AMENDED TO READ AS FOLLOWS:

**312 IAC 10-5-5 Utility line placement that does not qualify for a general license; waivers for burial depth or clearance**

**Authority:** IC 14-10-2-4; IC 14-28-1-5

**Affected:** IC 14-28-1-29; IC 14-29-1; IC 14-33; IC 25-31-1; IC 36-9-27

Sec. 5. The placement of a utility line that is not ~~exempt~~ **authorized** under section 4 of this rule requires a license under IC 14-28-1, IC 14-29-1, and 312 IAC 10-4 and is subject to the following:

(1) Except as provided in subdivisions (2) and (3), a license application must be filed with the department to demonstrate the construction activities within the utility project area conform with section ~~4(c)(1)~~ **4(b)(1)** through ~~4(c)(9)~~ **4(b)(9)** of this rule.

**(2) The department may waive the minimum clearance requirements set forth in section 4(b)(8) of this rule if this subdivision is satisfied. The following information must be provided by the applicant:**

(A) A technical justification that clearly establishes a need for the waiver.

(B) An economic analysis of the cost required to provide the minimum cover and the savings that would be realized if the minimum cover is waived.

(C) An assessment that establishes that there will not be an unreasonable hazard to the safety of life or property or an unreasonably detrimental effect upon fish, wildlife, or botanical resources if the utility line would fail as a result of the waiver.

(D) If the placement of the line is beneath the bed of a waterway and is subject to regulation as a flood control project, under the conservancy district act, or under the drainage code, documentation the county or municipality that has maintenance authority over the waterway has also waived the cover requirements. This documentation must:

- (i) be on the letterhead of the county or municipality;
- (ii) contain a copy of the statute or ordinance under which the county or municipality has regulatory authority over the waterway;
- (iii) contain a statement that clearly waives the minimum cover requirements; and
- (iv) contain a statement that the waiver will not impede future maintenance or reconstruction projects on the waterway.

(3) The department may waive the minimum clearance requirements set forth in section ~~4(c)(9)~~ **4(b)(9)** of this rule if this subdivision is satisfied. The following information must be provided by the applicant:

(A) A technical justification that establishes the need for the waiver.

(B) An economic analysis of the cost required to provide the minimum clearance and the savings realized if waived.

(C) An assessment that establishes that there will not be an unreasonable hazard to the safety of life or property or an unreasonably detrimental effect upon fish, wildlife, or botanical resources if the utility line fails as a result of the waiver.

(D) Documentation of the regulatory flood elevation that includes either of the following:

- (i) A photocopy of the latest flood insurance study profile with the site and low point of the line clearly indicated.
- (ii) Computations by a certified professional engineer licensed under IC 25-31-1.

*(Natural Resources Commission; 312 IAC 10-5-5; filed Jul 5, 2001, 9:12 a.m.: 24 IR 3396, eff Jan 1, 2002; filed Aug 2, 2004, 3:18 p.m.: 27 IR 3878)*

SECTION 6. 312 IAC 10-5-6 IS AMENDED TO READ AS FOLLOWS:

### **312 IAC 10-5-6 Removal of logjams from a waterway; general license**

**Authority:** IC 14-10-2-4; IC 14-28-1-5

**Affected:** IC 14-28-1; IC 14-29-1

Sec. 6. (a) This section establishes a general ~~authorization~~ **license** for the removal of logjams from a waterway for the purpose of providing maintenance to help control flooding.

(b) This section does not authorize an ~~obstruction removal activity in the following areas:~~

~~(1) Within one-half (½) mile of any of the following:~~

~~(A) A species listed in the Indiana Register at 15 IR 1312 in the Roster of Indiana Animals and Plants Which Are Extirpated, Endangered, Threatened, or Rare;~~

~~(B) A known mussel resource;~~

~~(C) An outstanding natural area, as contained on the registry of natural areas maintained in the natural heritage data center of the department.~~

~~(2) Within a river or stream listed in the Indiana Register at 16 IR 1677 in the Outstanding Rivers List for Indiana.~~

**the removal of logjams and obstructions from a waterway identified under section 0.3 of this rule.**

(c) A person who wishes to implement a project for obstruction removal ~~under this general authorization shall from a waterway not under section 0.3 of this rule must~~ file a written notice, upon a department form, with the division of ~~fish and wildlife;~~ **water's environmental unit**, including the following information:

(1) A description of the river or stream where obstruction removal would occur, including the terminal points, access routes, and disposal sites of the project referenced to readily discernible landmarks, for example, a bridge or a dam.

The project shall be designated with access routes to the obstruction on:

(A) a United States Geological Survey topographic map;

(B) a national wetlands inventory map; or

- (C) another map determined by the department to satisfy the purposes of this section.
- (2) The name, address, and telephone number of the person who is seeking the general authorization. If all or some of the activities will be performed on behalf of the person by an independent contractor, the name, address, and telephone number of the independent contractor shall also be provided.
- (3) The person is the owner of the river or stream (or the sole riparian owner along a navigable river or stream), or another basis by which the person demonstrates permission to enter upon the project site and to perform logjam removal. Permission must be demonstrated for an access route and for a site where logs or other debris will be secured following removal from the waterway. The person must also show participation or agreement by other interested persons in the following circumstances:
- (A) With respect to a regulated drain, by the drainage board.
  - (B) With respect to a mutual drain, by all the beneficiaries to the drain.
  - (C) By the governing body of any county, municipality, or conservancy district in which the project is located.
- (4) Photographs, videotapes, or other graphic documentation that demonstrate the following conditions exist on the waterway:
- (A) Accumulations of logs, root wads, and other debris that occasionally or frequently span the waterway and may be interlocked.
  - (B) Large amounts of fine sediments have not covered ~~nor~~ or become lodged in the obstruction.
  - (C) Accumulations are extensive enough to cause bank erosion and upstream ponding damages.
- (5) A statement by the person, including the following terms and agreements:
- (A) Obstructions will be removed through the use of hand-operated equipment, such as axes, chain saws, and portable winches.
  - (B) Any site will be identified within the project for which the use of hand-operated equipment is determined to be impracticable. If a site is identified under this subdivision, the statement must include what equipment would be used and that the equipment will not be equipped for excavation. Examples of equipment that may be suitable include the following:
    - (i) A small tractor.
    - (ii) A backhoe equipped with a hydraulic thumb.
    - (iii) A bulldozer with its blade up.
    - (iv) A log skidder.
  - (C) Free logs or affixed logs that are crossways in the channel will be cut, relocated, and removed from the flood plain unless the logs are piled and secured by cables in an area not threatened by the flow of water. Logs will be removed and secured with a minimum damage to vegetation and placed outside any wetlands.
  - (D) Isolated or single logs that are embedded, lodged, or rooted in the channel and do not span the channel or cause flow problems will not be removed unless:
    - (i) associated with or in close proximity to larger obstructions; or
    - (ii) posing a hazard to navigation.
  - (E) A severely damaged, leaning, or other damaged tree that is in immediate danger of falling into the waterway may be cut and removed, but only if the tree is associated with or in close proximity to an obstruction. The root system and stump of the tree will be left in place.
  - (F) No access road will be constructed that will do any of the following:
    - (i) Destroy more than one (1) acre of trees within a floodway.
    - (ii) Traverse a wetland indicated on the national wetlands inventory map unless pads are used.
    - (iii) Raise the elevation of the flood plain.
    - (iv) Cross a waterway.
  - (G) Work shall be conducted exclusively from one (1) side of a river or stream.
- (d) ~~Within ten (10) days (excluding Saturdays, Sundays, and legal holidays) after the receipt of a written notice under subsection (c);~~ The department shall **provide a act upon the** written response that does one (1) of the following:
- ~~(1) Approves the terms of the notice;~~
  - ~~(2) Provides additional conditions to the approval;~~
  - ~~(3) Requires additional information;~~
  - ~~(4) Requires the person to obtain a permit for the activity under IC 14-28-1 or IC 14-29-1, or both;~~
- notice as set forth under section 0.6 of this rule.**

(e) If the department does not respond in a timely fashion under subsection (d), the written notice is deemed approved.

(f) A copy of the written notice provided under subsection (c) and any additional conditions provided by the department under subsection (d) must be posted by the person in a conspicuous location at the site of the project.

**(e) A general license for obstruction removal under this section expires:**

**(1) Ninety (90) days after the receipt of the department's written approval under section 0.6(c) of this rule.**

**(2) If there is no response by the department under section 0.6(c) of this rule and the applicant acts under section 0.6(d) of this rule, one hundred five (105) days after the date recorded on the applicant's certificate of mailing.**

~~(g)~~ (f) A person who elects to act under this general ~~authorization~~ **license** must comply with the terms of the written notice provided under subsection (c) and with any additional conditions provided by the department under ~~subsection (d):~~ **section 0.6(c) of this rule.** Failure to comply with these terms and conditions may result in the revocation of the general ~~authorization~~ **license**, a civil penalty, a commission charge, and any other sanction provided by law for the violation of a permit issued under IC 14-28-1 or, if the waterway is navigable, the violation of a license issued under IC 14-29-1. (*Natural Resources Commission; 312 IAC 10-5-6; filed Jul 5, 2001, 9:12 a.m.: 24 IR 3396, eff Jan 1, 2002; filed Aug 2, 2004, 3:18 p.m.: 27 IR 3878*)

SECTION 7. 312 IAC 10-5-7 IS AMENDED TO READ AS FOLLOWS:

**312 IAC 10-5-7 Qualified logjam and sandbar removals from beneath bridges; general license**

**Authority: IC 14-10-2-4; IC 14-28-1-5**

**Affected: IC 14-28-1; IC 14-29-1**

Sec. 7. A person is exempted from the licensing requirements under IC 14-28-1, IC 14-29-1, 312 IAC 10-4, and 312 IAC 6 for The removal of logjams and sandbars beneath or adjacent to a bridge ~~where:~~ **is authorized without a written license issued by the department under IC 14-28-1, IC 14-29-1, 312 IAC 10-4, and 312 IAC 6 where:**

(1) equipment is operated from the bridge or the bank within the right-of-way, with no equipment placed in the river or stream;

(2) an access corridor for the placement of equipment extends no more than fifty (50) feet beyond the right-of-way; and

(3) the logjam or sandbar to be removed is located partially or exclusively within the right-of-way.

(*Natural Resources Commission; 312 IAC 10-5-7; filed Jul 5, 2001, 9:12 a.m.: 24 IR 3397, eff Jan 1, 2002; filed Aug 2, 2004, 3:18 p.m.: 27 IR 3880*)

SECTION 8. 312 IAC 10-5-8 IS AMENDED TO READ AS FOLLOWS:

**312 IAC 10-5-8 Qualified outfall projects; general license**

**Authority: IC 14-10-2-4; IC 14-28-1-5**

**Affected: IC 14-28-1; IC 14-29-1**

Sec. 8. (a) This section establishes ~~an exemption~~ **a general license** for the placement of a qualified outfall project in a floodway.

(b) This section does not authorize the placement of an outfall project:

(1) within a river or stream listed in the Indiana Register at 16 IR 1677 in the Outstanding Rivers List for Indiana;

(2) within a salmonid stream designated under 327 IAC 2-1.5-5(a)(3);

(3) below the ordinary high watermark of a navigable waterway listed in the Indiana Register at 20 IR 2920 in the Roster of Indiana Waterways Declared Navigable; or

(4) where the project requires an individual permit from the United States Army Corps of Engineers under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act.

(c) (b) A person who wishes to ~~place an outfall~~ **implement a project** under this section must conform for the

**placement of a qualified outfall project on a river or stream, other than on a river or stream identified in section 0.3(b) or 0.3(c) of this rule, may do so without notice to the department if the project conforms to the following conditions:**

- (1) Tree removal and brush clearing shall be contained and minimized within the outfall project area. No more than one (1) acre of trees shall be removed within the floodway.
- (2) Construction activities within the waterway from April 1 through June 30 shall not exceed a total of two (2) calendar days.
- (3) Best management practices shall be used during and after construction to minimize erosion and sedimentation.
- (4) Following the completion of construction, disturbed areas shall be reclaimed and revegetated. Disturbed areas shall be mulched with straw, wood fiber, biodegradable erosion blanket, or other suitable material. To prevent erosion until revegetated species are established, loose mulch shall be anchored by crimping, tackifiers, or netting. To the extent practicable, revegetation must restore species native to the site. If revegetation with native species is not practicable, revegetation shall be performed by the planting of a mixture of red clover, orchard grass, timothy, perennial rye grass, or another species that is approved by the department as being suitable to site and climate conditions. In no case shall tall fescue be used to revegetate disturbed areas.
- (5) Disturbed areas with slopes of three to one (3:1) or steeper, or areas where run-off is conveyed through a channel or swale, shall be stabilized with erosion control blankets or suitable structural armament.
- (6) Areas in the vicinity of concentrated discharge points shall be protected with structural armament to the normal water level of the waterway. Any riprap must have an average minimum diameter of six (6) inches and extend below the normal water level.
- (7) The size of the outfall project shall not exceed any of the following dimensions:
  - (A) Ten (10) square feet in cross-sectional flow area as determined by the summation of cross-sectional area of conduits within the outfall project area for an outfall structure.
  - (B) Five (5) feet deep as determined by the difference in elevation between the lowest bank elevation and the bottom of the swale for an outfall structure.
  - (C) An area of disturbance thirty (30) feet wide.
- (8) Adequate cover shall be provided to ensure the structural integrity of the outfall conduit and to allow suitable vegetative growth.
- (9) Within the project area, the postconstruction ground surface elevation shall be less than six (6) inches above the preconstruction elevation.
- (10) The outlet structure shall:
  - (A) be supported by a headwall, slopewall, or anchored end section; and
  - (B) conform to the bank of the waterway.
- (11) If flow passing through the outfall project in a reverse direction would induce flood damages during a regulatory flood, the outfall project shall be equipped with a closure mechanism.
- (12) Construction debris and material not used as backfill shall be removed from the floodway.

~~(c)~~ **(b)** A person who elects to act under this section must comply with the general conditions under subsection ~~(c)~~:  
**(b).** Failure to comply with these terms and conditions may result in the revocation of the general ~~authorization, license,~~ a civil penalty, a commission charge, and any other sanction provided by law for the violation of a permit issued under IC 14-28-1 and, if the waterway is navigable, the violation of a license issued under IC 14-29-1. (*Natural Resources Commission; 312 IAC 10-5-8; filed Jul 5, 2001, 9:12 a.m.: 24 IR 3398, eff Jan 1, 2002; filed Dec 26, 2001, 2:42 p.m.: 25 IR 1546; errata filed Jan 16, 2002, 1:14 p.m.: 25 IR 1906; filed Aug 2, 2004, 3:18 p.m.: 27 IR 3880*)

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