

for domestic purposes, including the following:

- (1) Water for household purposes.
- (2) Drinking water for livestock, poultry, and domestic animals.

(b) The use of water for domestic purposes has priority and is superior to all other uses.

[Pre-1995 Recodification Citation: 13-2-1-3(1).]

As added by P.L.1-1995, SEC.18.

IC 14-25-1-4 Impoundment of excess waters

Sec. 4. (a) This section applies to land contiguous to or encompassing a public watercourse.

(b) The:

- (1) owner or group of owners of the land; or
- (2) person, firm, limited liability company, corporation, unit of government, or association for irrigation or other purposes owning the land;

may impound the water behind a dam in the natural stream bed or on the owner's land or by pumping or diverting the water from a stream or lake to a reservoir when the flow in the stream or the level of the lake exceeds existing reasonable uses at the time of the impoundment.

(c) An obstruction placed across a natural stream must include an outlet facility for release of water that the owner is not entitled to use under this chapter. The owner shall operate the outlet in accordance with this section.

(d) Action by an owner or a group of owners under this section must be approved by the commission before the action is taken.

[Pre-1995 Recodification Citation: 13-2-1-3(2).]

As added by P.L.1-1995, SEC.18.

IC 14-25-1-5 Use of increased flowage of waters due to release from impoundment

Sec. 5. (a) A public utility, a person, a firm, a limited liability company, a corporation, a unit of government, or an association for irrigation or other purposes that creates additional stream volumes by releases from impoundments built and financed by the entity for the entity's purpose may use the increased flowage at all times. The amount of increased flowage shall be determined by well recognized engineering computations.

(b) Riparian owners do not have rights in increased flowage beyond normal stream flow.

[Pre-1995 Recodification Citation: 13-2-1-3(3).]

As added by P.L.1-1995, SEC.18.

IC 14-25-1-6 Standards of measurement

Sec. 6. (a) The standard units for the measurement of the flow of water are a cubic foot per second and a gallon per minute.

(b) The standard units for the measurement of stored water are an acre-foot and a gallon.

(c) The standards and methods for the measurement of the volume of water flow that are either used or approved by the United States Geological Survey in cooperation with the various departments of the state and federal governments shall be accepted as prima facie reliable.

[Pre-1995 Recodification Citation: 13-2-1-5.]

As added by P.L.1-1995, SEC.18.

IC 14-25-1-7 Diversion of floodwaters

Sec. 7. (a) Upon approval of the commission and subject to subsection (b), any person, whether or not the owner of land contiguous to or encompassing a watercourse, may divert the flood water of a watercourse for any useful purpose, including the purpose of storage.

(b) A diversion under this section may not cause injury to landowners or the users of

water in the watershed of the watercourse from which the flood flow is diverted.

(c) This section does not limit:

- (1) any rights granted under section 4 of this chapter or under IC 13-2-1-3(2) (before its repeal); or
- (2) any other legal right existing on March 12, 1959, to divert and store water.

[Pre-1995 Recodification Citation: 13-2-1-6(1).]

As added by P.L.1-1995, SEC.18.

IC 14-25-1-8 Mediation of disputes

Sec. 8. Whenever a dispute arises between the users of surface water in a watershed area, any party to the dispute may request that the commission mediate the dispute using the mediation provisions under IC 4-21.5-3.5.

[Pre-1995 Recodification Citation: 13-2-1-6(2).]

As added by P.L.1-1995, SEC.18. Amended by P.L.151-2012, SEC.30.

IC 14-25-1-9 Reports to commission regarding volume of water used

Sec. 9. A person who uses ground water or surface water shall, when requested by the commission, report to the commission the volume of water used by the person in a specific period. The commission may, in the commission's rules, prescribe the method of making the reports.

[Pre-1995 Recodification Citation: 13-2-1-6(3).]

As added by P.L.1-1995, SEC.18.

IC 14-25-1-10 Public policy regarding regulation of public waters

Sec. 10. The policy that surface waters of Indiana are declared to be public waters and subject to regulation by the general assembly is the accepted policy of the state. Users of surface waters who:

- (1) institute withdrawal of water for artificial uses from a natural stream, natural lake, or other natural body of water; or
- (2) increase artificial uses;

are subject to regulation of the uses or increased uses that are enacted into law by the general assembly.

[Pre-1995 Recodification Citation: 13-2-1-8.]

As added by P.L.1-1995, SEC.18.

IC 14-25-1-11 Findings; requirements for diversion of water outside the basin; rules

Sec. 11. (a) The general assembly finds that a diversion of water out of the basin, unless conducted under the Great Lakes—St. Lawrence River Basin Water Resources Compact, will impair or destroy the Great Lakes. The general assembly further finds that the regulation of a diversion of water from the basin is consistent with the mandate of the Preamble to and Article 14, Section 1 of the Constitution of the State of Indiana, the United States Constitution, and the federal legislation according to which Indiana was granted statehood.

(b) Water may not be diverted outside the basin from that part of the basin within Indiana unless the diversion is:

- (1) approved by the governor of each Great Lakes state under 42 U.S.C. 1962d-20 (Water Resources Development Act); or
- (2) conducted:
 - (A) after the effective date of; and
 - (B) in accordance with the requirements of; the Great Lakes—St. Lawrence River Basin Water Resources Compact.

(c) The commission shall adopt rules necessary to implement this section.

[Pre-1995 Recodification Citation: 13-2-1-9.]

As added by P.L.1-1995, SEC.18. Amended by P.L.71-2004, SEC.2; P.L.4-2008, SEC.3.

IC 14-25-2	Chapter 2. Minimum Stream Flow and Water Sale Contracts
14-25-2-1	Provision of minimum stream flow; sale of water
14-25-2-2	Contracts on unit pricing basis
14-25-2-2.5	Request for water from reservoir; notice of request and public meeting; affected water utilities
14-25-2-3	Rate of compensation
14-25-2-4	Water resources development fund
14-25-2-5	Adoption of rules
14-25-2-6	Employment of personnel
14-25-2-7	Contracts entered into before July 1, 1991, binding
14-25-2-8	Primary source of water; compensation not required
14-25-2-9	Primary source of water; contracts entered into before July 1, 1991, binding
14-25-2-10	Primary source of water; contracts on measured basis
14-25-2-11	Compensation owed by conservancy districts

IC 14-25-2-1 Provision of minimum stream flow; sale of water

Sec. 1. (a) Except as provided in section 8 of this chapter, the commission may provide certain minimum quantities of stream flow or sell water on a unit pricing basis for water supply purposes from the water supply storage in reservoir impoundments or parts of the impoundments that are financed by the state. The water may be made available for direct withdrawal from the reservoir impoundment or released from the reservoir impoundment to create increased flowage beyond normal stream flow for use by the contracting party or purchaser at a downstream point. The withdrawals or releases may not exceed the storage allocated to water supply purposes in the authorizing legislation for water supply or multiple purpose reservoir projects.

(b) This section does not abrogate, limit, or affect in any manner prior or future sales of water from reservoirs constructed for or by the department in which adequate water for incidental water supply purposes is available.

[Pre-1995 Recodification Citation: 13-2-1-7(a).]

As added by P.L.1-1995, SEC.18.

IC 14-25-2-2 Contracts on unit pricing basis

Sec. 2. (a) Except as provided in section 8 of this chapter and subject to section 2.5 of this chapter, the commission may contract with a person for the provision of certain minimum quantities of stream flow or for the sale of water on a unit pricing basis. A contract for the provision of minimum stream flows or for the sale of water on a unit pricing basis:

- (1) must be executed by the commission; and
- (2) is subject to approval by the following:
 - (A) The attorney general.
 - (B) The governor.
 - (C) The person desiring the use.

(b) A contract entered into under this chapter may not cover a period of more than fifty (50) years.

(c) Before the submission of the contract to the governor for approval, the commission shall submit a copy of the contract to the department. The department shall, within twenty (20) days of receipt, do the following:

- (1) Prepare a memorandum relative to the effect that the contract might have on recreational facilities.
- (2) Submit the memorandum to the governor for the governor's consideration.

[Pre-1995 Recodification Citation: 13-2-1-7(b).]

As added by P.L.1-1995, SEC.18. Amended by P.L.231-2007, SEC.1.

IC 14-25-2-2.5 Request for water from reservoir; notice of request and public meeting; affected water utilities

Sec. 2.5. (a) As used in this chapter, "water utility" means:

- (1) a public utility (as defined in IC 8-1-2-1(a));
- (2) a municipally owned utility (as defined in IC 8-1-2-1(h));
- (3) a not-for-profit utility (as defined in IC 8-1-2-125(a));
- (4) a cooperatively owned corporation;
- (5) a conservancy district established under IC 14-33; or
- (6) a regional water district established under IC 13-26;

that provides water service to the public.

(b) A person that seeks to contract with the commission for the provision of certain minimum quantities of stream flow or the sale of water on a unit pricing basis under section 2 of this chapter must submit a request to the commission and the department. The commission shall not make a determination as to whether to enter into a contract with the person making the request until:

- (1) the procedures set forth in this section have been followed; and
- (2) the commission has reviewed and considered each report submitted to the commission under subsection (i).

(c) Not later than thirty (30) days after receiving a request under subsection (b), the department shall provide, by certified mail, written notice of the request to the following:

- (1) Each person with whom the commission holds a contract for:
 - (A) the provision of certain minimum quantities of stream flow; or
 - (B) the sale of water on a unit pricing basis;as of the date of the request.

(2) The executive and legislative body of each:

- (A) county;
 - (B) municipality, if any; and
 - (C) conservancy district established under IC 14-33, if any;
- in which the water sought in the request would be used.

(3) The executive and legislative body of each:

- (A) county;
 - (B) municipality, if any; and
 - (C) conservancy district established under IC 14-33, if any;
- in which the affected reservoir is located.

(d) Not later than seven (7) days after receiving a notice from the department under subsection (c), each person described in subsection (c)(1) shall, by certified mail, provide written notice of the request to each:

- (1) water utility; or
- (2) other person;

that contracts with the person described in subsection (c)(1) for the purchase of water for resale. Each person to whom notice is mailed under this subsection is in turn responsible for providing written notice by certified mail to each water utility or other person that purchases water from that person for resale. A water utility or another person required to provide notice under this subsection shall mail the required notice not later than seven (7) days after it receives notice of the request from the water utility or other person from whom it purchases water for resale.

(e) At the same time that:

- (1) a person described in subsection (c)(1); or
- (2) a water utility or another person described in subsection (d);

mails any notice required under subsection (d), it shall also mail to the department, by certified mail, a list of the names and addresses of each water utility or other person to whom it has mailed the notice under subsection (d).

(f) In addition to the mailed notice required under subsection (c), the department shall publish notice of the request, in accordance with IC 5-3-1, in each county:

- (1) in which a person described in section (c)(1) is located;

- (2) in which the affected reservoir is located;
- (3) in which the water sought in the request would be used; and
- (4) in which a water utility or other person included in a list received by the department under subsection (e) is located.

Notwithstanding IC 5-3-1-6, in each county in which publication is required under this subsection, notice shall be published in at least one (1) general circulation newspaper in the county. The department may, in its discretion, publish public notices in a qualified publication (as defined in IC 5-3-1-0.7) or additional newspapers to provide supplementary notification to the public. The cost of publishing supplementary notification is a proper expenditure of the department.

(g) A notice required to be mailed or published under this section must:

- (1) identify the person making the request;
- (2) include a brief description of:
 - (A) the nature of the pending request; and
 - (B) the process by which the commission will determine whether to enter into a contract with the person making the request;
- (3) set forth the date, time, and location of the public meeting required under subsection (h); and
- (4) in the case of a notice that is required to be mailed under subsection (c)(1) or (d), a statement of the recipient's duty to in turn provide notice to any:
 - (A) water utility; or
 - (B) other person;

that purchases water for resale from the recipient, in accordance with subsection (d).

(h) The advisory council established by IC 14-9-6-1 shall hold a public meeting in each county in which notice is published under subsection (f). A public meeting required under this subsection must include the following:

- (1) A presentation by the department describing:
 - (A) the nature of the pending request; and
 - (B) the process by which the commission will determine whether to enter into a contract with the person making the request.
- (2) An opportunity for public comment on the pending request.

The advisory council may appoint a hearing officer to assist with a public meeting held under this subsection.

(i) Not later than thirty (30) days after a public meeting is held under subsection (h), the advisory council shall submit to the commission a report summarizing the public meeting.
As added by P.L.231-2007, SEC.2. Amended by P.L.3-2008, SEC.102.

IC 14-25-2-3 Rate of compensation

Sec. 3. A contract for the sale of water on a unit pricing basis that is entered into under this chapter or under IC 13-2-1-7 (before its repeal) after June 30, 1991, must provide for compensation to the state at the rate of not less than thirty-three dollars (\$33) per one million (1,000,000) gallons of water.

[Pre-1995 Recodification Citation: 13-2-1-7(c).]

As added by P.L.1-1995, SEC.18. Amended by P.L.195-2017, SEC.39.

IC 14-25-2-4 Water resources development fund

Sec. 4. (a) As used in this section, "fund" refers to the water resources development fund created by this section.

(b) The water resources development fund is created. Money paid to the state under a contract entered into under this chapter shall be deposited in the fund.

(c) The proceeds of the fund do not revert to the state general fund but constitute a revolving fund to be used exclusively for the purposes of this chapter.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet

the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from the investments shall be deposited in the fund.

(e) Money in the fund may be used for any of the following purposes:

- (1) The development of new reservoirs.
- (2) The investigation, development, and improvement of existing reservoirs.
- (3) The acquisition of easements or purchase in fee simple of land and property to be used as reservoir sites.
- (4) The financing, construction, operation, and maintenance of reservoir impoundments or parts of impoundments for water supply storage and uses, either independently or in cooperation with any person.
- (5) The investigation of water resource availability, quality, and water supply needs.
- (6) Watershed protection.
- (7) River enhancement.
- (8) The preparation of a compilation and mapping of all community public water supplies under IC 14-25-7-13(d).
- (9) The operation of the division of water.

(f) The department shall administer the fund.

[Pre-1995 Recodification Citation: 13-2-1-7(d) part.]

As added by P.L.1-1995, SEC.18. Amended by P.L.184-1995, SEC.1; P.L.186-2003, SEC.68.

IC 14-25-2-5 Adoption of rules

Sec. 5. The commission shall adopt rules under IC 4-22-2 that are considered necessary for the proper administration of the following:

- (1) The water resources development fund.
- (2) This chapter.

[Pre-1995 Recodification Citation: 13-2-1-7(d) part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-2-6 Employment of personnel

Sec. 6. The commission may, subject to the approval of the budget agency, employ personnel necessary for the efficient administration of this chapter.

[Pre-1995 Recodification Citation: 13-2-1-7(d) part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-2-7 Contracts entered into before July 1, 1991, binding

Sec. 7. Except as provided in section 8 of this chapter, a contract for the sale of water on a unit pricing basis that was entered into under this chapter before July 1, 1991, is binding upon the commission. However, notwithstanding the terms of the contract, the rate of compensation for water sold under the contract on a unit pricing basis is thirty-three dollars (\$33) per one million (1,000,000) gallons of water.

[Pre-1995 Recodification Citation: 13-2-1-7(e).]

As added by P.L.1-1995, SEC.18.

IC 14-25-2-8 Primary source of water; compensation not required

Sec. 8. The state may not require compensation for water that:

- (1) comes from a reservoir impoundment financed by the state; and
- (2) is provided to water users in an area in which the outlet of the reservoir impoundment has been the primary source of water for domestic, industrial, and public use for at least fifty (50) years.

[Pre-1995 Recodification Citation: 13-2-1-7(f).]

As added by P.L.1-1995, SEC.18.

IC 14-25-2-9 Primary source of water; contracts entered into before July 1,

1991, binding

Sec. 9. A contract that:

- (1) was entered into under IC 13-2-1-7 (before its repeal) before July 1, 1991; and
- (2) provides for the sale of water on a unit pricing basis in an area described in section 8 of this chapter;

is binding upon the commission. However, the opposite party to the contract is not required to pay compensation to the state for water provided in the area.

[Pre-1995 Recodification Citation: 13-2-1-7(g).]

As added by P.L.1-1995, SEC.18.

IC 14-25-2-10 Primary source of water; contracts on measured basis

Sec. 10. The commission may enter into contracts under this chapter to provide certain minimum quantities of stream flow or to provide water on a measured basis in an area described in section 8 of this chapter. However, the opposite party to the contract is not required to pay compensation to the state for water provided in the area described in section 8 of this chapter.

[Pre-1995 Recodification Citation: 13-2-1-7(h).]

As added by P.L.1-1995, SEC.18.

IC 14-25-2-11 Compensation owed by conservancy districts

Sec. 11. (a) As used in this section, "conservancy district" refers to a conservancy district established under IC 14-33 or under IC 13-3-3 (before its repeal) for the purpose of furnishing water supply for domestic, industrial, and public use.

(b) The state may not obtain compensation from a conservancy district under a contract for the sale of water on a unit pricing basis upon the basis of an estimate of the quantity of water provided to the conservancy district.

(c) The calculation of the compensation owed by a conservancy district under a contract must be based upon either of the following:

- (1) The measurement of the quantity of water provided to the conservancy district.
- (2) The measurement of the water furnished by the conservancy district to the persons who obtain water from the conservancy district, with a reasonable allowance made for water lost by the conservancy district in the process of obtaining, treating, and furnishing the water.

(d) This section does not affect the obligation of a conservancy district to pay a minimum yearly fee in a certain amount established by a contract.

[Pre-1995 Recodification Citation: 13-2-1-7.1.]

As added by P.L.1-1995, SEC.18.

IC 14-25-3	Chapter 3. Water Rights; Ground Water
14-25-3-1	"Person" defined
14-25-3-2	"Waste" and "wasted" defined
14-25-3-3	Public policy regarding conservation of ground water
14-25-3-4	Restricted use areas; designation
14-25-3-5	Restricted use areas; orders, rules, and notice of hearing
14-25-3-6	Withdrawal permits; requirement
14-25-3-7	Withdrawal permits; application
14-25-3-8	Withdrawal permits; factors to consider
14-25-3-9	Withdrawal permits; conditions
14-25-3-10	Withdrawal permits; judicial review
14-25-3-11	Statements of average daily use of ground water
14-25-3-12	Records regarding drilling of new wells
14-25-3-13	Withdrawal permits; title or lease to property required
14-25-3-14	Meters
14-25-3-15	Waste of water
14-25-3-16	Determination of quantity of ground water removed
14-25-3-17	Adoption of rules
14-25-3-18	Violations

IC 14-25-3-1 "Person" defined

Sec. 1. As used in this chapter, "person" means an individual, a firm, a limited liability company, a corporation, an association, or a governmental agency. However, for purposes of sections 6 through 10 of this chapter, the term does not include a public utility privately or publicly owned engaged in supplying or furnishing public utility service to the residents and business institutions of a city, town, or public institution within a restricted use area.

[Pre-1995 Recodification Citation: 13-2-2-5(a) part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-3-2 "Waste" and "wasted" defined

Sec. 2. As used in this chapter, "waste" or "wasted" means any of the following:

- (1) Permitting ground water to flow or taking or using ground water in any manner so that the ground water is not put to the full beneficial use.
- (2) Transporting ground water from the water's source to the place of use in such a manner that there is an excessive loss in transit.
- (3) Permitting or causing the pollution of a fresh water strata through an act that will cause salt water, highly mineralized water, or otherwise contaminated water to enter the strata.

[Pre-1995 Recodification Citation: 13-2-2-1 part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-3-3 Public policy regarding conservation of ground water

Sec. 3. It is a public policy of the state in the interest of the economy, health, and welfare of Indiana and the citizens of Indiana to conserve and protect the ground water resources of Indiana and for that purpose to provide reasonable regulations for the most beneficial use and disposition of ground water resources.

[Pre-1995 Recodification Citation: 13-2-2-2.]

As added by P.L.1-1995, SEC.18.

IC 14-25-3-4 Restricted use areas; designation

Sec. 4. (a) The department may by rule or order, when the department has reason to believe it is necessary and in the public interest, designate certain areas of Indiana where the withdrawal of ground waters exceeds or threatens to exceed natural replenishment as restricted use areas. Before the department designates an area as a restricted use area, the department shall do the following:

- (1) Have surveys made of the ground water resources of the area.
- (2) Determine the safe annual yield of the basin.
- (b) The department may do the following:
 - (1) Cooperate with the agencies of the federal government engaged in making ground water surveys.
 - (2) Accept and use the findings of other agencies of the federal and state governments as a basis of the department's decisions.

[Pre-1995 Recodification Citation: 13-2-2-3.]

As added by P.L.1-1995, SEC.18.

IC 14-25-3-5 Restricted use areas; orders, rules, and notice of hearing

Sec. 5. (a) Whenever the department designates a restricted use area, the department shall approve an order to that effect and adopt a rule under IC 4-22-2.

(b) In addition to the publication of notice provided for in IC 4-22-2, the department shall, for the purposes of this chapter only, do the following:

- (1) Give notice by publication one (1) time each week for three (3) consecutive weeks in all of the newspapers of general circulation in the area to be designated as a restricted use area.
- (2) Give ten (10) days written notice to all public utilities privately or publicly owned engaged in furnishing water to residents of the restricted use area.
- (3) Give ten (10) days written notice to:
 - (A) the executive of each city and town;
 - (B) the president of each county executive in a county that does not have a consolidated city; and
 - (C) the county executive in a county that has a consolidated city;in the restricted use area.
- (4) Have the notice posted at least ten (10) days before the hearing as follows:
 - (A) At the door of the courthouse.
 - (B) At the city or town hall if there is a city or town hall in the restricted use area.
 - (C) In at least three (3) other public places.

(c) Proof of the notice shall be made at the hearing by the affidavits of the publishers of the newspapers and of the persons who posted and sent the other notices required by this section.

[Pre-1995 Recodification Citation: 13-2-2-4.]

As added by P.L.1-1995, SEC.18.

IC 14-25-3-6 Withdrawal permits; requirement

Sec. 6. In a restricted use area, a person may not withdraw or use for any purpose ground water in quantities in excess of one hundred thousand (100,000) gallons per day in addition to the quantity the person is using at the time the order designating the area as a restricted use area becomes effective, unless the person has obtained a permit from the department to withdraw or use a greater quantity.

[Pre-1995 Recodification Citation: 13-2-2-5(a) part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-3-7 Withdrawal permits; application

Sec. 7. A person that:

- (1) desires to withdraw or use a quantity greater than one hundred thousand (100,000) gallons per day in addition to the quantity being used at the time of the effective date of an order declaring an area as a restricted use area; or
- (2) desires to withdraw or use a quantity greater than one hundred thousand (100,000) gallons per day if the applicant was not a prior user of ground water;

must apply for permission to do so to the department upon a form prescribed by the

department.

[Pre-1995 Recodification Citation: 13-2-2-5(b).]

As added by P.L.1-1995, SEC.18.

IC 14-25-3-8 Withdrawal permits; factors to consider

Sec. 8. In granting or refusing a permit, the department shall consider the following:

- (1) The effect the withdrawal of additional ground water from the restricted use area will have on future supplies in the area.
- (2) What use is to be made of the water.
- (3) How the withdrawal will affect present users of ground water in the area.
- (4) Whether the future natural replenishment is likely to become more or less.
- (5) Whether future demands for ground water are likely to be greater or less.
- (6) How the withdrawal of additional ground water will affect the health and best interests of the public.

[Pre-1995 Recodification Citation: 13-2-2-5(c).]

As added by P.L.1-1995, SEC.18.

IC 14-25-3-9 Withdrawal permits; conditions

Sec. 9. In granting a permit, the department may do the following:

- (1) Impose the conditions or stipulations that are necessary to conserve the ground water of the area and prevent waste, exhaustion, or impairment of the ground water.
- (2) Require that ground water in a restricted area that is withdrawn and used be returned to the ground through wells, pits, or spreading grounds. If this condition is imposed, the water shall be returned under the rules that the department adopts subject to the approval of the environmental rules board to avoid pollution of underground water.

[Pre-1995 Recodification Citation: 13-2-2-5(d), (e).]

As added by P.L.1-1995, SEC.18. Amended by P.L.113-2014, SEC.97.

IC 14-25-3-10 Withdrawal permits; judicial review

Sec. 10. A refusal to grant a permit is subject to court review under IC 4-21.5-5.

[Pre-1995 Recodification Citation: 13-2-2-5(f).]

As added by P.L.1-1995, SEC.18.

IC 14-25-3-11 Statements of average daily use of ground water

Sec. 11. (a) All users of ground water in amounts exceeding one hundred thousand (100,000) gallons per day in an area designated by the department as a restricted use area shall file with the department a certified statement of the average daily amount of ground water used before the designation of the area as a restricted use area. The statement:

- (1) shall be filed within ninety (90) days after the adoption of an order by the department designating the area as a restricted use area; and
- (2) must be on a form furnished by the department upon request.

(b) Failure to file a certified statement as required by subsection (a) invalidates a user's prior claim to the withdrawal and use of ground water exceeding one hundred thousand (100,000) gallons per day without having secured a permit from the department under this chapter.

[Pre-1995 Recodification Citation: 13-2-2-6.]

As added by P.L.1-1995, SEC.18.

IC 14-25-3-12 Records regarding drilling of new wells

Sec. 12. In a restricted use area, each well owner or the representatives of the well owner shall file with the department, on forms furnished by the department, a complete record of each new well drilled within the area. The record:

- (1) shall be filed within thirty (30) days after the well has been completed and placed in operation; and
- (2) must contain the following:
 - (A) A log of the following:
 - (i) The well.
 - (ii) The static water level.
 - (iii) The yield.
 - (iv) The drawdown.
 - (B) Other pertinent information that is required by the department.

[Pre-1995 Recodification Citation: 13-2-2-7.]

As added by P.L.1-1995, SEC.18.

IC 14-25-3-13 Withdrawal permits; title or lease to property required

Sec. 13. A permit may not be issued to an applicant requesting permission to withdraw and use more than one hundred thousand (100,000) gallons per day of ground water from a designated restricted use area who does not:

- (1) have title; or
- (2) hold a lease;

to the property from which the water is to be withdrawn.

[Pre-1995 Recodification Citation: 13-2-2-8.]

As added by P.L.1-1995, SEC.18.

IC 14-25-3-14 Meters

Sec. 14. The department may require a user of ground water in amounts exceeding one hundred thousand (100,000) gallons per day in designated restricted use areas to install a meter if any of the following conditions exist:

- (1) The user is unable to furnish accurate information concerning the amounts of ground water being withdrawn and used.
- (2) There is evidence of either of the following:
 - (A) The user's certified statement is false or inaccurate.
 - (B) The user is withdrawing and using a larger quantity than has been authorized by the department under this chapter.

[Pre-1995 Recodification Citation: 13-2-2-9.]

As added by P.L.1-1995, SEC.18.

IC 14-25-3-15 Waste of water

Sec. 15. (a) In a restricted use area, the department may require a person found to be committing waste of ground water to return all or a part of the water to the ground if the following conditions are met:

- (1) The water being wasted can safely and practicably be returned to the ground.
- (2) Requirements are imposed as proportionately equal as is practicable on all persons committing waste.
- (b) The use of ground water for cooling purposes may constitute waste if the water is:
 - (1) not used more than one (1) time in a cooling, air conditioning, or heating system; and
 - (2) not put to further beneficial use.
- (c) In a restricted use area the department may require the owner of a flowing well:
 - (1) that exceeds a flow of one thousand five hundred (1,500) gallons per day; and
 - (2) whose water is being wasted;

to install the controls on the well that are necessary to diminish the daily flow to not more than one thousand five hundred (1,500) gallons.

[Pre-1995 Recodification Citation: 13-2-2-10 part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-3-16 Determination of quantity of ground water removed

Sec. 16. (a) As used in this section, "rated capacity of a pump" means the number of gallons of water a pump is capable of discharging in a given time as determined by the manufacturer or by certified pump tests.

(b) In determining the quantity of water being removed from or returned to the ground, the department may use the following:

- (1) The rated capacity of the pump used for pumping the water.
- (2) The rated capacity of the cooling system.
- (3) Data furnished by the well driller or user.
- (4) The standards or methods employed by the United States Geological Survey in determining quantities.
- (5) Any other accepted method.

[Pre-1995 Recodification Citations: 13-2-2-1 part; 13-2-2-11.]

As added by P.L.1-1995, SEC.18.

IC 14-25-3-17 Adoption of rules

Sec. 17. The department may adopt the rules that are necessary to do the following:

- (1) Determine within reasonable limits quantities of water being removed from the ground.
- (2) Administer any of the other provisions of this chapter.

[Pre-1995 Recodification Citation: 13-2-2-12.]

As added by P.L.1-1995, SEC.18.

IC 14-25-3-18 Violations

Sec. 18. A person who violates:

- (1) section 6, 11, or 12 of this chapter; or
- (2) a rule or order concerning a restricted use area;

commits a Class C infraction. Each day of violation constitutes a separate infraction.

[Pre-1995 Recodification Citation: 13-2-2-13.]

As added by P.L.1-1995, SEC.18. Amended by P.L.195-2014, SEC.23.

IC 14-25-4 Chapter 4. Emergency Regulation of Ground Water Rights

14-25-4-1	"Construction"
14-25-4-2	"Dewatering well"
14-25-4-3	"Nonsignificant ground water withdrawal facility"
14-25-4-4	"Owner"
14-25-4-5	"Potable water"
14-25-4-6	"Significant ground water withdrawal facility"
14-25-4-7	"Water well"
14-25-4-8	Investigations
14-25-4-9	Ground water emergency; based on investigation
14-25-4-10	Ground water emergency; based on other evidence
14-25-4-11	Notice of hearing
14-25-4-12	Restrictions on withdrawal of ground water
14-25-4-13	Adoption of rules
14-25-4-14	Ground water emergency; when effective; notice
14-25-4-15	Effect on civil right of action
14-25-4-16	Violations; injunctions
14-25-4-17	Right to compensation for impairment of nonsignificant ground water withdrawal facilities
14-25-4-18	Measure of compensation
14-25-4-19	Refusal of compensation
14-25-4-20	Ground water emergency; temporary provision of potable water
14-25-4-21	Nonsignificant ground water withdrawal facilities to comply with rules

IC 14-25-4-1 "Construction"

Sec. 1. As used in this chapter, "construction" means the process of building a building, highway, utility, or another structure. The term includes the following:

- (1) The process of assembling materials.
- (2) Disassembling and removing a structure.
- (3) The preparation of the construction site.
- (4) Related work.

[Pre-1995 Recodification Citation: 13-2-2.5-2(c).]

As added by P.L.1-1995, SEC.18.

IC 14-25-4-2 "Dewatering well"

Sec. 2. As used in this chapter, "dewatering well" means a temporary water well that:

- (1) is used as part of a construction project to remove water from a surface or subsurface area; and
- (2) ceases to be used upon completion of the construction project or shortly after completion of the project.

[Pre-1995 Recodification Citation: 13-2-2.5-2(e).]

As added by P.L.1-1995, SEC.18.

IC 14-25-4-3 "Nonsignificant ground water withdrawal facility"

Sec. 3. As used in this chapter, "nonsignificant ground water withdrawal facility" means the ground water withdrawal facility of a person that, in the aggregate, has a withdrawal capability of less than one hundred thousand (100,000) gallons of ground water in one (1) day.

[Pre-1995 Recodification Citation: 13-2-2.5-2(h).]

As added by P.L.1-1995, SEC.18.

IC 14-25-4-4 "Owner"

Sec. 4. (a) As used in this chapter and subject to subsection (b), "owner" includes the following:

- (1) The owner of an interest in property.
- (2) A person in possession of property.

(b) For a temporary dewatering well, "owner" means the person who authorized the construction that necessitated the installation of the dewatering well.

[Pre-1995 Recodification Citation: 13-2-2.5-2(i).]

As added by P.L.1-1995, SEC.18.

IC 14-25-4-5 "Potable water"

Sec. 5. As used in this chapter, "potable water" means water that at the point of use is acceptable for human consumption under drinking water quality standards adopted by the environmental rules board under IC 13-18-4-1.

[Pre-1995 Recodification Citation: 13-2-2.5-2(k).]

As added by P.L.1-1995, SEC.18. Amended by P.L.1-1996, SEC.65; P.L.113-2014, SEC.98.

IC 14-25-4-6 "Significant ground water withdrawal facility"

Sec. 6. As used in this chapter, "significant ground water withdrawal facility" means the ground water withdrawal facility of a person that, in the aggregate from all sources and by all methods, has the capability of withdrawing at least one hundred thousand (100,000) gallons of ground water in one (1) day.

[Pre-1995 Recodification Citation: 13-2-2.5-2(l).]

As added by P.L.1-1995, SEC.18.

IC 14-25-4-7 "Water well"

Sec. 7. (a) As used in this chapter, "water well" means an excavation, however constructed, that is used for the purpose of withdrawing ground water for reasonable beneficial uses.

(b) The term does not include agricultural and urban drainage systems.

[Pre-1995 Recodification Citation: 13-2-2.5-2(m).]

As added by P.L.1-1995, SEC.18.

IC 14-25-4-8 Investigations

Sec. 8. Within twenty-four (24) hours after receiving a written complaint from the owner of a nonsignificant ground water withdrawal facility that a water well on property in the owner's possession has:

- (1) failed to furnish the well's normal supply of water; or
- (2) failed to furnish potable water;

the director shall cause an onsite investigation to be made.

[Pre-1995 Recodification Citation: 13-2-2.5-3(a).]

As added by P.L.1-1995, SEC.18.

IC 14-25-4-9 Ground water emergency; based on investigation

Sec. 9. If an investigation under section 8 of this chapter discloses:

- (1) that the well has:
 - (A) failed to furnish the well's normal supply of water; or
 - (B) based upon reasonable evidence of prior potability supplied by the owner, failed to furnish potable water;
- (2) that there has been a substantial lowering of the level of ground water in the area that has resulted in the failure of the well to:
 - (A) furnish the well's normal supply of water; or
 - (B) furnish potable water if the failure is caused by natural variations in the potability of water in the source aquifer;
- (3) that the well and the well's equipment were functioning properly at the time of the failure;
- (4) that the failure of the well was caused by the lowering of the ground water level in the area;

- (5) that the lowering of the ground water level is such that the ground water level:
 - (A) exceeds normal seasonal water level fluctuations; and
 - (B) substantially impairs continued use of the ground water resource in the area; and
- (6) that the lowering of the ground water level was caused by at least one (1) significant ground water withdrawal facility;

the director shall, by temporary order, declare a ground water emergency.

[Pre-1995 Recodification Citation: 13-2-2.5-3(b).]

As added by P.L.1-1995, SEC.18.

IC 14-25-4-10 Ground water emergency; based on other evidence

Sec. 10. If the director has reasonable evidence that indicates that continued ground water withdrawals from a significant ground water withdrawal facility will exceed the recharge capability of the ground water resource of the area, the director shall, by temporary order, declare a ground water emergency.

[Pre-1995 Recodification Citation: 13-2-2.5-3(c).]

As added by P.L.1-1995, SEC.18.

IC 14-25-4-11 Notice of hearing

Sec. 11. A temporary order under section 9 or 10 of this chapter must include a notice of hearing to be held under IC 4-21.5-4 as soon as practicable after the declaration of the ground water emergency. Following the hearing, the director may continue, amend, or terminate the ground water emergency. The emergency shall be terminated as soon as justified by changed conditions.

[Pre-1995 Recodification Citation: 13-2-2.5-3.5(a).]

As added by P.L.1-1995, SEC.18.

IC 14-25-4-12 Restrictions on withdrawal of ground water

Sec. 12. (a) Except as provided in subsection (b), the director may restrict the quantity of ground water that may be extracted from a significant ground water withdrawal facility when the director declares a ground water emergency under section 9 or 10 of this chapter if:

- (1) the:
 - (A) facility is reasonably believed to have caused the failure of the complainant's water well; and
 - (B) immediate temporary provision of an adequate supply of potable water required under sections 18(1) and 20(a) of this chapter is not carried out; or
- (2) there is a reasonable belief that continued ground water withdrawals from the facility will exceed the recharge capability of the ground water resource of the area.

(b) If an operator of a significant ground water withdrawal facility withdraws water by a means other than pumping, the director may temporarily restrict the quantity of ground water that may be extracted only if the provisions of subsection (a)(1) have not been met.

[Pre-1995 Recodification Citation: 13-2-2.5-3.5(b), (c).]

As added by P.L.1-1995, SEC.18.

IC 14-25-4-13 Adoption of rules

Sec. 13. The commission may adopt rules under IC 4-22-2 to administer this chapter. The rules must be consistent with IC 25-39 and rules adopted under IC 25-39.

[Pre-1995 Recodification Citation: 13-2-2.5-5.]

As added by P.L.1-1995, SEC.18.

IC 14-25-4-14 Ground water emergency; when effective; notice

Sec. 14. (a) A declaration of a ground water emergency under this chapter is effective when a copy of a declaration is served under IC 4-21.5-3-1 upon a person who owns the significant ground water withdrawal facility that is reasonably believed to have caused the

failure of the complainant's water well.

(b) As soon as possible after a declaration of a ground water emergency has been made, copies of the declaration shall be given to the newspapers of general circulation located in the affected county. The notification to newspapers required by this subsection is in addition to the minimum procedural duties required of the department under IC 4-21.5 and does not satisfy service of process by publication under IC 4-21.5-3-1(f).

(c) If the emergency requires action before service can be completed under subsection (a), oral notification in person by a representative of the department and authorized by the director is sufficient until service can be completed. Oral notification is effective for not more than ninety-six (96) hours.

[Pre-1995 Recodification Citation: 13-2-2.5-6.]

As added by P.L.1-1995, SEC.18. Amended by P.L.32-2011, SEC.8.

IC 14-25-4-15 Effect on civil right of action

Sec. 15. This chapter does not:

- (1) create a new; or
- (2) abridge an existing;

civil right of action.

[Pre-1995 Recodification Citation: 13-2-2.5-8.]

As added by P.L.1-1995, SEC.18.

IC 14-25-4-16 Violations; injunctions

Sec. 16. (a) A person who violates a rule or order adopted under this chapter concerning a ground water emergency commits a Class A infraction.

(b) The commission may, without proof of irreparable injury, maintain an action to enjoin a violation of this chapter.

[Pre-1995 Recodification Citation: 13-2-2.5-9.]

As added by P.L.1-1995, SEC.18. Amended by P.L.195-2014, SEC.24.

IC 14-25-4-17 Right to compensation for impairment of nonsignificant ground water withdrawal facilities

Sec. 17. The owner of a significant ground water withdrawal facility shall, subject to an order issued under section 20 of this chapter or under IC 13-2-2.5-11 (before its repeal), provide timely and reasonable compensation to persons who own nonsignificant ground water withdrawal facilities if there is failure or substantial impairment of those facilities as set forth in section 8 of this chapter if both of the following conditions exist:

(1) The failure or substantial impairment was caused by the ground water withdrawals of the significant ground water withdrawal facility.

(2) Either:

(A) the affected nonsignificant ground water withdrawal facility was in existence before January 1, 1986; or

(B) if constructed after December 31, 1985, the facility conforms to the rules of the department issued under section 13 of this chapter. Water wells constructed after December 31, 1985, but before the adoption of rules under this chapter must conform to the Recommended Guidelines of the department in Information Bulletin No. 3 published at 9 IR 1242.

[Pre-1995 Recodification Citation: 13-2-2.5-10(a).]

As added by P.L.1-1995, SEC.18.

IC 14-25-4-18 Measure of compensation

Sec. 18. Timely and reasonable compensation under section 17 of this chapter consists of and is limited to the following:

- (1) The immediate temporary provision at the prior point of use of an adequate supply

of potable water.

(2) Reimbursement of expenses reasonably incurred by the complainant to do the following:

(A) Obtain an immediate temporary provision at the prior point of use of an adequate supply of potable water.

(B) Provide timely and reasonable compensation as provided in subdivision (3)(A) and (3)(B).

(3) Either:

(A) the restoration of the affected nonsignificant ground water withdrawal facility to the facility's former relative capability;

(B) the permanent provision at the point of use of an alternative potable supply of equal quantity; or

(C) the permanent restriction or scheduling of the ground water withdrawals of the significant ground water withdrawal facility so that the affected water well continues to produce:

(i) the well's normal supply of water; or

(ii) the normal supply of potable water if the well normally furnishes potable water.

[Pre-1995 Recodification Citation: 13-2-2.5-10(b).]

As added by P.L.1-1995, SEC.18.

IC 14-25-4-19 Refusal of compensation

Sec. 19. The refusal of an owner of an affected nonsignificant ground water withdrawal facility to accept timely and reasonable compensation is sufficient grounds for the department to terminate an order imposed on a responsible significant ground water withdrawal facility. An owner may request a hearing under IC 4-21.5 if the owner does not believe compensation was timely or reasonable.

[Pre-1995 Recodification Citation: 13-2-2.5-10(c).]

As added by P.L.1-1995, SEC.18.

IC 14-25-4-20 Ground water emergency; temporary provision of potable water

Sec. 20. (a) Upon the declaration of a ground water emergency under section 9 of this chapter, the director shall, by temporary order, require the immediate temporary provision at the prior point of use of an adequate supply of potable water. A temporary order under section 9 or 10 of this chapter remains in effect for ninety (90) days unless:

(1) terminated by the director before the expiration of ninety (90) days; or

(2) extended under IC 4-21.5-4-5(b) during the pendency of a proceeding under section 18(2) and 18(3) of this chapter.

(b) The commission shall implement section 18(2) and 18(3) of this chapter by order. Before the commission enters an initial determination of the order, the department shall conduct an investigation and provide affected persons with an informal opportunity to contribute to the investigation. All final orders of the commission shall be issued under IC 4-21.5-3.

[Pre-1995 Recodification Citation: 13-2-2.5-11.]

As added by P.L.1-1995, SEC.18.

IC 14-25-4-21 Nonsignificant ground water withdrawal facilities to comply with rules

Sec. 21. (a) An owner of a new nonsignificant ground water withdrawal facility who desires to receive the protection of this chapter must construct the facility to conform to the rules adopted under section 13 of this chapter.

(b) Before a licensed water well drilling contractor or plumbing contractor drills and

equips a ground water withdrawal facility for a person, the contractor must advise the person of the provisions of this chapter.

[Pre-1995 Recodification Citation: 13-2-2.5-12.]

As added by P.L. 1-1995, SEC. 18.

IC 14-25-5 Chapter 5. Emergency Regulation of Surface Water Rights

14-25-5-1	Applicability of chapter
14-25-5-2	"Financial responsibility bond" defined
14-25-5-3	"Freshwater lake" defined
14-25-5-4	"Lake owner" defined
14-25-5-5	"Significant water withdrawal facility" defined
14-25-5-6	Investigations
14-25-5-7	Freshwater lake emergency; based on investigation
14-25-5-8	Freshwater lake emergency; effectiveness
14-25-5-9	Temporary orders upon finding of improper management or poor maintenance
14-25-5-10	Financial responsibility bonds; filing
14-25-5-11	Financial responsibility bonds; compensation, forfeiture
14-25-5-12	Agreements to compensate owners for diminution in value
14-25-5-13	Temporary orders
14-25-5-14	Permanent orders
14-25-5-15	Violations

IC 14-25-5-1 Applicability of chapter

Sec. 1. This chapter applies to each freshwater lake that contains at least ten (10) acres at the body of water's normal level.

[Pre-1995 Recodification Citation: 13-2-2.6-5 part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-5-2 "Financial responsibility bond" defined

Sec. 2. As used in this chapter, "financial responsibility bond" means a surety bond, a certificate of deposit, a cashier's check, or a letter of credit.

[Pre-1995 Recodification Citation: 13-2-2.6-4.]

As added by P.L.1-1995, SEC.18.

IC 14-25-5-3 "Freshwater lake" defined

Sec. 3. (a) As used in this chapter, "freshwater lake" means a body of standing surface water that:

(1) is of natural origin; or

(2) was:

(A) originally constructed to permanently retain water; and

(B) in existence at least five (5) years before the commencement of water withdrawals by a significant water withdrawal facility.

(b) The term does not include Lake Michigan.

[Pre-1995 Recodification Citation: 13-2-2.6-5 part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-5-4 "Lake owner" defined

Sec. 4. As used in this chapter, "lake owner" means a person in possession of property that includes:

(1) a physical part of; or

(2) a legal interest in;

a freshwater lake.

[Pre-1995 Recodification Citation: 13-2-2.6-6.]

As added by P.L.1-1995, SEC.18.

IC 14-25-5-5 "Significant water withdrawal facility" defined

Sec. 5. As used in this chapter, "significant water withdrawal facility" means a water pumping installation or other equipment of a person that, in the aggregate from all sources and by all methods, has the capability of withdrawing at least one hundred thousand (100,000) gallons of water in one (1) day.

[Pre-1995 Recodification Citation: 13-2-2.6-8.]

As added by P.L.1-1995, SEC.18.

IC 14-25-5-6 Investigations

Sec. 6. Not later than five (5) days after receiving a written complaint from a lake owner that:

- (1) the level of a freshwater lake has been lowered:
 - (A) significantly below the lake's normal level as legally established under IC 14-26-4 or under IC 13-2-13 (before its repeal); or
 - (B) if the normal level has not been legally established under IC 14-26-4 or under IC 13-2-13 (before its repeal), significantly below the water line or shoreline as determined by existing water level records or by the action of the water that has marked upon the soil of the bed of the lake a character distinct from that of the bank with respect to vegetation and the nature of the soil; and
- (2) the lowering of the lake level is believed to be caused by at least one (1) active significant water withdrawal facility operated within one-half (1/2) mile of the freshwater lake;

the director shall give notice to those persons responsible for the operation of the significant water withdrawal facility believed to have caused lowering of the lake level and cause an onsite investigation to be made.

[Pre-1995 Recodification Citation: 13-2-2.6-9.]

As added by P.L.1-1995, SEC.18.

IC 14-25-5-7 Freshwater lake emergency; based on investigation

Sec. 7. (a) If an onsite investigation under section 6 of this chapter discloses that:

- (1) the operation of at least one (1) significant water withdrawal facility has caused the freshwater lake to be lowered significantly below a level described in section 6(1) of this chapter; and
- (2) the lowering of the lake level is likely to result in significant environmental harm to the freshwater lake or to adjacent property;

the director shall, by temporary order, declare a freshwater lake emergency.

(b) A temporary order may:

- (1) restrict the quantity of water that is extracted by the causative significant water withdrawal facility; and
- (2) provide for the restoration of the normal water level of the freshwater lake;

as needed to prevent significant environmental harm to the freshwater lake or adjacent property.

(c) A restoration order under subsection (b)(2) may allow the significant water withdrawal facility to discharge water of an acceptable quality into the affected freshwater lake.

[Pre-1995 Recodification Citation: 13-2-2.6-10.]

As added by P.L.1-1995, SEC.18.

IC 14-25-5-8 Freshwater lake emergency; effectiveness

Sec. 8. A temporary order under section 7 of this chapter is effective when a copy of the order is served under IC 4-21.5-3-1 upon a person that owns or operates the significant water withdrawal facility.

[Pre-1995 Recodification Citation: 13-2-2.6-11.]

As added by P.L.1-1995, SEC.18.

IC 14-25-5-9 Temporary orders upon finding of improper management or poor maintenance

Sec. 9. If an onsite investigation under section 6 of this chapter discloses that the complaining lake owner has, through improper management or poor maintenance of the lake,

caused or contributed to the lowering of the freshwater lake to a level significantly below a level described in section 6(1) of this chapter, the director may:

- (1) not issue a temporary order under section 7 of this chapter; or
- (2) issue a temporary order under section 7 of this chapter that requires the significant water withdrawal facility to restrict the facility's extraction of water or restore water only to the extent the director determines the lowering of the freshwater lake level is caused by the significant water withdrawal facility.

[Pre-1995 Recodification Citation: 13-2-2.6-12.]

As added by P.L.1-1995, SEC.18.

IC 14-25-5-10 Financial responsibility bonds; filing

Sec. 10. (a) Except as provided under subsection (b), the operator of a significant water withdrawal facility may obtain relief from a temporary order issued under section 7 of this chapter or under IC 13-2-2.6-10 (before its repeal) by filing with the director a financial responsibility bond in an amount not:

- (1) less than one thousand dollars (\$1,000); or
- (2) more than ten thousand dollars (\$10,000);

for each acre contained in the freshwater lake. The aggregate amount of financial responsibility bond that may be assessed on the operator of a significant water withdrawal facility may not exceed fifty thousand dollars (\$50,000).

(b) The director may not allow a significant water withdrawal facility to file a financial responsibility bond under subsection (a) if the department determines that a freshwater lake or an adjacent property contains an extraordinary or a unique natural resource that is likely to be irreparably damaged as a result of the lowering of the freshwater lake. The burden of proof to establish the presence of an extraordinary or a unique natural resource rests with the department.

[Pre-1995 Recodification Citation: 13-2-2.6-13(a), (b).]

As added by P.L.1-1995, SEC.18.

IC 14-25-5-11 Financial responsibility bonds; compensation, forfeiture

Sec. 11. (a) After a bond is filed under section 10 of this chapter, the operator of a significant water withdrawal facility and a complaining lake owner may enter into a written agreement for compensation to the lake owner instead of bond forfeiture.

(b) If:

- (1) the operator and lake owner have not entered into an agreement within three (3) years after a temporary order under section 7 of this chapter has been issued; and
- (2) the freshwater lake has not returned to normal;

the director shall order the forfeit to the benefit of the lake owner of the part of the bond filed under section 10 of this chapter that is needed to provide compensation under section 10 of this chapter.

(c) If a financial responsibility bond has been filed for the benefit of more than one (1) complaining lake owner, the amount of the bond forfeited under subsection (b) shall be distributed to the affected complaining lake owners on a pro rata basis.

(d) Instead of forfeiting a bond under subsection (b), the operator of a significant water withdrawal facility may pay cash to a lake owner in the amount of the part of the bond forfeited under subsection (b).

[Pre-1995 Recodification Citation: 13-2-2.6-13(c), (d), (e).]

As added by P.L.1-1995, SEC.18.

IC 14-25-5-12 Agreements to compensate owners for diminution in value

Sec. 12. A significant water withdrawal facility and a lake owner may enter into an agreement to compensate the lake owner for the diminution in value of the lake owner's property caused by significant lowering of the lake level. If a significant water withdrawal

facility and a lake owner enter into an agreement under this section, the owner of the significant water withdrawal facility is not required to file a financial responsibility bond under section 10 of this chapter.

[Pre-1995 Recodification Citation: 13-2-2.6-14.]

As added by P.L.1-1995, SEC.18.

IC 14-25-5-13 Temporary orders

Sec. 13. (a) A temporary order issued under section 7 of this chapter or under IC 13-2-2.6-10 (before its repeal) must include a notice of hearing to be held under IC 4-21.5-4 as soon as practicable after the declaration of the freshwater lake emergency. Following the hearing, the director may continue, amend, or terminate the freshwater lake emergency order issued under section 7 of this chapter or under IC 13-2-2.6-10 (before its repeal).

(b) If a freshwater lake emergency order issued under section 7 of this chapter or under IC 13-2-2.6-10 (before its repeal) is terminated after a bond under section 10 of this chapter or under IC 13-2-2.6-13 (before its repeal) has been filed, the termination order must provide for the immediate release of the bond.

[Pre-1995 Recodification Citation: 13-2-2.6-15.]

As added by P.L.1-1995, SEC.18.

IC 14-25-5-14 Permanent orders

Sec. 14. Upon application by the director or a lake owner, the commission may cause a temporary order issued under section 7 of this chapter or under IC 13-2-2.6-10 (before its repeal) to be made a permanent order. A permanent order is subject to IC 4-21.5-3-6.

[Pre-1995 Recodification Citation: 13-2-2.6-16.]

As added by P.L.1-1995, SEC.18.

IC 14-25-5-15 Violations

Sec. 15. (a) A person who violates an order concerning a freshwater lake emergency declared under section 7 of this chapter commits a Class A infraction.

(b) The commission may, without proof of irreparable injury, maintain an action to enjoin a violation of this chapter.

[Pre-1995 Recodification Citation: 13-2-2.6-17.]

As added by P.L.1-1995, SEC.18. Amended by P.L.195-2014, SEC.25.

IC 14-25-6	Chapter 6. Water Rights; Potable Water
14-25-6-1	Reduction of flow from wells
14-25-6-2	Permit to inject potable water into underground formation containing nonpotable water
14-25-6-3	Denial of permit
14-25-6-4	Injection of potable water from prolific aquifer
14-25-6-5	Water flood projects
14-25-6-6	Violations

IC 14-25-6-1 Reduction of flow from wells

Sec. 1. The department may require the owner of a flowing water well to reduce the flow from the well as the department considers advisable to prevent the loss or waste of potable water that is not being put to a beneficial use.

[Pre-1995 Recodification Citation: 13-2-3-1.]

As added by P.L.1-1995, SEC.18.

IC 14-25-6-2 Permit to inject potable water into underground formation containing nonpotable water

Sec. 2. Except as provided in sections 4 and 5 of this chapter, a permit must be obtained from the department to inject, pump, or otherwise introduce potable ground water into an underground formation that contains nonpotable water. An application for a permit must be made on forms prescribed by the department. The permit shall be issued:

- (1) upon receipt of the application, unless the department determines from the application that an investigation is necessary; and
- (2) free of charge.

[Pre-1995 Recodification Citation: 13-2-3-2 part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-6-3 Denial of permit

Sec. 3. The department may, after an investigation has been conducted and a hearing has been held, deny permission to an applicant to inject, pump, or otherwise introduce potable ground water into an underground formation that contains nonpotable water if:

- (1) the practice would:
 - (A) constitute a waste of potable ground water; or
 - (B) threaten to impair or exhaust the supply of the area; and
- (2) available nonpotable water could be used instead of potable water.

[Pre-1995 Recodification Citation: 13-2-3-2 part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-6-4 Injection of potable water from prolific aquifer

Sec. 4. A person may inject, pump, or otherwise introduce potable ground water into an underground formation that contains nonpotable water if:

- (1) the potable water is obtained from a prolific aquifer adjacent to a permanent flowing stream that is rapidly recharged; and
- (2) the operator:
 - (A) notifies the department on a form prescribed by the department of the use of the prolific aquifer; and
 - (B) includes on the form a fair approximation of the volume of potable water to be used.

[Pre-1995 Recodification Citation: 13-2-3-2 part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-6-5 Water flood projects

Sec. 5. (a) Subject to subsection (b), a person, firm, or corporation operating a water flood

project using potable ground water on March 14, 1957, may do the following:

(1) Continue the flood.

(2) Use the additional potable water that is necessary.

(b) If an emergency arises affecting the water supply for household or farm use, the department may, after notice and hearing, order the person, firm, or corporation to cease the use of the potable ground water.

[Pre-1995 Recodification Citation: 13-2-3-2 part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-6-6 Violations

Sec. 6. A person who violates section 1 or 2 of this chapter, including the violation of an order issued under section 1 of this chapter, commits a Class C infraction. Each day of violation constitutes a separate infraction.

[Pre-1995 Recodification Citation: 13-2-3-3.]

As added by P.L.1-1995, SEC.18. Amended by P.L.195-2014, SEC.26.

IC 14-25-7	Chapter 7. Water Resource Management
14-25-7-1	"Aquifer" defined
14-25-7-2	"Beneficial use" defined
14-25-7-3	"Ground water" defined
14-25-7-4	"Instream use" defined
14-25-7-5	"Person" defined
14-25-7-6	"Reasonable beneficial use" defined
14-25-7-7	"Stream" defined
14-25-7-8	"Water resource" defined
14-25-7-9	"Withdrawal use" defined
14-25-7-10	Administration of chapter
14-25-7-11	Duties of commission
14-25-7-12	Powers of commission
14-25-7-12.5	Voluntary monitoring program
14-25-7-13	Inventory of water resources; plans and recommendations
14-25-7-14	Minimum flows of streams; minimum levels of ground water
14-25-7-15	Significant water withdrawal facilities; registration; report to the commissioner; waiver
14-25-7-16	Duties; interim study committee on agriculture and natural resources
14-25-7-17	Violations
14-25-7-18	Finance authority quality assurance review of water withdrawal data

IC 14-25-7-1 "Aquifer" defined

Sec. 1. As used in this chapter, "aquifer" means an underground geologic formation that:

- (1) is consolidated or unconsolidated; and
- (2) has the ability to receive, store, and transmit water in amounts sufficient for the satisfaction of any beneficial use.

[Pre-1995 Recodification Citation: 13-2-6.1-1 part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-7-2 "Beneficial use" defined

Sec. 2. As used in this chapter, "beneficial use" means the use of water for any useful and productive purpose. The term includes the following uses:

- (1) Domestic.
- (2) Agricultural, including irrigation.
- (3) Industrial.
- (4) Commercial.
- (5) Power generation.
- (6) Energy conversion.
- (7) Public water supply.
- (8) Waste assimilation.
- (9) Navigation.
- (10) Fish and wildlife.
- (11) Recreational.

[Pre-1995 Recodification Citation: 13-2-6.1-1 part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-7-3 "Ground water" defined

Sec. 3. As used in this chapter, "ground water" means all water occurring beneath the surface of the ground regardless of location and form.

[Pre-1995 Recodification Citation: 13-2-6.1-1 part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-7-4 "Instream use" defined

Sec. 4. As used in this chapter, "instream use" means any use of water that uses surface

water in place. The term includes the following uses:

- (1) Commercial and recreational navigation.
- (2) Hydroelectric power generation.
- (3) Waste assimilation.
- (4) Fish and wildlife habitat.
- (5) General recreation.
- (6) The maintenance of environmental and aesthetic values.

[Pre-1995 Recodification Citation: 13-2-6.1-1 part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-7-5 "Person" defined

Sec. 5. As used in this chapter, "person" means an individual, an incorporated or unincorporated organization or association, a trustee or legal representative, the state, a political subdivision of the state, the United States of America, an agency of the state, a political subdivision of the state or of the United States of America, or a group of such persons acting in concert.

[Pre-1995 Recodification Citation: 13-2-6.1-1 part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-7-6 "Reasonable beneficial use" defined

Sec. 6. For purposes of this chapter, "reasonable beneficial use" means the use of water for a beneficial use in the quantity and manner that is:

- (1) necessary for economic and efficient utilization; and
- (2) both reasonable and consistent with the public interest.

[Pre-1995 Recodification Citation: 13-2-6.1-1 part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-7-7 "Stream" defined

Sec. 7. As used in this chapter, "stream" means a natural or an altered river, creek, slough, watercourse, or artificial channel that has:

- (1) definable banks and bed capable of conducting defined runoff;
- (2) visible evidence of the flow or occurrence of water; and
- (3) a watershed greater than one (1) square mile in area.

[Pre-1995 Recodification Citation: 13-2-6.1-1 part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-7-8 "Water resource" defined

Sec. 8. (a) As used in this chapter, "water resource" means all water:

- (1) on or beneath the surface of the ground; or
- (2) in the atmosphere.

(b) The term includes the following:

- (1) Streams.
- (2) Impoundments.
- (3) Diffused surface water.
- (4) Water percolating, standing, or flowing beneath the surface of the ground.
- (5) All boundary and coastal water within the jurisdiction of the state.

[Pre-1995 Recodification Citation: 13-2-6.1-1 part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-7-9 "Withdrawal use" defined

Sec. 9. As used in this chapter, "withdrawal use" means any use of water that involves the physical removal of the water from a ground or surface source, including water from storage in an impoundment.

[Pre-1995 Recodification Citation: 13-2-6.1-1 part.]
As added by P.L.1-1995, SEC.18.

IC 14-25-7-10 Administration of chapter

Sec. 10. (a) The commission shall administer this chapter.

(b) The deputy director for water and resource regulation shall serve as technical secretary to the commission. The deputy director shall perform the duties that are required by this chapter or that the commission directs.

(c) The advisory council established by IC 14-9-6-1 shall serve in an advisory capacity to the commission with respect to the implementation of the commission's powers and duties, including the drafting of rules and development of inventories, assessments, and plans.

(d) For the time that the advisory council is involved in the drafting of rules, the membership of the council shall be augmented as follows:

(1) Two (2) members of the senate, not more than one (1) of whom may be of the same political party, shall be appointed for a term of two (2) years by the president pro tempore of the senate.

(2) Two (2) members of the house of representatives, not more than one (1) of whom may be of the same political party, shall be appointed for a term of two (2) years by the speaker of the house of representatives.

These members are entitled to travel expenses and a per diem allowance as determined by the budget agency for members of boards and commissions generally.

(e) The department shall provide professional, technical, and clerical personnel, equipment, supplies, and support services reasonably required to assist the commission in the exercise of the commission's powers and duties under this chapter. The department shall include money for this purpose in the regular operating budget requests of the department.

[Pre-1995 Recodification Citation: 13-2-6.1-2.]

As added by P.L.1-1995, SEC.18. Amended by P.L.95-2006, SEC.9.

IC 14-25-7-11 Duties of commission

Sec. 11. The commission shall do the following:

(1) Conduct a continuing assessment of the availability of the water resource.

(2) Take and maintain an inventory of significant uses of water withdrawn from the surface or ground.

(3) Plan for the development, conservation, and use of the water resource for beneficial uses.

[Pre-1995 Recodification Citation: 13-2-6.1-3.]

As added by P.L.1-1995, SEC.18.

IC 14-25-7-12 Powers of commission

Sec. 12. The commission may do the following:

(1) Collect and disseminate information relating to the water resource.

(2) Consult with and advise all users of the water resource as to availability of the water resource and the most practical method of water withdrawal, development, conservation, and use.

(3) Make the necessary investigations and inspections for proper administration of this chapter.

(4) Enter at reasonable times with proper notice upon any property other than a dwelling place for the purpose of inspecting and investigating significant water withdrawal facilities or enforcing this chapter.

(5) Establish, by rule, the criteria for the determination of minimum stream flows and minimum ground water levels.

(6) When necessary for the proper administration and enforcement of this chapter, require the metering or other reasonable measurement of water withdrawals from

significant water withdrawal facilities and the reporting of the metering or measurement to the commission.

(7) Cooperate with other state and local agencies, other states and their state agencies, and agencies of the United States in water resource development, conservation, and use.

(8) Accept and administer money from any source to aid in carrying out this chapter.

(9) Exercise the additional authority necessary to carry out this chapter.

[Pre-1995 Recodification Citation: 13-2-6.1-4.]

As added by P.L.1-1995, SEC.18.

IC 14-25-7-12.5 Voluntary monitoring program

Sec. 12.5. (a) The department shall cooperate with the United States Geological Survey to establish a program under which volunteers may monitor the water resource and provide monitoring data to the commission, the department, and the United States Geological Survey. Data derived from the voluntary monitoring conducted under the program may be:

(1) collected and disseminated by the commission under section 12(1) of this chapter; and

(2) used by the commission in conducting the continuing assessment of the availability of the water resource under section 11(1) of this chapter.

(b) The department may cooperate with other local, state, and federal governmental agencies in implementing this section.

(c) The commission, under IC 4-22-2 and section 10(a) of this chapter, may adopt rules concerning the administration of this section. Section 10(c) and 10(d) of this chapter does not apply to the adoption of rules under this subsection.

As added by P.L.189-2015, SEC.2.

IC 14-25-7-13 Inventory of water resources; plans and recommendations

Sec. 13. (a) As used in this section, "surplus water" means that water found to exceed:

(1) existing uses; and

(2) reasonably foreseeable needs;

in the watershed of origin.

(b) The commission shall make and maintain an inventory of the water resource of Indiana. The inventory must include an assessment of the following:

(1) The capabilities of streams to support instream and withdrawal uses and of aquifers to support withdrawal uses.

(2) Low stream flow characteristics.

(3) Existing uses and projections of beneficial use requirements.

(4) The potential in watersheds for managing flood water for beneficial uses.

(5) Potential sources and amounts of surplus water available for transfers.

(6) Other assessment and information considered necessary to properly define water resource availability.

(c) The commission shall maintain, on a continuing basis and with opportunity for participation and consultation with all interested persons, plans and recommendations for the development, conservation, and use of the water resource to best serve the needs of the people of Indiana for beneficial uses.

(d) The commission shall prepare a compilation and mapping of all community public water supplies in Indiana that serve at least five hundred (500) customers. The commission shall update the compilation and mapping at least one (1) time every five (5) years. The commission may use funds from the water resources development fund established by IC 14-25-2-4 to prepare compilations and mappings under this subsection. The compilations and mappings prepared under this subsection must include the following information:

(1) The location of water sources for community public water supplies.

(2) The location of treatment facilities used to treat raw water before the water is

distributed to community public water supply customers.

(3) The extent of water mains in territories served by community public water supplies.

(4) The population served by community public water supplies.

(5) The total amount of water produced by community public water supplies for the most recent calendar year.

[Pre-1995 Recodification Citations: 13-2-6.1-1 part; 13-2-6.1-5.]

As added by P.L.1-1995, SEC.18. Amended by P.L.184-1995, SEC.2.

IC 14-25-7-14 Minimum flows of streams; minimum levels of ground water

Sec. 14. (a) Subject to subsection (c), the commission may determine and establish the minimum flows of streams, taking into account the varying low flow characteristics of the streams of Indiana and the importance of instream and withdrawal uses, including established water quality standards and public water supply needs.

(b) The established minimum flows of streams:

(1) are those naturally occurring, as determined by the commission; and

(2) may be calculated to reflect seasonal and regional variations.

(c) For boundary water, the commission may develop mutually agreeable minimum flows of streams in cooperation with the boundary state.

(d) The commission may determine and establish the minimum level of ground water in aquifers below which further withdrawals would be significantly harmful to the water resource of the area.

[Pre-1995 Recodification Citation: 13-2-6.1-6.]

As added by P.L.1-1995, SEC.18.

IC 14-25-7-15 Significant water withdrawal facilities; registration; report to the commissioner; waiver

Sec. 15. (a) As used in this section, "significant water withdrawal facility" means the water withdrawal facilities of a person that, in the aggregate from all sources and by all methods, has the capability of withdrawing more than one hundred thousand (100,000) gallons of ground water, surface water, or ground and surface water combined in one (1) day. Subject to subsection (b), the term does not include:

(1) water withdrawal facilities that function as part of the operation or construction of a landfill; or

(2) water withdrawal facilities located in or on an off-stream impoundment that is principally supplied by a significant water withdrawal facility.

(b) A water withdrawal facility referred to in subsection (a)(1) or (a)(2) located in the basin (as defined in section 1.2 of IC 14-25-15-1) is subject to the registration requirement of section 4.1.3 of IC 14-25-15-1.

(c) Every person who has a significant water withdrawal facility shall register the facility with the commission on forms provided by the commission that contain the following:

(1) The name and legal address of the registrant.

(2) The source of water supply.

(3) The total capability of the water withdrawal facility.

(4) The total withdrawal capability per day and the amount from each source.

(5) The use to be made of the water, the place of use, and the place of discharge.

(6) The geographic location of the supply source.

(7) The date of registration.

(8) Other information specified by rule.

(d) A significant water withdrawal facility must be registered within three (3) months after the facility is completed.

(e) The owner of a registered significant water withdrawal facility shall, within three (3) months after the end of each year, make a verified report to the commission on forms to be provided by the commission of the amounts of water withdrawn during the year.

(f) Under rules adopted by the commission, the department may waive the requirement of the information set forth in subsections (c) and (e) with respect to a temporary significant water withdrawal facility.

[Pre-1995 Recodification Citations: 13-2-6.1-1 part; 13-2-6.1-7.]

As added by P.L.1-1995, SEC.18. Amended by P.L.123-1996, SEC.17; P.L.4-2008, SEC.4.

IC 14-25-7-16 Duties; interim study committee on agriculture and natural resources

Sec. 16. The interim study committee on agriculture and natural resources established by IC 2-5-1.3-4 shall do the following:

- (1) Oversee the water resource management program of this chapter and the needs of the people of Indiana.
- (2) Report the findings and recommendations in an electronic format under IC 5-14-6 to the legislative council under IC 2-5-1.2-15.

[Pre-1995 Recodification Citation: 13-2-6.1-8.]

As added by P.L.1-1995, SEC.18. Amended by P.L.28-2004, SEC.131; P.L.53-2014, SEC.131.

IC 14-25-7-17 Violations

Sec. 17. A person who violates section 15 of this chapter commits a Class B infraction. A separate infraction is committed each day a violation occurs.

[Pre-1995 Recodification Citation: 13-2-6.1-9.]

As added by P.L.1-1995, SEC.18.

IC 14-25-7-18 Finance authority quality assurance review of water withdrawal data

Sec. 18. (a) As used in this section, "authority" refers to the Indiana finance authority established by IC 4-4-11-4.

(b) As used in this section, "quality assurance review" means a process of reviewing and verifying water resources data with the goal of assuring the reliability of the data. The term includes the application of certain objectives, principles, and policies already in use at the Indiana geological and water survey in maintaining consistency in water resources data and accountability to the scientific community and general public.

(c) The authority shall perform a quality assurance review of the water resources data compiled from the reports submitted by owners of significant water withdrawal facilities under:

- (1) section 15 of this chapter; and
- (2) IC 13-2-6.1-1 and IC 13-2-6.1-7 (before their repeal);

beginning with the reports submitted for the 1985 calendar year.

(d) The authority may enter into contracts with one (1) or more professionals or state educational institutions under which the professionals or state educational institutions will perform some or all of the duties imposed on the authority by this section. The authority may compensate the professionals or state educational institutions for work performed under this section with:

- (1) money from the drinking water revolving loan fund established by IC 13-18-21-2; or
- (2) any other funds appropriated to the authority.

(e) In performing the quality assurance review required by this section, the authority shall use the water resources data in a manner that:

- (1) protects the confidential information of owners of significant water withdrawal facilities; and
- (2) is consistent with IC 5-14-3-4.

(f) The authority shall present the results of the quality assurance review performed under

this section, as those results become available, to the water rights and use section of the department's division of water. The water rights and use section shall maintain the results in the data base of data extracted from reports submitted by owners of significant water withdrawal facilities under section 15 of this chapter (and IC 13-2-6.1-1 and IC 13-2-6.1-7 before their repeal).

As added by P.L.102-2016, SEC.3. Amended by P.L.233-2017, SEC.25.

IC 14-25-8	Chapter 8. Water and Geological Resources Research
14-25-8-1	Legislative findings; research powers
14-25-8-2	Duties of department
14-25-8-3	Topographical survey map

IC 14-25-8-1 Legislative findings; research powers

Sec. 1. (a) The continuing growth of the population and economy impose ever increasing demands upon the essentially fixed water resources of Indiana. It is necessary that the development, use, and management of these resources be based upon a sound and thorough knowledge and understanding of the location, extent, capabilities, limitations, and characteristics of the basic water resources of Indiana. The need for additional knowledge is urgent in areas such as the following:

- (1) Mapping of the location and availability of ground water.
- (2) The time of travel of water from point to point on the major streams.
- (3) The Indiana climatic factors affecting evaporation losses from impoundments.
- (4) The meandering characteristics of alluvial streams.
- (5) The drainage areas of streams at selected points.

(b) To accomplish the objectives described in subsection (a), the department of environmental management and the department may conduct applied research in their respective areas of jurisdiction for the purpose of securing the scientific and technical data and information necessary for the solution of problems involving the wise beneficial development, use, and management of the water resources of Indiana. The research shall be accomplished through the use of the money that is made available for these purposes.

(c) The department of environmental management and the department may conduct research under this section:

- (1) independently; or
- (2) in cooperation with agencies of the state or of the United States.

[Pre-1995 Recodification Citation: 13-2-7-2.]

As added by P.L.1-1995, SEC.18.

IC 14-25-8-2 Duties of department

Sec. 2. (a) The department shall do the following:

- (1) Continue the geological, scientific, and topographical survey of Indiana and the work of discovering, developing, and preserving Indiana's natural resources.
- (2) Collect and disseminate information concerning the agricultural, mining, and manufacturing advantages of Indiana and give special attention to the following:
 - (A) The discovery of minerals, stone, clay, or other natural substances useful in agriculture, road making, manufacture, or the mechanical arts.
 - (B) The prevention of waste of minerals and mineral products and coal.

(b) The commission:

- (1) has charge of; and
- (2) shall, as practicable, periodically add specimens to;

the state geological cabinet, museums, apparatus, and library.

[Pre-1995 Recodification Citation: 14-3-1-11.]

As added by P.L.1-1995, SEC.18.

IC 14-25-8-3 Topographical survey map

Sec. 3. (a) The department may contract and cooperate with the United States Geological Survey or any other appropriate federal agency in the preparation and completion of a topographical survey map of Indiana. For the purpose of making the survey provided in this section:

- (1) the department may use any means available to complete the work, including base control and aerial photography; and

(2) the persons employed in making the survey may enter upon any property within Indiana if the entry does not unreasonably interfere with private rights.

(b) There is appropriated out of any money in the state general fund not otherwise appropriated fifty thousand dollars (\$50,000) annually to be expended in carrying on the work provided for in this section. However, the department may not expend more annually for the work than the United States government expends in carrying on the cooperative project with regard to Indiana. The money appropriated is available to reimburse the United States Geological Survey for Indiana's share of the costs of the topographic mapping, upon the presentation of certified bills for the expenses that are initially incurred by the United States Geological Survey or other cooperative agency.

(c) Money accruing to the use of the department under this section constitutes a revolving fund for the sole use of topographic mapping of Indiana. Money in the fund does not revert to the state general fund at the close of a state fiscal year until:

(1) the topographic mapping of Indiana has been completed; and

(2) obsolete or inadequate maps have been revised or remapped.

At the conclusion of the work the unexpended money in the fund reverts to the state general fund.

[Pre-1995 Recodification Citations: 13-4-2-1; 13-4-2-2; 13-4-2-3.]

As added by P.L.1-1995, SEC.18.

IC 14-25-9	Chapter 9. Water Resources; Investigation and Measurement
14-25-9-1	Powers of department
14-25-9-2	Duties of department regarding contributions
14-25-9-3	Contributions
14-25-9-4	Revolving fund

IC 14-25-9-1 Powers of department

Sec. 1. The department may conduct the investigation and measurement of water resources of Indiana. The department may enter into a contract and cooperate with the United States Geological Survey or any other appropriate federal agency concerning the details of the investigation and measurement of water resources. For the purpose of making this investigation and measurement, the department may use or authorize by contract any money available for the prosecution of the work.

[Pre-1995 Recodification Citation: 13-2-8-1.]

As added by P.L.1-1995, SEC.18.

IC 14-25-9-2 Duties of department regarding contributions

Sec. 2. The department shall do the following:

- (1) Accept money contributed by a municipality, a corporation, or an individual to assist in the prosecution of this program.
- (2) Deposit the money in the revolving funds of the divisions of geological survey and engineering.
- (3) Designate the money for use for the purposes set forth in this chapter.

[Pre-1995 Recodification Citation: 13-2-8-2(a).]

As added by P.L.1-1995, SEC.18.

IC 14-25-9-3 Contributions

Sec. 3. An agency of the state or of a subdivision of the state, a corporation, or an individual that desires special investigations or additional measurements not covered in the general program must contribute the cost of the special investigation or survey to the program in the same manner as provided in section 2 of this chapter.

[Pre-1995 Recodification Citation: 13-2-8-2(b).]

As added by P.L.1-1995, SEC.18.

IC 14-25-9-4 Revolving fund

Sec. 4. (a) Money accruing to the use of the department under this chapter constitutes a revolving fund for the sole use of the water resources program of the state.

(b) Money in the fund at the end of a state fiscal year does not revert to the state general fund. When the water resources program of the state has been completed, the unexpended money reverts to the state general fund.

[Pre-1995 Recodification Citation: 13-2-8-2(c).]

As added by P.L.1-1995, SEC.18.

IC 14-25-10 Chapter 10. Land and Water Resources Fund

14-25-10-1	"Fund" defined
14-25-10-2	Establishment of fund
14-25-10-3	Administration of fund
14-25-10-4	Deposit of fees
14-25-10-5	Purposes of fund
14-25-10-6	Reversion of money

IC 14-25-10-1 "Fund" defined

Sec. 1. As used in this chapter, "fund" refers to the land and water resources fund established by this chapter.

[1995 Recodification Citation: New.]

As added by P.L.1-1995, SEC.18.

IC 14-25-10-2 Establishment of fund

Sec. 2. The land and water resources fund is established as a dedicated fund.

[Pre-1995 Recodification Citation: 14-3-1-25(a) part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-10-3 Administration of fund

Sec. 3. The department shall administer the fund.

[Pre-1995 Recodification Citation: 14-3-1-25(a) part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-10-4 Deposit of fees

Sec. 4. Fees received by the department under the following statutes shall be deposited in the fund:

- (1) IC 14-26-2-23.
- (2) IC 14-26-5-4.
- (3) IC 14-28-1-22.
- (4) IC 14-29-3-2.
- (5) IC 14-29-4-4.

[Pre-1995 Recodification Citation: 14-3-1-25(c).]

As added by P.L.1-1995, SEC.18. Amended by P.L.152-2006, SEC.2.

IC 14-25-10-5 Purposes of fund

Sec. 5. The director may expend the money in the fund exclusively to do the following:

- (1) Contribute toward the development and expansion of the soil and water conservation programs of local soil and water conservation districts, with emphasis on soil erosion control measures, as provided by IC 14-32-7-9.
- (2) Conduct research, studies, and investigations for the purpose of securing the scientific and technical data and information necessary for the solution of problems involving the wise beneficial development, use, and management of the water resources of Indiana, as provided by IC 14-25-8-1(b) and IC 14-25-9-1.
- (3) Offset the cost to the division of water of administering the regulatory programs that generate the fees deposited in the fund under section 4 of this chapter.

[Pre-1995 Recodification Citation: 14-3-1-25(a) part.]

As added by P.L.1-1995, SEC.18. Amended by P.L.59-1999, SEC.1.

IC 14-25-10-6 Reversion of money

Sec. 6. Money in the fund does not revert to the state general fund at the end of a state fiscal year. However, if the fund is abolished, the money in the fund reverts to the state general fund.

[Pre-1995 Recodification Citation: 14-3-1-25(b).]
As added by P.L.1-1995, SEC.18.

IC 14-25-11 Chapter 11. Repealed

[Pre-1995 Recodification Citations:

14-25-11-1	formerly 13-3-7-1 part
14-25-11-2	formerly 13-3-7-1 part
14-25-11-3	formerly 13-3-7-1 part
14-25-11-4	formerly 13-3-7-2
14-25-11-5	formerly 13-3-7-3
14-25-11-6	formerly 13-3-7-4
14-25-11-7	formerly 13-3-7-5
14-25-11-8	formerly 13-3-7-6
14-25-11-9	formerly 13-3-7-7
14-25-11-10	formerly 13-3-7-8
14-25-11-11	formerly 13-3-7-9
14-25-11-12	formerly 13-3-7-10
14-25-11-13	formerly 13-3-7-11(a) part
14-25-11-14	formerly 13-3-7-11(a) part
14-25-11-15	formerly 13-3-7-11(a) part
14-25-11-16	formerly 13-3-7-11(b)
14-25-11-17	formerly 13-3-7-11(c)
14-25-11-18	formerly 13-3-7-12
14-25-11-19	formerly 13-3-7-13
14-25-11-20	formerly 13-3-7-14.]

Repealed by P.L.133-2012, SEC.175.

IC 14-25-12 Chapter 12. Sand Nourishment Fund

14-25-12-1	"Fund" defined
14-25-12-2	Establishment of fund
14-25-12-3	Administration of fund
14-25-12-4	Purposes of fund
14-25-12-5	Reversion of money

IC 14-25-12-1 "Fund" defined

Sec. 1. As used in this chapter, "fund" refers to the sand nourishment fund established by this chapter.

[Pre-1995 Recodification Citation: 14-3-15-1.]

As added by P.L.1-1995, SEC.18.

IC 14-25-12-2 Establishment of fund

Sec. 2. The sand nourishment fund is established.

[Pre-1995 Recodification Citation: 14-3-15-2(a) part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-12-3 Administration of fund

Sec. 3. The department shall administer the fund.

[Pre-1995 Recodification Citation: 14-3-15-2(a) part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-12-4 Purposes of fund

Sec. 4. The money in the fund shall be used for the following:

- (1) The deposit of sand along the coast of Lake Michigan in Indiana.
- (2) The design and establishment of systems that cause sand to be deposited along the coast of Lake Michigan in Indiana.
- (3) The prevention or reduction of the degradation of sand along the coast of Lake Michigan in Indiana.

[Pre-1995 Recodification Citation: 14-3-15-2(b).]

As added by P.L.1-1995, SEC.18.

IC 14-25-12-5 Reversion of money

Sec. 5. Money remaining in the fund at the end of a state fiscal year does not revert to the state general fund. However, if the fund is abolished, the money in the fund reverts to the state general fund.

[Pre-1995 Recodification Citation: 14-3-15-2(c).]

As added by P.L.1-1995, SEC.18.

IC 14-25-13 Chapter 13. Great Lakes Basin Compact

14-25-13-1	"Basin" defined
14-25-13-2	"Commission" defined
14-25-13-3	"State" defined
14-25-13-4	Great Lakes Basin Compact
14-25-13-5	Commissioners
14-25-13-6	Duties of state officers, bureaus, and departments
14-25-13-7	Submission of budget
14-25-13-8	Governor to transmit copies to parties
14-25-13-9	Administrative duties; rights and obligations not affected

IC 14-25-13-1 "Basin" defined

Sec. 1. As used in this chapter, "Basin" refers to the Great Lakes Basin.

[Pre-1995 Recodification Citation: 13-5-3-1 part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-13-2 "Commission" defined

Sec. 2. As used in this chapter, "Commission" refers to the Great Lakes Commission.

[Pre-1995 Recodification Citations: 13-5-3-1 part; 13-5-3-2 part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-13-3 "State" defined

Sec. 3. As used in this chapter, "state" includes a province of Canada.

[Pre-1995 Recodification Citation: 13-5-3-1 part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-13-4 Great Lakes Basin Compact

Sec. 4. The Great Lakes Basin Compact is ratified, enacted into law, and entered into by Indiana as a party thereto with any other state or province which, pursuant to Article 2 of the compact, has legally joined therein in the form substantially as follows:

Article 1.

The purposes of this compact are, through means of joint or cooperative action, the following:

- (1) To promote the orderly, integrated, and comprehensive development, use, and conservation of the water resources of the Great Lakes Basin.
- (2) To plan for the welfare and development of the water resources of the Basin as a whole as well as for those portions of the Basin which may have problems of special concern.
- (3) To make it possible for the states of the Basin and their people to derive the maximum benefit from utilization of public works, in the form of navigational aids or otherwise, which may exist or which may be constructed from time to time.
- (4) To advise in securing and maintaining a proper balance among industrial, commercial, agricultural, water supply, residential, recreational, and other legitimate uses of the water resources of the Basin.
- (5) To establish and maintain an intergovernmental agency to the end that the purposes of this compact may be accomplished more effectively.

Article 2.

(a) This compact shall enter into force and become effective and binding when the compact has been enacted by the legislatures of any four of the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin and thereafter shall enter into force and become effective and binding as to any other of the states when enacted by the legislature of the other state.

(b) The Province of Ontario and the Province of Quebec, or either of them, may become states party to this compact by taking such action as their laws and the laws of the

Government of Canada may prescribe for adherence thereto.

Article 3.

The Great Lakes Commission created by Article 4 of this compact shall exercise the Commission's powers and perform the Commission's functions in respect to the Basin which, for the purposes of this compact, shall consist of so much of the following as may be within the party states:

- (1) Lakes Erie, Huron, Michigan, Ontario, St. Clair, Superior, and the St. Lawrence River, together with any and all natural or man-made water interconnections between or among them.
- (2) All rivers, ponds, lakes, streams, and other watercourses which, in their natural state or in their prevailing condition, are tributary to Lakes Erie, Huron, Michigan, Ontario, St. Clair, and Superior or any of them or which comprise part of any watershed draining into any of the lakes.

Article 4.

(a) There is created an agency of the party states to be known as The Great Lakes Commission. In that name the Commission may sue and be sued and acquire, hold, and convey real and personal property and any interest therein. The Commission shall have a seal with the words "The Great Lakes Commission" and such other design as the Commission may prescribe engraved thereon by which the Commission shall authenticate the Commission's proceedings. Transactions involving real or personal property shall conform to the laws of the state in which the property is located, and the Commission may by bylaws provide for the execution and acknowledgment of all instruments in the Commission's behalf.

(b) The Commission shall be composed of not less than three (3) commissioners nor more than five (5) commissioners from each party state designated or appointed in accordance with the law of the state which they represent and serving and subject to removal in accordance with such law.

(c) Each state delegation shall be entitled to three (3) votes in the Commission. The presence of commissioners from a majority of the party states shall constitute a quorum for the transaction of business at any meeting of the Commission. Actions of the Commission shall be by a majority of the votes cast, except that any recommendations made pursuant to Article 6 of this compact shall require an affirmative vote of not less than a majority of the votes cast from each of a majority of the states present and voting.

(d) The commissioners of any two (2) or more party states may meet separately to consider problems of particular interest to their states but no action taken at any such meeting shall be deemed an action of the Commission unless and until the Commission shall specifically approve the action.

(e) In the absence of any commissioner, the commissioner's vote may be cast by another representative or commissioner of the commissioner's state provided that the commissioner or other representative casting the vote shall have a written proxy in proper form as may be required by the Commission.

(f) The Commission shall elect annually from among the Commission's members a chairman and vice chairman. The Commission shall appoint an Executive Director who shall also act as secretary-treasurer and who shall be bonded in such amount as the Commission may require. The Executive Director shall serve at the pleasure of the Commission and at such compensation and under such terms and conditions as may be fixed by the Commission. The Executive Director shall be custodian of the records of the Commission with authority to affix the Commission's official seal and to attest to and certify such records or copies of the Commission.

(g) The Executive Director, subject to the approval of the Commission in such cases as the Commission's bylaws may provide, shall appoint and remove or discharge such personnel as may be necessary for the performance of the Commission's functions. Subject to the approval, the Executive Director may fix the compensation, define the duties, and require bonds of such of the personnel as the Commission may designate.

(h) The Executive Director, on behalf of, as trustee for, and with the approval of the Commission, may do the following:

(1) Borrow, accept, or contract for the services of personnel from:

(A) any state or government or any subdivision or agency of a state or government;

(B) any intergovernmental agency; or

(C) any institution, person, firm, limited liability company, or corporation.

(2) Accept, receive, and utilize for any of the Commission's purposes and functions under this compact any and all donations, gifts, and grants of money, equipment, supplies, materials, and services from any state or government or any subdivision or agency of a state or government or intergovernmental agency or from any institution, person, firm, limited liability company, or corporation.

(i) The Commission may establish and maintain one (1) or more offices for the transacting of the Commission's business and for such purposes the Executive Director, on behalf of, as trustee for, and with the approval of the Commission, may acquire, hold, and dispose of real and personal property necessary to the performance of the Commission's functions.

(j) No tax levied or imposed by any party state or any political subdivisions of a party state shall be deemed to apply to property, transactions, or income of the Commission.

(k) The Commission may adopt, amend, and rescind bylaws, rules, and regulations for the conduct of the Commission's business and may adopt an official seal.

(l) The organization meeting of the Commission shall be held within six months from the effective date of this compact.

(m) The Commission and the Executive Director shall make available to the party states any information within the Commission's possession and shall always provide free access to the Commission's records by duly authorized representatives of such party states.

(n) The Commission shall keep a written record of the Commission's meetings and proceedings and shall annually make a report of the meetings and proceedings to be submitted to the duly designated official of each party state.

(o) The Commission shall make and transmit annually to the legislature and Governor of each party state a report covering the activities of the Commission for the preceding year and embodying such recommendations as may have been adopted by the Commission. The Commission may issue such additional reports as the Commission may deem desirable.

Article 5.

(a) The members of the Commission shall serve without compensation, but the expenses of each commissioner shall be met by the state which the Commissioner represents in accordance with the law of that state. All other expenses incurred by the Commission in the course of exercising the powers conferred upon the Commission by this compact, unless met in some other manner specifically provided by this compact, shall be paid by the Commission out of the Commission's own funds.

(b) The Commission shall submit to the executive head or designated officer of each party state a budget of the Commission's estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature of the state.

(c) Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. Detailed Commission budgets shall be recommended by a majority of the votes cast, and the costs shall be allocated equitably among the party states in accordance with the respective interests of the party states.

(d) The Commission shall not pledge the credit of any party state. The Commission may meet any of the Commission's obligations in whole or in part with funds available to the Commission under Article 4(h) of this compact, provided that the Commission takes specific action setting aside such funds prior to the incurring of any obligations to be met in whole or in part in this manner. Except where the Commission makes use of funds available to the Commission under Article 4(h) of this compact, the Commission shall not incur any obligations prior to the allotment of funds by the party states adequate to meet the same.

(e) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under the bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become a part of the annual report of the Commission.

(f) The accounts of the Commission shall be open at any reasonable time for inspection by such agency, representative, or representatives of the party states as may be duly constituted for that purpose and by others who may be authorized by the Commission.

Article 6.

The Commission shall have power to do the following:

- (1) Collect, correlate, interpret, and report on data relating to the water resources and the use of the water resources in the Basin or any portion of the Basin.
- (2) Recommend methods for the orderly, efficient, and balanced development, use, and conservation of the water resources of the Basin or any portion of the Basin to the party states and to any other governments or agencies having interests in or jurisdiction over the Basin or any portion of the Basin.
- (3) Consider the need for and desirability of public works and improvements relating to the water resources in the Basin or any portion of the Basin.
- (4) Consider means of improving navigation and port facilities in the Basin or any portion of the Basin.
- (5) Consider means of improving and maintaining the fisheries of the Basin or any portion of the Basin.
- (6) Recommend policies relating to water resources, including the institution and alteration of flood plain and other zoning laws, ordinances, and regulations.
- (7) Recommend uniform or other laws, ordinances, or regulations relating to the development, use, and conservation of the Basin's water resources to the party states or any of the party states and to other governments, political subdivisions, agencies, or intergovernmental bodies having interests in or jurisdiction sufficient to affect conditions in the Basin or any portion of the Basin.
- (8) Consider and recommend amendments or agreements supplementary to this compact to the party states or any of the party states and assist in the formulation and drafting of such amendments or supplementary agreements.
- (9) Prepare and publish reports, bulletins, and publications appropriate to this work and fix reasonable sale prices for the reports, bulletins, and publications.
- (10) With respect to the water resources of the Basin or any portion of the Basin, recommend agreements between the governments of the United States and Canada.
- (11) Recommend mutual arrangements expressed by concurrent or reciprocal legislation on the part of Congress and the Parliament of Canada, including but not limited to such agreements and mutual arrangements as are provided for by Article 13 of the Treaty of 1909 Relating to Boundary Waters and Questions Arising Between the United States and Canada. (Treaty Series, No. 548).
- (12) Cooperate with the governments of the United States, Canada, and the party states and any public or private agencies or bodies having interest in or jurisdiction sufficient to affect the Basin or any portion of the Basin.
- (13) At the request of the United States, or in the event that a Province shall be a party state, at the request of the Government of Canada, assist in the negotiation and formulation of any treaty or other mutual arrangement or agreement between the United States and Canada with reference to the Basin or any portion of the Basin.
- (14) Make any recommendation and do all things necessary and proper to carry out the powers conferred upon the Commission by this compact, provided that no action of the Commission shall have the force of law in or be binding upon any party state.

Article 7.

Each party state agrees to consider the action the Commission recommends in respect to the following:

- (1) Stabilization of lake levels.
- (2) Measures for combating pollution, beach erosion, floods, and short inundation.
- (3) Uniformity in navigation regulations within the constitutional powers of the states.
- (4) Proposed navigation aids and improvements.
- (5) Uniformity or effective coordinating action in fishing laws and regulations and cooperative action to eradicate destructive and parasitical forces endangering the fisheries, wildlife, and other water resources.
- (6) Suitable hydroelectric power developments.
- (7) Cooperative programs for control of soil and bank erosion for the general improvement of the Basin.
- (8) Diversion of waters from and into the Basin.
- (9) Other measures the Commission may recommend to the state pursuant to Article 6 of this compact.

Article 8.

This compact shall continue in force and remain binding upon each party state until renounced by act of the legislature of such state, in such form and manner as the state may choose and as may be valid and effective to repeal a statute of the state, provided that such renunciation shall not become effective until six (6) months after notice of such action shall have been officially communicated in writing to the executive head of the other party states.

Article 9.

(a) It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes of this compact. The provisions of this compact shall be severable. If:

- (1) any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or in the case of a Province, to the British North American Act of 1867 as amended; or
- (2) the applicability of this compact to any state, agency, person, or circumstance is held invalid;

the constitutionality of the remainder of this compact and the applicability of this compact to any state, agency, person, or circumstance shall not be affected.

(b) If this compact shall be held contrary to the constitution of the United States, or in the case of a Province, to the British North American Act of 1867, as amended, or of any party state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

[Pre-1995 Recodification Citation: 13-5-3-1 part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-13-5 Commissioners

Sec. 5. In pursuance of Article 4 of the compact, there are five (5) commissioners on the Commission from Indiana. Each commissioner has all the powers conferred on a commissioner by the compact or which are necessary or incidental to the performance of the commissioner's functions as such a commissioner. The governor shall appoint the members of the Commission for terms of four (4) years. The governor shall fill by appointment any vacancies occurring in the office of a commissioner for any reason or cause for the unexpired term.

[Pre-1995 Recodification Citation: 13-5-3-2 part.]

As added by P.L.1-1995, SEC.18.

IC 14-25-13-6 Duties of state officers, bureaus, and departments

Sec. 6. (a) All officers of this state shall do all things falling within the respective jurisdiction of the officers necessary to or incidental to the carrying out of the compact in

every particular because it is the policy of Indiana to perform and carry out the compact and to accomplish the purposes of the compact.

(b) All officers, bureaus, departments, and persons of and in the state government or administration of this state shall, at reasonable times and upon request of the Commission, do the following:

(1) Furnish the Commission with information and data possessed by all or any of the officers, bureaus, departments, and persons.

(2) Aid the Commission by loan of personnel or other means lying within the legal powers of the officers, bureaus, departments, and persons.

[Pre-1995 Recodification Citation: 13-5-3-3.]

As added by P.L.1-1995, SEC.18.

IC 14-25-13-7 Submission of budget

Sec. 7. The budget of the estimated expenditures of the Commission shall be submitted to the budget committee for the period and in the form that is required by the committee.

[Pre-1995 Recodification Citation: 13-5-3-4.]

As added by P.L.1-1995, SEC.18.

IC 14-25-13-8 Governor to transmit copies to parties

Sec. 8. The governor shall transmit an authenticated copy of this chapter and the compact contained in this chapter to each jurisdiction party to the compact.

[Pre-1995 Recodification Citation: 13-5-3-5.]

As added by P.L.1-1995, SEC.18.

IC 14-25-13-9 Administrative duties; rights and obligations not affected

Sec. 9. (a) The department of natural resources shall provide administrative and staff services for the commissioners from Indiana on the Commission as provided by this chapter.

(b) The deputy director for the bureau of water and resource regulation shall, without additional compensation, serve as technical secretary to the Commission in Indiana. The deputy director shall handle the correspondence, make or arrange for the investigations and surveys, and obtain, assemble, or prepare the reports and data that the commissioners direct and authorize.

(c) This section does not do any of the following:

(1) Alter or affect the obligations of all officers of this state under section 6 of this chapter.

(2) Alter the manner in which the commissioners from Indiana on the Commission are appointed.

(3) Alter any of the jurisdiction, authority, rights, powers, property, duties, responsibilities, causes of action, or defense vested on June 30, 1965, in or required of the following:

(A) The Commission.

(B) The commissioners from Indiana on the Commission.

[Pre-1995 Recodification Citation: 14-3-3-9.]

As added by P.L.1-1995, SEC.18. Amended by P.L.1-2006, SEC.217.

IC 14-25-14 **Chapter 14. Repealed**
Repealed by P.L.133-2012, SEC.176.

IC 14-25-15 Chapter 15. Great Lakes—St. Lawrence River Basin Water Resources Compact

14-25-15-1	Agreement for the compact
14-25-15-2	Governor's responsibilities and powers
14-25-15-3	Authority of state agencies to cooperate with the council
14-25-15-4	Authorization of general assembly for revision of standard of review and decision
14-25-15-5	Responsibilities and powers of the natural resources commission
14-25-15-6	Management and regulation of proposals for certain water transfers
14-25-15-7	Permits for water withdrawals; salmonid streams; rules
14-25-15-8	Exemption from permit requirement for certain water withdrawals
14-25-15-9	Study and findings by the general assembly
14-25-15-10	Standard for determination of adverse impacts of water withdrawals
14-25-15-11	Methods for determining consumptive use amounts
14-25-15-12	Baseline determinations; investigation required; notice to facility owner; standing for administrative review
14-25-15-13	Effects of incorporation of water into a product

IC 14-25-15-1 Agreement for the compact

Sec. 1. The following interstate agreement on the use of water resources in the Great Lakes—St. Lawrence River basin is enacted into law and entered into by this state with all other states legally joining the interstate agreement in substantially the following form:

AGREEMENT

Section 1. The states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, and Wisconsin, and the Commonwealth of Pennsylvania hereby solemnly covenant and agree with each other, upon enactment of concurrent legislation by the respective state legislatures and consent by the Congress of the United States as follows:

GREAT LAKES—ST. LAWRENCE RIVER BASIN WATER RESOURCES COMPACT

ARTICLE 1

SHORT TITLE, DEFINITIONS, PURPOSES AND DURATION

Section 1.1. Short title. This act shall be known and may be cited as the "Great Lakes—St. Lawrence River Basin Water Resources Compact".

Section 1.2. Definitions. For the purposes of the compact, and of any supplemental or concurring legislation enacted under the compact, except as may be otherwise required by the context:

"Adaptive management" means a water resources management system that provides a systematic process for evaluation, monitoring, and learning from the outcomes of operational programs and adjustment of policies, plans, and programs based on experience and the evolution of scientific knowledge concerning water resources and water dependent natural resources.

"Agreement" means the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement.

"Applicant" means a person who is required to submit a proposal that is subject to management and regulation under the compact. "Application" has a corresponding meaning.

"Basin" or "Great Lakes—St. Lawrence River basin" means the watershed of the Great Lakes and the St. Lawrence River upstream from Trois-Rivières, Québec, within the jurisdiction of the parties.

"Basin ecosystem" or "Great Lakes—St. Lawrence River basin ecosystem" means the interacting components of air, land, water, and living organisms, including humankind, within the basin.

"Community within a straddling county" means any incorporated city, town, or the equivalent thereof, that is located outside the basin but wholly within a county that lies partly within the basin and that is not a straddling community.

"Compact" means this compact.

"Consumptive use" means that portion of the water withdrawn or withheld from the basin that is lost or otherwise not returned to the basin due to evaporation, incorporation into products, or other processes.

"Council" means the Great Lakes—St. Lawrence River basin water resources council, created by the compact.

"Council review" means the collective review by the council members as described in article 4 of the compact.

"County" means the largest territorial division for local government in a state. The county boundaries shall be defined as those boundaries that exist as of December 13, 2005.

"Cumulative impacts" means the impact on the basin ecosystem that results from incremental effects of all aspects of a withdrawal, diversion, or consumptive use in addition to other past, present, and reasonably foreseeable future withdrawals, diversions, and consumptive uses regardless of who undertakes the other withdrawals, diversions, and consumptive uses. Cumulative impacts can result from individually minor but collectively significant withdrawals, diversions, and consumptive uses taking place over a period of time.

"Decision making standard" means the decision making standard established by section 4.11 for proposals subject to management and regulation in section 4.10.

"Diversion" means a transfer of water from the basin into another watershed, or from the watershed of one (1) of the Great Lakes into that of another by any means of transfer, including but not limited to a pipeline, canal, tunnel, aqueduct, channel, modification of the direction of a water course, a tanker ship, tanker truck, or rail tanker but does not apply to water that is used in the basin or a Great Lake watershed to manufacture or produce a product that is then transferred out of the basin or watershed. "Divert" has a corresponding meaning.

"Environmentally sound and economically feasible water conservation measures" means those measures, methods, technologies, or practices for efficient water use and for reduction of water loss and waste or for reducing a withdrawal, consumptive use, or diversion that:

- (i) are environmentally sound;
- (ii) reflect best practices applicable to the water use sector;
- (iii) are technically feasible and available;
- (iv) are economically feasible and cost effective based on an analysis that considers direct and avoided economic and environmental costs; and
- (v) consider the particular facilities and processes involved, taking into account the environmental impact, age of equipment and facilities involved, processes employed, energy impacts, and other appropriate factors.

"Exception" means a transfer of water that is excepted under section 4.9 from the prohibition against diversions in section 4.8.

"Exception standard" means the standard for exceptions established in section 4.9.4.

"Intra-basin transfer" means the transfer of water from the watershed of one (1) of the Great Lakes into the watershed of another Great Lake.

"Measures" means any legislation, law, regulation, directive, requirement, guideline, program, policy, administrative practice, or other procedure.

"New or increased diversion" means a new diversion, an increase in an existing diversion, or the alteration of an existing withdrawal so that it becomes a diversion.

"New or increased withdrawal or consumptive use" means a new withdrawal or consumptive use or an increase in an existing withdrawal or consumptive use.

"Originating party" means the party within whose jurisdiction an application or registration is made or required.

"Party" means a state party to the compact.

"Person" means a human being or a legal person, including a government or a nongovernmental organization, including any scientific, professional, business, nonprofit, or public interest organization or association that is neither affiliated with, nor under the direction of, a government.

"Product" means something produced in the basin by human or mechanical effort or

through agricultural processes and used in manufacturing, commercial, or other processes or intended for intermediate or end use consumers.

(i) Water used as part of the packaging of a product shall be considered to be part of the product.

(ii) Other than water used as part of the packaging of a product, water that is used primarily to transport materials in or out of the basin is not a product or part of a product.

(iii) Except as provided in item (i), water that is transferred as part of a public or private supply is not a product or part of a product.

(iv) Water in its natural state such as in lakes, rivers, reservoirs, aquifers, or water basins is not a product.

"Proposal" means a withdrawal, diversion, or consumptive use of water that is subject to the compact.

"Province" means Ontario or Québec.

"Public water supply purposes" means water distributed to the public through a physically connected system of treatment, storage, and distribution facilities serving a group of largely residential customers that may also serve industrial, commercial, and other institutional operators. Water withdrawn directly from the basin and not through such a system shall not be considered to be used for public water supply purposes.

"Regional body" means the members of the council and the premiers of Ontario and Québec or their designee as established by the agreement.

"Regional review" means the collective review by the regional body as described in article 4 of the compact.

"Source watershed" means the watershed from which a withdrawal originates. If water is withdrawn directly from a Great Lake or from the St. Lawrence River, then the source watershed shall be considered to be the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively. If water is withdrawn from the watershed of a stream that is a direct tributary to a Great Lake or a direct tributary to the St. Lawrence River, then the source watershed shall be considered to be the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively, with a preference to the direct tributary stream watershed from which it was withdrawn.

"Standard of review and decision" means the exception standard, decision making standard, and reviews as outlined in article 4 of the compact.

"State" means one (1) of the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, or Wisconsin, or the Commonwealth of Pennsylvania.

"Straddling community" means any incorporated city, town, or the equivalent thereof, wholly within any county that lies partly or completely within the basin, whose corporate boundary existing as of the effective date of the compact, is partly within the basin or partly within two (2) Great Lakes watersheds.

"Technical review" means a detailed review conducted to determine whether or not a proposal that requires regional review under the compact meets the standard of review and decision following procedures and guidelines as set out in the compact.

"Water" means ground or surface water contained within the basin.

"Water dependent natural resources" means the interacting components of land, water, and living organisms affected by the waters of the basin.

"Waters of the basin" or "basin water" means the Great Lakes and all streams, rivers, lakes, connecting channels, and other bodies of water, including tributary groundwater, within the basin.

"Withdrawal" means the taking of water from surface water or groundwater. "Withdraw" has a corresponding meaning.

Section 1.3. Findings and purposes. The legislative bodies of the respective parties hereby find and declare:

1. Findings:

- a. the waters of the basin are precious public natural resources shared and held in trust by the states;
- b. the waters of the basin are interconnected and part of a single hydrologic system;
- c. the waters of the basin can concurrently serve multiple uses. Such multiple uses include municipal, public, industrial, commercial, agriculture, mining, navigation, energy development and production, recreation, the subsistence, economic and cultural activities of native peoples, water quality maintenance, and the maintenance of fish and wildlife habitat and a balanced ecosystem; and, other purposes are encouraged, recognizing that such uses are interdependent and must be balanced;
- d. future diversions and consumptive uses of basin water resources have the potential to significantly impact the environment, economy, and welfare of the Great Lakes—St. Lawrence River region;
- e. continued sustainable, accessible, and adequate water supplies for the people and economy of the basin are of vital importance; and
- f. the parties have a shared duty to protect, conserve, restore, improve, and manage the renewable but finite waters of the basin for the use, benefit, and enjoyment of all their citizens, including generations yet to come. The most effective means of protecting, conserving, restoring, improving, and managing the basin waters is through the joint pursuit of unified and cooperative principles, policies, and programs mutually agreed upon, enacted, and adhered to by all parties.

2. Purposes:

- a. to act together to protect, conserve, restore, improve, and effectively manage the waters and water dependent natural resources of the basin under appropriate arrangements for intergovernmental cooperation and consultation because current lack of full scientific certainty should not be used as a reason for postponing measures to protect the basin ecosystem;
- b. to remove causes of present and future controversies;
- c. to provide for cooperative planning and action by the parties with respect to such water resources;
- d. to facilitate consistent approaches to water management across the basin while retaining state management authority over water management decisions within the basin;
- e. to facilitate the exchange of data, strengthen the scientific information base upon which decisions are made, and engage in consultation on the potential effects of proposed withdrawals and losses on the waters and water dependent natural resources of the basin;
- f. to prevent significant adverse impacts of withdrawals and losses on the basin's ecosystems and watersheds;
- g. to promote interstate and state-provincial comity; and
- h. to promote an adaptive management approach to the conservation and management of basin water resources, which recognizes, considers, and provides adjustments for the uncertainties in, and evolution of, scientific knowledge concerning the basin's waters and water dependent natural resources.

Section 1.4. Science.

1. The parties commit to provide leadership for the development of a collaborative strategy with other regional partners to strengthen the scientific basis for sound water management decision making under the compact.
2. The strategy shall guide the collection and application of scientific information to support:
 - a. an improved understanding of the individual and cumulative impacts of withdrawals from various locations and water sources on the basin ecosystem and to develop a mechanism by which impacts of withdrawals may be assessed;
 - b. the periodic assessment of cumulative impacts of withdrawals, diversions, and

- c. improved scientific understanding of the waters of the basin;
- d. improved understanding of the role of groundwater in basin water resources management; and
- e. the development, transfer, and application of science and research related to water conservation and water use efficiency.

ARTICLE 2 ORGANIZATION

Section 2.1. Council created. The Great Lakes—St. Lawrence River Basin water resources council is hereby created as a body politic and corporate, with succession for the duration of the compact, as an agency and instrumentality of the governments of the respective parties.

Section 2.2. Council membership. The council shall consist of the governors of the parties, ex officio.

Section 2.3. Alternates. Each member of the council shall appoint at least one (1) alternate who may act in his or her place and stead, with authority to attend all meetings of the council and with power to vote in the absence of the member. Unless otherwise provided by law of the party for which he or she is appointed, each alternate shall serve during the term of the member appointing him or her, subject to removal at the pleasure of the member. In the event of a vacancy in the office of alternate, it shall be filled in the same manner as an original appointment for the unexpired term only.

Section 2.4. Voting.

1. Each member is entitled to one (1) vote on all matters that may come before the council.
2. Unless otherwise stated, the rule of decision shall be by a simple majority.
3. The council shall annually adopt a budget for each fiscal year, and the amount required to balance the budget shall be apportioned equitably among the parties by unanimous vote of the council. The appropriation of such amounts shall be subject to such review and approval as may be required by the budgetary processes of the respective parties.
4. The participation of council members from a majority of the parties shall constitute a quorum for the transaction of business at any meeting of the council.

Section 2.5. Organization and procedure. The council shall provide for its own organization and procedure, and may adopt rules and regulations governing its meetings and transactions, as well as the procedures and timeline for submission, review, and consideration of proposals that come before the council for its review and action. The council shall organize, annually, by the election of a chair and vice chair from among its members. Each member may appoint an adviser, who may attend all meetings of the council and its committees, but shall not have voting power. The council may employ or appoint professional and administrative personnel, including an executive director, as it may deem advisable, to carry out the purposes of the compact.

Section 2.6. Use of existing offices and agencies. It is the policy of the parties to preserve and utilize the functions, powers, and duties of existing offices and agencies of government to the extent consistent with the compact. Further, the council shall promote and aid the coordination of the activities and programs of the parties concerned with water resources management in the basin. To this end, but without limitation, the council may:

1. advise, consult, contract, assist, or otherwise cooperate with any and all such agencies;
2. employ any other agency or instrumentality of any of the parties for any purpose; and
3. develop and adopt plans consistent with the water resources plans of the parties.

Section 2.7. Jurisdiction. The council shall have, exercise, and discharge its functions, powers, and duties within the limits of the basin. Outside the basin, it may act in its discretion, but only to the extent such action may be necessary or convenient to effectuate

or implement its powers or responsibilities within the basin and subject to the consent of the jurisdiction wherein it proposes to act.

Section 2.8. Status, immunities, and privileges. The council, its members, and personnel in their official capacity and when engaged directly in the affairs of the council, its property, and its assets, wherever located and by whomsoever held, shall enjoy the same immunity from suit and every form of judicial process as is enjoyed by the parties, except to the extent that the council may expressly waive its immunity for the purposes of any proceedings or by the terms of any contract.

The property and assets of the council, wherever located and by whomsoever held, shall be considered public property and shall be immune from search, requisition, confiscation, expropriation, or any other form of taking or foreclosure by executive or legislative action.

The council, its property, and its assets, income and the operations it carries out under the compact shall be immune from all taxation by or under the authority of any of the parties or any political subdivision thereof. However, in lieu of property taxes, the council may make reasonable payments to local taxing districts in annual amounts that shall approximate the taxes lawfully assessed upon similar property.

Section 2.9. Advisory committees. The council may constitute and empower advisory committees, which may be comprised of representatives of the public and of federal, state, tribal, county, and local governments, water resources agencies, water using industries and sectors, water interest groups, and academic experts in related fields.

ARTICLE 3

GENERAL POWERS AND DUTIES

Section 3.1. General. The waters and water dependent natural resources of the basin are subject to the sovereign right and responsibilities of the parties, and it is the purpose of the compact to provide for joint exercise of such powers of sovereignty by the council in the common interests of the people of the region, in the manner and to the extent provided in the compact. The council and the parties shall use the standard of review and decision and procedures contained in or adopted under the compact as the means to exercise their authority under the compact.

The council may revise the standard of review and decision, after consultation with the provinces and upon unanimous vote of all council members, by regulation duly adopted in accordance with section 3.3 of the compact and in accordance with each party's respective statutory authorities and applicable procedures.

The council shall identify priorities and develop plans and policies relating to basin water resources. It shall adopt and promote uniform and coordinated policies for water resources conservation and management in the basin.

Section 3.2. Council powers. The council may:

1. plan;
2. conduct research and collect, compile, analyze, interpret, report, and disseminate data on water resources and uses;
3. forecast water levels;
4. conduct investigations;
5. institute court actions;
6. design, acquire, construct, reconstruct, own, operate, maintain, control, sell, and convey real and personal property and any interest therein as it may deem necessary, useful or convenient to carry out the purposes of the compact;
7. make contracts;
8. receive and accept such payments, appropriations, grants, gifts, loans, advances, and other funds, properties, and services as may be transferred or made available to it by any party or by any other public or private agency, corporation, or individual; and
9. exercise such other and different powers as may be delegated to it by the compact or otherwise under law, and have and exercise all powers necessary or convenient to carry out its express powers or which may be reasonably implied therefrom.

Section 3.3. Rules and regulations.

1. The council may promulgate and enforce such rules and regulations as may be necessary for the implementation and enforcement of the compact. The council may adopt by regulation, after public notice and public hearing, reasonable application fees with respect to those proposals for exceptions that are subject to council review under section 4.9 of the compact. Any rule or regulation of the council, other than one that deals solely with the internal management of the council or its property, shall be adopted only after public notice and hearing.
2. Each party, in accordance with its respective statutory authorities and applicable procedures, may adopt and enforce rules and regulations to implement and enforce the compact and the programs adopted by such party to carry out the management programs contemplated by the compact.

Section 3.4. Program review and findings.

1. Each party shall submit a report to the council and the regional body detailing its water management and conservation and efficiency programs that implement the compact. The report shall set out the manner in which water withdrawals are managed by sector, water source, quantity, or any other means, and how the provisions of the standard of review and decision and conservation and efficiency programs are implemented. The first report shall be provided by each party one (1) year from the effective date of the compact and thereafter every five (5) years.
2. The council, in cooperation with the provinces, shall review its water management and conservation and efficiency programs and those of the parties that are established in the compact and make findings on whether the water management program provisions in the compact are being met and, if not, recommend options to assist the parties in meeting the provisions of the compact. Such review shall take place:
 - a. thirty (30) days after the first report is submitted by all parties;
 - b. every five (5) years after the effective date of the compact; and
 - c. at any other time at the request of one (1) of the parties.
3. As one of its duties and responsibilities, the council may recommend a range of approaches to the parties with respect to the development, enhancement, and application of water management and conservation and efficiency programs to implement the standard of review and decision reflecting improved scientific understanding of the waters of the basin, including groundwater, and the impacts of withdrawals on the basin ecosystem.

ARTICLE 4

WATER MANAGEMENT AND REGULATION

Section 4.1. Water resources inventory, registration, and reporting.

1. Within five (5) years of the effective date of the compact, each party shall develop and maintain a water resources inventory for the collection, interpretation, storage, retrieval exchange, and dissemination of information concerning the water resources of the party, including, but not limited to, information on the location, type, quantity, and use of those resources and the location, type, and quantity of withdrawals, diversions, and consumptive uses. To the extent feasible, the water resources inventory shall be developed in cooperation with local, state, federal, tribal, and other private agencies and entities, as well as the council. Each party's agencies shall cooperate with that party in the development and maintenance of the inventory.
2. The council shall assist each party to develop a common base of data regarding the management of the water resources of the basin and to establish systematic arrangements for the exchange of those data with other states and provinces.
3. To develop and maintain a compatible base of water use information, within five (5) years of the effective date of the compact any person who withdraws water in an amount of one hundred thousand (100,000) gallons per day or greater average in any thirty (30) day period (including consumptive uses) from all sources, or diverts water

of any amount, shall register the withdrawal or diversion by a date set by the council unless the person has previously registered in accordance with an existing state program. The person shall register the withdrawal or diversion with the originating party using a form prescribed by the originating party that shall include, at a minimum and without limitation:

- a. the name and address of the registrant and date of registration;
- b. the locations and sources of the withdrawal or diversion;
- c. the capacity of the withdrawal or diversion per day and the amount withdrawn or diverted from each source;
- d. the uses made of the water;
- e. places of use and places of discharge; and
- f. such other information as the originating party may require.

All registrations shall include an estimate of the volume of the withdrawal or diversion in terms of gallons per day average in any thirty (30) day period.

4. All registrants shall annually report the monthly volumes of the withdrawal, consumptive use, and diversion in gallons to the originating party and any other information requested by the originating party.

5. Each party shall annually report the information gathered under this section to a Great Lakes—St. Lawrence River water use data base repository, and aggregated information shall be made publicly available, consistent with the confidentiality requirements in section 8.3 of the compact.

6. Information gathered by the parties under this section shall be used to improve the sources and applications of scientific information regarding the waters of the basin and the impacts of the withdrawals and diversions from various locations and water sources on the basin ecosystem, and to better understand the role of groundwater in the basin. The council and the parties shall coordinate the collection and application of scientific information to further develop a mechanism by which individual and cumulative impacts of withdrawals, consumptive uses, and diversions shall be assessed.

Section 4.2. Water conservation and efficiency programs.

1. The council commits to identify, in cooperation with the provinces, basinwide water conservation and efficiency objectives to assist the parties in developing their water conservation and efficiency program. These objectives are based on the goals of:

- a. ensuring improvement of the waters and water dependent natural resources;
- b. protecting and restoring the hydrologic and ecosystem integrity of the basin;
- c. retaining the quantity of surface water and groundwater in the basin;
- d. ensuring sustainable use of waters of the basin; and
- e. promoting the efficiency of use and reducing losses and waste of water.

2. Within two (2) years of the effective date of the compact, each party shall develop its own water conservation and efficiency goals and objectives consistent with the basinwide goals and objectives, and shall develop and implement a water conservation and efficiency program, either voluntary or mandatory, within its jurisdiction based on the party's goals and objectives. Each party shall annually assess its programs in meeting the party's goals and objectives, report to the council and the regional body and make this annual assessment available to the public.

3. Beginning five (5) years after the effective date of the compact, and every five (5) years thereafter, the council, in cooperation with the provinces, shall review and modify as appropriate the basinwide objectives, and the parties shall have regard for any such modifications in implementing their programs. This assessment will be based on examining new technologies, new patterns of water use, new resource demands and threats, and cumulative impact assessment under section 4.15.

4. Within two (2) years of the effective date of the compact, the parties commit to promote environmentally sound and economically feasible water conservation measures such as:

- a. measures that promote efficient use of water;
- b. identification and sharing of best management practices and state of the art conservation and efficiency technologies;
- c. application of sound planning principles;
- d. demand-side and supply-side measures or incentives; and
- e. development, transfer, and application of science and research.

5. Each party shall implement in accordance with paragraph 2 above a voluntary or mandatory water conservation program for all, including existing basin water users. Conservation programs need to adjust to new demands and the potential impacts of cumulative effects and climate.

Section 4.3. Party powers and duties.

1. Each party, within its jurisdiction, shall manage and regulate new or increased withdrawals, consumptive uses, and diversions, including exceptions, in accordance with the compact.
2. Each party shall require an applicant to submit an application in such manner and with such accompanying information as the party shall prescribe.
3. No party may approve a proposal if the party determines that the proposal is inconsistent with the compact or the standard of review and decision or any implementing rules or regulations promulgated thereunder. The party may approve, approve with modifications, or disapprove any proposal depending on the proposal's consistency with the compact and the standard of review and decision.
4. Each party shall monitor the implementation of any approved proposal to ensure consistency with the approval and may take all necessary enforcement actions.
5. No party shall approve a proposal subject to council or regional review, or both, under the compact unless it shall have been first submitted to and reviewed by either the council or regional body, or both, and approved by the council, as applicable. Sufficient opportunity shall be provided for comment on the proposal's consistency with the compact and the standard of review and decision. All such comments shall become part of the party's formal record of decision, and the party shall take into consideration any such comments received.

Section 4.4. Requirement for originating party approval. No proposal subject to management and regulation under the compact shall hereafter be undertaken by any person unless it shall have been approved by the originating party.

Section 4.5. Regional review.

1. General.

- a. It is the intention of the parties to participate in regional review of proposals with the provinces, as described in the compact and the agreement.
- b. Unless the applicant or the originating party otherwise requests, it shall be the goal of the regional body to conclude its review no later than ninety (90) days after notice under paragraph 2 of this section of such proposal is received from the originating party.
- c. Proposals for exceptions subject to regional review shall be submitted by the originating party to the regional body for regional review and, where applicable, to the council for concurrent review.
- d. The parties agree that the protection of the integrity of the Great Lakes—St. Lawrence River basin ecosystem shall be the overarching principle for reviewing proposals subject to regional review, recognizing uncertainties with respect to demands that may be placed on basin water, including groundwater, levels and flows of the Great Lakes and the St. Lawrence River, future changes in environmental conditions, the reliability of existing data, and the extent to which diversions may harm the integrity of the basin ecosystem.
- e. The originating party shall have lead responsibility for coordinating information for resolution of issues related to evaluation of a proposal, and shall consult with the

applicant throughout the regional review process.

f. A majority of the members of the regional body may request regional review of a regionally significant or potentially precedent setting proposal. Such regional review must be conducted, to the extent possible, within the time frames set forth in this section. Any such regional review shall be undertaken only after consulting the applicant.

2. Notice from originating party to the regional body.

a. The originating party shall determine if a proposal is subject to regional review. If so, the originating party shall provide timely notice to the regional body and the public.

b. Such notice shall not be given unless and until all information, documents, and the originating party's technical review needed to evaluate whether the proposal meets the standard of review and decision have been provided.

c. An originating party may:

i. provide notice to the regional body of an application, even if notification is not required; or

ii. request regional review of an application, even if regional review is not required. Any such regional review shall be undertaken only after consulting the applicant.

d. An originating party may provide preliminary notice of a potential proposal.

3. Public participation.

a. To ensure adequate public participation, the regional body shall adopt procedures for the review of proposals that are subject to regional review in accordance with this article of the compact.

b. The regional body shall provide notice to the public of a proposal undergoing regional review. Such notice shall indicate that the public has an opportunity to comment in writing to the regional body on whether the proposal meets the standard of review and decision.

c. The regional body shall hold a public meeting in the state or province of the originating party in order to receive public comment on the issue of whether the proposal under consideration meets the standard of review and decision.

d. The regional body shall consider the comments received before issuing a declaration of finding.

e. The regional body shall forward the comments it receives to the originating party.

4. Technical review.

a. The originating party shall provide the regional body with its technical review of the proposal under consideration.

b. The originating party's technical review shall thoroughly analyze the proposal and provide an evaluation of the proposal sufficient for a determination of whether the proposal meets the standard of review and decision.

c. Any member of the regional body may conduct the member's own technical review of any proposal subject to regional review.

d. At the request of the majority of its members, the regional body shall make such arrangements as it considers appropriate for an independent technical review of a proposal.

e. All parties shall exercise their best efforts to ensure that a technical review undertaken under sections 4.5.4.c and 4.5.4.d does not unnecessarily delay the decision by the originating party on the application. Unless the applicant or the originating party otherwise requests, all technical reviews shall be completed no later than sixty (60) days after the date the notice of the proposal was given to the regional body.

5. Declaration of finding.

a. The regional body shall meet to consider a proposal. The applicant shall be

provided with an opportunity to present the proposal to the regional body at such time.

b. The regional body, having considered the notice, the originating party's technical review, any other independent technical review that is made, any comments or objections including the analysis of comments made by the public, First Nations and federally recognized tribes, and any other information that is provided under the compact shall issue a declaration of finding that the proposal under consideration:

- i. meets the standard of review and decision;
- ii. does not meet the standard of review and decision; or
- iii. would meet the standard of review and decision if certain conditions were met.

c. An originating party may decline to participate in a declaration of finding made by the regional body.

d. The parties recognize and affirm that it is preferable for all members of the regional body to agree whether the proposal meets the standard of review and decision.

e. If the members of the regional body who participate in the declaration of finding all agree, they shall issue a written declaration of finding with consensus.

f. In the event that the members cannot agree, the regional body shall make every reasonable effort to achieve consensus within twenty-five (25) days.

g. Should consensus not be achieved, the regional body may issue a declaration of finding that presents different points of view and indicates each party's conclusions.

h. The regional body shall release the declarations of finding to the public.

i. The originating party and the council shall consider the declaration of finding before making a decision on the proposal.

Section 4.6. Proposals subject to prior notice.

1. Beginning no later than five (5) years after the effective date of the compact, the originating party shall provide all parties and the provinces with detailed and timely notice and an opportunity to comment within ninety (90) days on any proposal for a new or increased consumptive use of five million (5,000,000) gallons per day or greater average in any ninety (90) day period. Comments shall address whether or not the proposal is consistent with the standard of review and decision. The originating party shall provide a response to any such comment received from another party.

2. A party may provide notice, an opportunity to comment, and a response to comments even if this is not required under paragraph 1 of this section. Any provision of such notice and opportunity to comment shall be undertaken only after consulting the applicant.

Section 4.7. Council actions.

1. Proposals for exceptions subject to council review shall be submitted by the originating party to the council for council review and, where applicable, to the regional body for concurrent review.

2. The council shall review and take action on proposals in accordance with the compact and the standard of review and decision. The council shall not take action on a proposal subject to regional review under the compact unless the proposal shall have been first submitted to and reviewed by the regional body. The council shall consider any findings resulting from such review.

Section 4.8. Prohibition of new or increased diversions. All new or increased diversions are prohibited, except as provided for in this article of the compact.

Section 4.9. Exceptions to the prohibition of diversions.

1. Straddling communities. A proposal to transfer water to an area within a straddling community but outside the basin or outside the source Great Lake watershed shall be excepted from the prohibition against diversions and be managed and regulated by the originating party provided that, regardless of the volume of water transferred, all the water so transferred shall be used solely for public water supply purposes within the

straddling community, and:

- a. all water withdrawn from the basin shall be returned, either naturally or after use, to the source watershed less an allowance for consumptive use. No surface water or groundwater from outside the basin may be used to satisfy any portion of this criterion except if it:
 - i. is part of a water supply or wastewater treatment system that combines water from inside and outside of the basin;
 - ii. is treated to meet applicable water quality discharge standards and to prevent the introduction of invasive species into the basin; and
 - iii. maximizes the portion of water returned to the source watershed as basin water and minimizes the surface water or groundwater from outside the basin;
 - b. if the proposal results from a new or increased withdrawal of one hundred thousand (100,000) gallons per day or greater average over any ninety (90) day period, the proposal shall also meet the exception standard; and
 - c. if the proposal results in a new or increased consumptive use of five million (5,000,000) gallons per day or greater average over any ninety (90) day period, the proposal shall also undergo regional review.
2. Intra-basin transfer. A proposal for an intra-basin transfer that would be considered a diversion under the compact, and not already excepted under paragraph 1 of this section, shall be excepted from the prohibition against diversions, provided that:
- a. If the proposal results from a new or increased withdrawal less than one hundred thousand (100,000) gallons per day average over any ninety (90) day period, the proposal shall be subject to management and regulation at the discretion of the originating party.
 - b. If the proposal results from a new or increased withdrawal of one hundred thousand (100,000) gallons per day or greater average over any ninety (90) day period and if the consumptive use resulting from the withdrawal is less than five million (5,000,000) gallons per day average over any ninety (90) day period:
 - i. the proposal shall meet the exception standard and be subject to management and regulation by the originating party, except that the water may be returned to another Great Lake watershed rather than the source watershed;
 - ii. the applicant shall demonstrate that there is no feasible, cost effective, and environmentally sound water supply alternative within the Great Lake watershed to which the water will be transferred, including conservation of existing water supplies; and
 - iii. the originating party shall provide notice to the other parties prior to making any decision with respect to the proposal.
 - c. If the proposal results in a new or increased consumptive use of five million (5,000,000) gallons per day or greater average over any ninety (90) day period:
 - i. the proposal shall be subject to management and regulation by the originating party and shall meet the exception standard, ensuring that water withdrawn shall be returned to the source watershed;
 - ii. the applicant shall demonstrate that there is no feasible, cost effective, and environmentally sound water supply alternative within the Great Lake watershed to which the water will be transferred, including conservation of existing water supplies;
 - iii. the proposal undergoes regional review; and
 - iv. the proposal is approved by the council. Council approval shall be given unless one (1) or more council members vote to disapprove.
3. Straddling counties. A proposal to transfer water to a community within a straddling county that would be considered a diversion under the compact shall be excepted from the prohibition against diversions, provided that it satisfies all of the following conditions:

- a. The water shall be used solely for the public water supply purposes of the community within a straddling county that is without adequate supplies of potable water.
- b. The proposal meets the exception standard, maximizing the portion of water returned to the source watershed as basin water and minimizing the surface water or groundwater from outside the basin.
- c. The proposal shall be subject to management and regulation by the originating party, regardless of its size.
- d. There is no reasonable water supply alternative within the basin in which the community is located, including conservation of existing water supplies.
- e. Caution shall be used in determining whether or not the proposal meets the conditions for this exception. This exception should not be authorized unless it can be shown that it will not endanger the integrity of the basin ecosystem.
- f. The proposal undergoes regional review.
- g. The proposal is approved by the council. Council approval shall be given unless one (1) or more council members vote to disapprove.

A proposal must satisfy all of the conditions listed above. Further, substantive consideration will also be given to whether or not the proposal can provide sufficient scientifically based evidence that the existing water supply is derived from groundwater that is hydrologically interconnected to waters of the basin.

4. Exception standard. Proposals subject to management and regulation in this section shall be declared to meet this exception standard and may be approved as appropriate only when the following criteria are met:

- a. The need for all or part of the proposed exception cannot be reasonably avoided through the efficient use and conservation of existing water supplies.
- b. The exception will be limited to quantities that are considered reasonable for the purposes for which it is proposed.
- c. All water withdrawn shall be returned, either naturally or after use, to the source watershed less an allowance for consumptive use. No surface water or groundwater from outside the basin may be used to satisfy any portion of this criterion except if it:
 - i. is part of a water supply or wastewater treatment system that combines water from inside and outside the basin; and
 - ii. is treated to meet applicable water quality discharge standards and to prevent the introduction of invasive species into the basin.
- d. The exception will be implemented so as to ensure that it will result in no significant individual or cumulative adverse impacts to the quantity or quality of the waters and water dependent natural resources of the basin with consideration given to the potential cumulative impacts of any precedent setting consequences associated with the proposal.
- e. The exception will be implemented so as to incorporate environmentally sound and economically feasible water conservation measures to minimize water withdrawals or consumptive use.
- f. The exception will be implemented so as to ensure that it is in compliance with all applicable municipal, state, and federal laws as well as regional interstate and international agreements, including the Boundary Waters Treaty of 1909.
- g. All other applicable criteria in this section have also been met.

Section 4.10. Management and regulation of new or increased withdrawals and consumptive uses.

- 1. Within five (5) years of the effective date of the compact, each party shall create a program for the management and regulation of new or increased withdrawals and consumptive uses by adopting and implementing measures consistent with the decision making standard. Each party, through a considered process, shall set and may modify

threshold levels for the regulation of new or increased withdrawals in order to assure an effective and efficient water management program that will ensure that uses overall are reasonable, that withdrawals overall will not result in significant impacts to the waters and water dependent natural resources of the basin determined on the basis of significant impacts to the physical, chemical, and biological integrity of source watersheds, and that all other objectives of the compact are achieved. Each party may determine the scope and thresholds of its program, including which new or increased withdrawals and consumptive uses will be subject to the program.

2. Any party that fails to set threshold levels that comply with paragraph 1 of this section any time before ten (10) years after the effective date of the compact shall apply a threshold level for management and regulation of all new or increased withdrawals of one hundred thousand (100,000) gallons per day or greater average in any ninety (90) day period.

3. The parties intend programs for new or increased withdrawals and consumptive uses to evolve as may be necessary to protect basin waters. Pursuant to section 3.4, the council, in cooperation with the provinces, shall periodically assess the water management programs of the parties. Such assessments may produce recommendations for the strengthening of the programs, including without limitation, establishing lower thresholds for management and regulation in accordance with the decision making standard.

Section 4.11. Decision making standard. Proposals subject to management and regulation in section 4.10 shall be declared to meet this decision making standard and may be approved as appropriate only when the following criteria are met:

1. All water withdrawn shall be returned, either naturally or after use, to the source watershed less an allowance for consumptive use.

2. The withdrawal or consumptive use will be implemented so as to ensure that the proposal will result in no significant individual or cumulative adverse impacts to the quantity or quality of the waters and water dependent natural resources and the applicable source watershed.

3. The withdrawal or consumptive use will be implemented so as to incorporate environmentally sound and economically feasible water conservation measures.

4. The withdrawal or consumptive use will be implemented so as to ensure that it is in compliance with all applicable municipal, state, and federal laws as well as regional interstate and international agreements, including the Boundary Waters Treaty of 1909.

5. The proposed use is reasonable, based upon a consideration of the following factors:

a. Whether the proposed withdrawal or consumptive use is planned in a fashion that provides for efficient use of the water, and will avoid or minimize the waste of water.

b. If the proposal is for an increased withdrawal or consumptive use, whether efficient use is made of existing water supplies.

c. The balance between economic development, social development, and environmental protection of the proposed withdrawal and use and other existing or planned withdrawals and water uses sharing the water source.

d. The supply potential of the water source, considering quantity, quality, and reliability and safe yield of hydrologically interconnected water sources.

e. The probable degree and duration of any adverse impacts caused or expected to be caused by the proposed withdrawal and use under foreseeable conditions to other lawful consumptive or nonconsumptive uses of water or to the quantity or quality of the waters and water dependent natural resources of the basin, and the proposed plans and arrangements for avoidance or mitigation of such impacts.

f. If a proposal includes restoration of hydrologic conditions and functions of the source watershed, the party may consider that.

Section 4.12. Applicability.

1. Minimum standard. This standard of review and decision shall be used as a minimum

standard. Parties may impose a more restrictive decision making standard for withdrawals under their authority. It is also acknowledged that although a proposal meets the standard of review and decision it may not be approved under the laws of the originating party that has implemented more restrictive measures.

2. Baseline.

a. To establish a baseline for determining a new or increased diversion, consumptive use, or withdrawal, each party shall develop either or both of the following lists for their jurisdiction:

i. A list of existing withdrawal approvals as of the effective date of the compact.

ii. A list of the capacity of existing systems as of the effective date of the compact.

The capacity of the existing systems should be presented in terms of withdrawal capacity, treatment capacity, distribution capacity, or other capacity limiting factors. The capacity of the existing systems must represent the state of the systems. Existing capacity determinations shall be based upon approval limits or the most restrictive capacity information.

b. For all purposes of the compact, volumes of diversions, consumptive uses, or withdrawals of water set forth in the list prepared by each party in accordance with this section shall constitute the baseline volume.

c. The list shall be furnished to the regional body and the council within one (1) year of the effective date of the compact.

3. Timing of additional applications. Applications for new or increased withdrawals, consumptive uses, or exceptions shall be considered cumulatively within ten (10) years of any application.

4. Change of ownership. Unless a new owner proposes a project that results in a proposal for a new or increased diversion or consumptive use subject to regional review or council approval, the change of ownership in and of itself shall not require regional review or council approval.

5. Groundwater. The basin surface water divide shall be used for the purpose of managing and regulating new or increased diversions, consumptive uses, or withdrawals of surface water and groundwater.

6. Withdrawal systems. The total volume of surface water and groundwater resources that supply a common distribution system shall determine the volume of a withdrawal, consumptive use, or diversion.

7. Connecting channels. The watershed of each Great Lake shall include its upstream and downstream connecting channels.

8. Transmission in water lines. Transmission of water within a line that extends outside the basin as it conveys water from one point to another within the basin shall not be considered a diversion if none of the water is used outside the basin.

9. Hydrologic units. The Lake Michigan and Lake Huron watersheds shall be considered to be a single hydrologic unit and watershed.

10. Bulk water transfer. A proposal to withdraw water and to remove it from the basin in any container greater than five and seven-tenths (5.7) gallons shall be treated under the compact in the same manner as a proposal for a diversion. Each party shall have the discretion, within its jurisdiction, to determine the treatment of proposals to withdraw water and to remove it from the basin in any container of five and seven-tenths (5.7) gallons or less.

Section 4.13. Exemptions. Withdrawals from the basin for the following purposes are exempt from the requirements of article 4.

1. To supply vehicles, including vessels and aircraft, whether for the needs of the persons or animals being transported or for ballast or other needs related to the operation of the vehicles.

2. To use in a noncommercial project on a short term basis for firefighting, humanitarian, or emergency response purposes.

Section 4.14. United States Supreme Court decree: Wisconsin et al. v. Illinois et al.

1. Notwithstanding any terms of the compact to the contrary, with the exception of paragraph 5 of this section, current, new, or increased withdrawals, consumptive uses, and diversions of basin water by the state of Illinois shall be governed by the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al. and shall not be subject to the terms of the compact nor any rules or regulations promulgated under the compact. This means that, with the exception of paragraph 5 of this section, for purposes of the compact, current, new, or increased withdrawals, consumptive uses, and diversions of basin water within the state of Illinois shall be allowed unless prohibited by the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al.

2. The parties acknowledge that the United States Supreme Court decree in Wisconsin et al. v. Illinois et al. shall continue in full force and effect, that the compact shall not modify any terms thereof, and that the compact shall grant the parties no additional rights, obligations, remedies, or defenses thereto. The parties specifically acknowledge that the compact shall not prohibit or limit the state of Illinois in any manner from seeking additional basin water as allowed under the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al., any other party from objecting to any request by the state of Illinois for additional basin water under the terms of said decree, or any party from seeking any other type of modification to said decree. If an application is made by any party to the Supreme Court of the United States to modify said decree, the parties to the compact who are also parties to the decree shall seek formal input from the Canadian provinces of Ontario and Québec, with respect to the proposed modification, use best efforts to facilitate the appropriate participation of said provinces in the proceedings to modify the decree, and shall not unreasonably impede or restrict such participation.

3. With the exception of paragraph 5 of this section, because current, new, or increased withdrawals, consumptive uses, and diversions of basin water by the state of Illinois are not subject to the terms of the compact, the state of Illinois is prohibited from using any term of the compact, including section 4.9 of the compact, to seek new or increased withdrawals, consumptive uses, or diversions of basin water.

4. With the exception of paragraph 5 of this section, because sections 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12 (paragraphs 1, 2, 3, 4, 6, and 10 only), and 4.13 of the compact all relate to current, new, or increased withdrawals, consumptive uses, and diversions of basin waters, said provisions do not apply to the state of Illinois. All other provisions of the compact not listed in the preceding sentence shall apply to the state of Illinois, including the water conservation programs provision of section 4.2 of the compact.

5. In the event of a proposal for a diversion of basin water for use outside the territorial boundaries of the parties to the compact, decisions by the state of Illinois regarding such a proposal would be subject to all terms of the compact, except paragraphs 1, 3, and 4 of this section.

6. For purposes of the state of Illinois' participation in the compact, the entirety of section 4.14 of the compact is necessary for the continued implementation of the compact, and, if severed, the compact shall no longer be binding on or enforceable by or against the state of Illinois.

Section 4.15. Assessment of cumulative impacts.

1. The parties in cooperation with the provinces shall collectively conduct within the basin, on a lake watershed and St. Lawrence River basin basis, a periodic assessment of the cumulative impacts of withdrawals, diversions, and consumptive uses from the waters of the basin, every five (5) years or each time the incremental basin water losses reach fifty million (50,000,000) gallons per day average in any ninety (90) day period in excess of the quantity at the time of the most recent assessment, whichever comes

first, or at the request of one (1) or more of the parties. The assessment shall form the basis for a review of the standard of review and decision, council and party regulations, and their application. This assessment shall:

- a. utilize the most current and appropriate guidelines for such a review, which may include but not be limited to Council on Environmental Quality and Environment Canada guidelines;
 - b. give substantive consideration to climate change or other significant threats to basin waters and take into account the current state of scientific knowledge, or uncertainty, and appropriate measures to exercise caution in cases of uncertainty if serious damage may result;
 - c. consider adaptive management principles and approaches, recognizing, considering, and providing adjustments for the uncertainties in, and evolution of, science concerning the basin's water resources, watersheds, and ecosystems, including potential changes to basinwide processes, such as lake level cycles and climate.
2. The parties have the responsibility of conducting this cumulative impact assessment. Applicants are not required to participate in this assessment.
3. Unless required by other statutes, applicants are not required to conduct a separate cumulative impact assessment in connection with an application but shall submit information about the potential impacts of a proposal to the quantity or quality of the waters and water dependent natural resources of the applicable source watershed. An applicant may, however, provide an analysis of how the applicant's proposal meets the no significant adverse cumulative impact provision of the standard of review and decision.

ARTICLE 5 TRIBAL CONSULTATION

Section 5.1. Consultation with tribes.

1. In addition to all other opportunities to comment under section 6.2 of the compact, appropriate consultations shall occur with federally recognized tribes in the originating party for all proposals subject to council or regional review under the compact. Such consultations shall be organized in the manner suitable to the individual proposal and the laws and policies of the originating party.
2. All federally recognized tribes within the basin shall receive reasonable notice indicating that they have an opportunity to comment in writing to the council or the regional body, or both, and other relevant organizations on whether the proposal meets the requirements of the standard of review and decision when a proposal is subject to regional review or council approval. Any notice from the council shall inform the tribes of any meeting or hearing that is to be held under section 6.2 of the compact and invite them to attend. The parties and the council shall consider the comments received under this section before approving, approving with modifications, or disapproving any proposal subject to council or regional review.
3. In addition to the specific consultation mechanisms described above, the council shall seek to establish mutually agreed upon mechanisms or processes to facilitate dialogue with, and input from, federally recognized tribes on matters to be dealt with by the council, and the council shall seek to establish mechanisms and processes with federally recognized tribes designed to facilitate ongoing scientific and technical interaction and data exchange regarding matters falling within the scope of the compact. This may include participation of tribal representatives on advisory committees established under the compact or such other processes that are mutually agreed upon with federally recognized tribes individually or through duly authorized intertribal agencies or bodies.

ARTICLE 6 PUBLIC PARTICIPATION

Section 6.1. Meetings, public hearings, and records.

1. The parties recognize the importance and necessity of public participation in promoting management of the water resources of the basin. Consequently, all meetings of the council shall be open to the public, except with respect to issues of personnel.
2. The minutes of the council shall be a public record open to inspection at its offices during regular business hours.

Section 6.2. Public participation. It is the intent of the council to conduct public participation processes concurrently and jointly with processes undertaken by the parties and through regional review. To ensure adequate public participation, each party or the council shall ensure procedures for the review of proposals subject to the standard of review and decision consistent with the following requirements:

1. Provide public notification of receipt of all applications and a reasonable opportunity for the public to submit comments before applications are acted upon.
2. Assure public accessibility to all documents relevant to an application, including public comment received.
3. Provide guidance on standards for determining whether to conduct a public meeting or hearing for an application, date, time, and place of such a meeting or hearing, and procedures for conducting of the same.
4. Provide the record of decision for public inspection, including comments, objections, responses and approvals, approvals with conditions, and disapprovals.

ARTICLE 7

DISPUTE RESOLUTION AND ENFORCEMENT

Section 7.1. Good faith implementation. Each of the parties pledges to support implementation of all provisions of the compact, and covenants that its officers and agencies shall not hinder, impair, or prevent any other party carrying out any provision of the compact.

Section 7.2. Alternative dispute resolution.

1. Desiring that the compact be carried out in full, the parties agree that disputes between the parties regarding interpretation, application, and implementation of the compact shall be settled by alternative dispute resolution.
2. The council, in consultation with the provinces, shall provide by rule procedures for the resolution of disputes under this section.

Section 7.3. Enforcement.

1. Any person aggrieved by any action taken by the council under the authorities contained in the compact shall be entitled to a hearing before the council. Any person aggrieved by a party action shall be entitled to a hearing under the relevant party's administrative procedures and laws. After exhaustion of such administrative remedies:
 - (i) any aggrieved person shall have the right to judicial review of a council action in the United States District Courts for the District of Columbia or the district court in which the council maintains offices, provided such action is commenced within ninety (90) days; and
 - (ii) any aggrieved person shall have the right to judicial review of a party's action in the relevant party's court of competent jurisdiction, provided that an action or proceeding for such review is commenced within the time frames provided for by the party's law. For purposes of this paragraph, a state or province is deemed to be an aggrieved person with respect to any party action under the compact.
- 2.a. Any party or the council may initiate actions to compel compliance with the provisions of the compact, and the rules and regulations promulgated hereunder by the council. Jurisdiction over such actions is granted to the court of the relevant party, as well as the United States District Courts for the District of Columbia and the district court in which the council maintains offices. The remedies available to any such court shall include, but not be limited to, equitable relief and civil penalties.
- 2.b. Each party may issue orders within its respective jurisdiction and may initiate actions to compel compliance with the provisions of its respective statutes and

regulations adopted to implement the authorities contemplated by the compact in accordance with the provisions of the laws adopted in each party's jurisdiction.

3. Any aggrieved person, party, or the council may commence a civil action in the relevant party's courts and administrative systems to compel any person to comply with the compact should any such person, without approval having been given, undertake a new or increased withdrawal, consumptive use, or diversion that is prohibited or subject to approval under the compact.

a. No action under this subsection may be commenced if:

- i. the originating party or council approval for the new or increased withdrawal, consumptive use, or diversion has been granted; or
- ii. the originating party or council has found that the new or increased withdrawal, consumptive use, or diversion is not subject to approval under the compact.

b. No action under this subsection may be commenced unless:

- i. a person commencing such action has first given sixty (60) days prior notice to the originating party, the council, and the person alleged to be in noncompliance; and
- ii. neither the originating party nor the council has commenced and is diligently prosecuting appropriate enforcement actions to compel compliance with the compact.

The available remedies shall include equitable relief, and the prevailing or substantially prevailing party may recover the costs of litigation, including reasonable attorney and expert witness fees, whenever the court determines that such an award is appropriate.

4. Each of the parties may adopt provisions providing additional enforcement mechanisms and remedies, including equitable relief and civil penalties applicable within its jurisdiction to assist in the implementation of the compact.

ARTICLE 8

ADDITIONAL PROVISIONS

Section 8.1. Effect on existing rights.

1. Nothing in the compact shall be construed to affect, limit, diminish, or impair any rights validly established and existing as of the effective date of the compact under state or federal law governing the withdrawal of waters of the basin.

2. Nothing contained in the compact shall be construed as affecting or intending to affect or in any way to interfere with the law of the respective parties relating to common law water rights.

3. Nothing in the compact is intended to abrogate or derogate from treaty rights or rights held by any tribe recognized by the federal government of the United States based upon its status as a tribe recognized by the federal government of the United States.

4. An approval by a party or the council under the compact does not give any property rights, nor any exclusive privileges, nor shall it be construed to grant or confer any right, title, easement, or interest in, to or over any land belonging to or held in trust by a party; neither does it authorize any injury to private property or invasion of private rights, nor infringement of federal, state, or local laws or regulations; nor does it obviate the necessity of obtaining federal assent when necessary.

Section 8.2. Relationship to agreements concluded by the United States of America.

1. Nothing in the compact is intended to provide nor shall be construed to provide, directly or indirectly, to any person any right, claim, or remedy under any treaty or international agreement, nor is it intended to derogate any right, claim, or remedy that already exists under any treaty or international agreement.

2. Nothing in the compact is intended to infringe nor shall be construed to infringe upon the treaty power of the United States of America, nor shall any term hereof be construed to alter or amend any treaty or term thereof that has been or may hereafter be executed by the United States of America.

3. Nothing in the compact is intended to affect nor shall be construed to affect the application of the Boundary Waters Treaty of 1909 whose requirements continue to apply in addition to the requirements of the compact.

Section 8.3. Confidentiality.

1. Nothing in the compact requires a party to breach confidentiality obligations or requirements prohibiting disclosure, or to compromise security of commercially sensitive or proprietary information.

2. A party may take measures, including but not limited to deletion and redaction, deemed necessary to protect any confidential, proprietary, or commercially sensitive information when distributing information to other parties. The party shall summarize or paraphrase any such information in a manner sufficient for the council to exercise its authorities contained in the compact.

Section 8.4. Additional laws. Nothing in the compact shall be construed to repeal, modify, or qualify the authority of any party to enact any legislation or enforce any additional conditions and restrictions regarding the management and regulation of waters within its jurisdiction.

Section 8.5. Amendments and supplements. The provisions of the compact shall remain in full force and effect until amended by action of the governing bodies of the parties and consented to and approved by any other necessary authority in the same manner as the compact is required to be ratified to become effective.

Section 8.6. Severability. Should a court of competent jurisdiction hold any part of the compact to be void or unenforceable, it shall be considered severable from those portions of the compact capable of continued implementation in the absence of the voided provisions. All other provisions capable of continued implementation shall continue in full force and effect.

Section 8.7. Duration of compact and termination. Once effective, the compact shall continue in force and remain binding upon each and every party unless terminated. The compact may be terminated at any time by a majority vote of the parties. In the event of such termination, all rights established under it shall continue unimpaired.

ARTICLE 9

EFFECTUATION

Section 9.1. Repealer. All acts and parts of acts inconsistent with this act are to the extent of such inconsistency hereby repealed.

Section 9.2. Effectuation by chief executive. The governor is authorized to take such action as may be necessary and proper in his or her discretion to effectuate the compact and the initial organization and operation thereunder.

Section 9.3. Entire agreement. The parties consider the compact to be complete and an integral whole. Each provision of the compact is considered material to the entire compact, and failure to implement or adhere to any provision may be considered a material breach. Unless otherwise noted in the compact, any change or amendment made to the compact by any party in its implementing legislation or by the Congress of the United States when giving its consent to the compact is not considered effective unless concurred in by all parties.

Section 9.4. Effective date and execution. The compact shall become binding and effective when ratified through concurring legislation by the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Wisconsin, and the Commonwealth of Pennsylvania and consented to by the Congress of the United States. The compact shall be signed and sealed in nine (9) identical original copies by the respective chief executives of the signatory parties. One (1) such copy shall be filed with the secretary of state of each of the signatory parties or in accordance with the laws of the state in which the filing is made, and one (1) copy shall be filed and retained in the archives of the council upon its organization. The signatures shall be affixed and attested under the following form:

In witness whereof, and in evidence of the adoption and enactment into law of the compact by the legislatures of the signatory parties and consent by the Congress of the United

States, the respective governors do hereby, in accordance with the authority conferred by law, sign the compact in nine (9) duplicate original copies, attested by the respective secretaries of state, and have caused the seals of the respective states to be hereunto affixed this ____ day of (month), (year).

As added by P.L.4-2008, SEC.5.

IC 14-25-15-2 Governor's responsibilities and powers

Sec. 2. (a) The governor, ex officio, shall:

- (1) serve as the Indiana administrator of the compact; and
- (2) appoint at least one (1) alternate under section 2.3 of the compact.

(b) The governor shall do the following as administrator:

(1) Receive copies of all agreements that are entered into under the compact by the following:

- (A) This state.
- (B) Other states.
- (C) Political subdivisions of this state.

(2) Consult with, advise, and aid the states and political subdivisions referred to in subdivision (1) in the formulation of those agreements.

(3) Make any recommendations that the governor considers desirable in order to effectuate the purposes of the compact to the following:

- (A) The general assembly.
- (B) Legislatures of other states.
- (C) Governmental agencies of other states.
- (D) Political subdivisions of this state.

(4) Consult with and cooperate with the compact administrators of the states other than Indiana.

(c) Pursuant to section 9.2 of the compact, the governor may take actions necessary for the initial organization and operation of the council.

As added by P.L.4-2008, SEC.5.

IC 14-25-15-3 Authority of state agencies to cooperate with the council

Sec. 3. Agencies of this state are authorized to cooperate with the council.

As added by P.L.4-2008, SEC.5.

IC 14-25-15-4 Authorization of general assembly for revision of standard of review and decision

Sec. 4. (a) Before casting a vote under section 3.1 of the compact with respect to any regulation that amends or revises the standard of review and decision, the governor or the governor's alternate shall obtain authorization from the general assembly for the vote. The governor or the governor's alternate shall exercise the vote consistent with the terms of the general assembly's authorization.

(b) An authorization by the general assembly under subsection (a) must be by adoption of:

- (1) an act; or
- (2) a concurrent resolution.

As added by P.L.4-2008, SEC.5.

IC 14-25-15-5 Responsibilities and powers of the natural resources commission

Sec. 5. The natural resources commission:

- (1) except as provided in subdivision (2), may not:
 - (A) adopt rules to establish; or
 - (B) otherwise implement;

any mandatory program governing water conservation and efficiency under section 4.2 of the compact;

(2) may adopt rules to establish a mandatory program governing water conservation and efficiency under section 4.2 of the compact only if the general assembly adopts an act authorizing the adoption of the rules;

(3) shall adopt rules under IC 4-22-2 that implement voluntary water conservation and efficiency programs; and

(4) shall adopt rules under IC 4-22-2, which may provide for general permits, for the implementation, administration, and enforcement of article 4 of the compact.

As added by P.L.4-2008, SEC.5.

IC 14-25-15-6 Management and regulation of proposals for certain water transfers

Sec. 6. A proposal for an exception to the prohibition in section 4.8 of the compact to transfer water to an area outside the basin shall be managed and regulated using the thresholds established in section 4.9 of the compact.

As added by P.L.4-2008, SEC.5.

IC 14-25-15-7 Permits for water withdrawals; salmonid streams; rules

Sec. 7. (a) Except as provided in section 8 of this chapter, a person must, under the rules established under section 5(4) of this chapter, obtain a permit from the department for a daily withdrawal in excess of any of the following, calculated on average over any ninety (90) day period:

(1) Five million (5,000,000) gallons from Lake Michigan surface water.

(2) Subject to subsection (b), one hundred thousand (100,000) gallons from a salmonid stream.

(3) For any other surface water or groundwater source, one million (1,000,000) gallons.

(b) Notwithstanding 327 IAC 2-1.5-5(a)(3), the salmonid streams subject to subsection (a)(2) are the following:

(1) Trail Creek and its tributaries downstream to Lake Michigan.

(2) Galien River and its tributaries in LaPorte County.

(3) East Branch of the Little Calumet River and its tributaries downstream to Lake Michigan via Burns Ditch.

(4) St. Joseph River and its tributaries in St. Joseph County from the Twin Branch Dam in Mishawaka downstream to the Indiana/Michigan state line.

(5) Subject to subsection (c), any other watercourse determined by rule by the commission.

(c) Before adopting a rule under subsection (b)(5), the commission shall seek input from the U.S. Fish and Wildlife Service.

As added by P.L.4-2008, SEC.5. Amended by P.L.13-2013, SEC.50.

IC 14-25-15-8 Exemption from permit requirement for certain water withdrawals

Sec. 8. Except as provided in this section, a withdrawal that does not exceed the amount of a baseline status determination made under section 12 of this chapter is exempt from section 7(a) of this chapter. The director may limit a withdrawal that would reduce flow in a watercourse below the established minimum stream flow.

As added by P.L.4-2008, SEC.5.

IC 14-25-15-9 Study and findings by the general assembly

Sec. 9. Not later than ten (10) years after the compact takes effect under section 9.4 of the compact, the general assembly shall study and make findings and recommendations concerning the following:

(1) The appropriateness of the permit threshold amounts established in section 7(a) of this chapter considering:

- (A) advances made under section 1.4 of the compact; and
- (B) other new water management technology and practices that become available.

(2) Any changes in those amounts that the general assembly deems warranted.

As added by P.L.4-2008, SEC.5. Amended by P.L.133-2012, SEC.177.

IC 14-25-15-10 Standard for determination of adverse impacts of water withdrawals

Sec. 10. (a) The criterion of section 4.11.2 of the compact is met only if the withdrawal or consumptive use will be implemented so as to ensure that the proposal will result in no significant individual or cumulative adverse impacts to the quantity or quality of the waters and water dependent natural resources of either:

- (1) The basin considered as a whole; or
- (2) The Lake Michigan or Lake Erie watershed considered as a whole.

(b) Impacts of a withdrawal or consumptive use on the quantity or quality of waters and water dependent natural resources of more localized areas that affect less than:

- (1) the basin considered as a whole; or
- (2) the Lake Michigan or Lake Erie watershed considered as a whole;

are considered a part of the evaluation of reasonable use under section 4.11.5 of the compact.

(c) When determining whether there will be significant individual or cumulative adverse impacts under this section:

(1) consideration shall be given to the impacts incurred in a particular tributary or stream reach where those impacts are important to:

- (A) the basin; or
- (B) the Lake Michigan or Lake Erie watershed as a whole; and

(2) a judgment shall be made of the nature, degree, scope, and materiality of the impacts and the regional importance of those impacts to:

- (A) the basin; and
- (B) the Lake Michigan or Lake Erie watershed.

As added by P.L.4-2008, SEC.5.

IC 14-25-15-11 Methods for determining consumptive use amounts

Sec. 11. An applicant may use either of the following methods to provide consumptive use amounts required under article 4 of the compact:

(1) The most current values published for the appropriate sector from:

- (A) the United States Geological Survey;
- (B) the Great Lakes Commission;
- (C) the council; or
- (D) other sources approved by the department.

(2) Site specific calculations for the applicant's facility that are based on standard engineering practices.

As added by P.L.4-2008, SEC.5.

IC 14-25-15-12 Baseline determinations; investigation required; notice to facility owner; standing for administrative review

Sec. 12. (a) This section governs any status determination of a baseline under section 4.12.2 of the compact for each of the following from the Indiana portion of the basin:

(1) The total withdrawal capability registered under IC 14-25-7-15(c)(3) is deemed the existing withdrawal approval amount for section 4.12.2.a.i of the compact.

(2) A consumptive use attributable to a facility described in IC 14-25-7-15(a)(1).

(3) A facility that diverts water outside the basin.

(b) The department shall make each determination required under subsection (a)

following an investigation. Before completing the investigation, the department shall:

- (1) inform the owner of the facility of the amount of any proposed baseline; and
- (2) provide the owner with a period of at least thirty (30) days to offer documentation the owner believes would properly modify the proposed baseline amount.

(c) The department shall provide notice under IC 4-21.5-3-5 of a status determination under this section to the owner of the facility for which the determination is made.

(d) The owner of a facility for which a status determination is made under this section is the only person with standing to seek administrative review of the determination.

As added by P.L.4-2008, SEC.5.

IC 14-25-15-13 Effects of incorporation of water into a product

Sec. 13. (a) As used in this section, "product" refers to a product, regardless of whether the product is distributed inside or outside the basin, that:

- (1) is produced in the Indiana portion of the basin;
- (2) is packaged and intended for intermediate or end-use consumers; and
- (3) includes water:
 - (A) withdrawn from the basin; and
 - (B) packaged in containers with a capacity of not more than five and seven-tenths (5.7) gallons.

(b) Any incorporation of water into a product:

- (1) is a consumptive use; and
- (2) does not constitute a diversion for purposes of the compact.

As added by P.L.4-2008, SEC.5. Amended by P.L.1-2010, SEC.64.

IC 14-25-16 **Chapter 16. Repealed**
Repealed by P.L.133-2012, SEC.178.