

IC 13-14-2**Chapter 2. Powers of Department****IC 13-14-2-1****Orders and determinations by commissioner**

Sec. 1. (a) This section applies to any:

- (1) determination made by the commissioner;
- (2) order issued by the commissioner; and
- (3) notice issued by the department;

under this title.

(b) The commissioner may issue orders and make determinations.

(c) An order issued under this section may address multiple sites for the purpose of arranging for site investigations and the establishment of priority of sites.

(d) Notice of a determination made or an order issued by the commissioner must be given under IC 4-21.5-3-1, unless a person provides a written request to the department for a different method of notice that is reasonably available to the department.

(e) The department:

- (1) shall make a good faith effort to provide notice of an order or a determination according to subsection (d); and
- (2) bears the burden of persuasion that the notice has been provided.

(f) Failure to receive notice does not invalidate an order or a determination, unless the person required to receive notice of an order or a determination is substantially prejudiced by the lack of notice. The burden of persuasion as to substantial prejudice is on the person claiming the lack of notice.

As added by P.L.1-1996, SEC.4. Amended by P.L.263-2013, SEC.1.

IC 13-14-2-2**Entry upon private or public property for inspection by agent**

Sec. 2. The department may have a designated agent, upon presentation of proper credentials, enter upon private or public property to inspect for and investigate possible violations of any of the following:

- (1) Air pollution control laws.
- (2) Water pollution control laws.
- (3) Environmental management laws.
- (4) IC 13-18-9.
- (5) IC 13-18-10.
- (6) IC 13-19-3.
- (7) Any rule adopted by the board.

As added by P.L.1-1996, SEC.4. Amended by P.L.133-2012, SEC.79.

IC 13-14-2-3**Department to represent state in all matters pertaining to environmental protection**

Sec. 3. The department may do the following:

- (1) Represent the state in all matters pertaining to plans,

procedures, or negotiations for interstate compacts or other governmental arrangements for environmental protection.

(2) Conduct, convoke, attend, or participate in official or unofficial conferences or hearings within or outside Indiana concerning any matter within the scope of the power and duties of the board or the department.

As added by P.L.1-1996, SEC.4. Amended by P.L.133-2012, SEC.80.

IC 13-14-2-4

Acceptance of gifts or other funds

Sec. 4. The department may accept and receive, on behalf of the state, any gifts or other money made available to the state from any source for purposes of:

- (1) this title; or
- (2) other environmental protection activities, surveys, or programs.

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

IC 13-14-2-5

Contract for legal, professional, and other services

Sec. 5. The commissioner may employ or contract for the legal, professional, and other personnel and assistance that is necessary for the efficient performance of duties imposed by this title.

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

IC 13-14-2-6

Court actions by commissioner

Sec. 6. Except as provided in IC 13-14-6, the commissioner may proceed in court, by appropriate action, to:

- (1) enforce any final order of the commissioner or the board;
- (2) collect any penalties or fees;
- (3) procure or secure compliance with this title or any other law that the department has the duty or power to enforce;
- (4) procure compliance with any standard or rule of the board;
- (5) enforce a restrictive covenant (as defined in IC 13-11-2-193.5) in accordance with the terms of the covenant if the covenant is:
 - (A) executed before July 1, 2009;
 - (B) approved by the commissioner; and
 - (C) created in connection with any:
 - (i) remediation;
 - (ii) closure;
 - (iii) cleanup;
 - (iv) corrective action; or
 - (v) determination exercising enforcement discretion or of no further action being required;

approved by the department under this title; or

- (6) enforce a restrictive covenant (as defined in IC 13-11-2-193.5) in accordance with the terms of the covenant if the covenant is:

- (A) executed after June 30, 2009; and
- (B) created in connection with any of the following approved by the department under this title:
 - (i) A remediation.
 - (ii) A closure.
 - (iii) A cleanup.
 - (iv) A corrective action.
 - (v) A determination exercising enforcement discretion or of no further action being required.

As added by P.L.1-1996, SEC.4. Amended by P.L.61-2001, SEC.1; P.L.78-2009, SEC.10; P.L.133-2012, SEC.81.

IC 13-14-2-7

Orders to secure compliance; civil penalties

Sec. 7. Except as provided in IC 13-14-6, the commissioner may issue orders to:

- (1) secure compliance with:
 - (A) this title; or
 - (B) any applicable rule of a board; and
- (2) assess civil penalties.

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

IC 13-14-2-8

Certain restrictive covenants not subject to department approval; department review and action on certain activities and land use restrictions

Sec. 8. (a) Subject to subsection (b), a restrictive covenant executed after June 30, 2009, is not subject to approval by the department.

(b) The department shall:

- (1) review; and
- (2) approve, disapprove, or partially approve and partially disapprove;

activities and land use restrictions described in IC 13-11-2-193.5(2) that are proposed as part of a remediation, closure, cleanup, corrective action, or determination exercising enforcement discretion or of no further action being required to be included in a restrictive covenant.

As added by P.L.78-2009, SEC.11. Amended by P.L.1-2010, SEC.61.