

IC 13-18-2

Chapter 2. Water Pollution Agency Under Federal Law

IC 13-18-2-1

Powers; cooperation with federal agencies; federal funds; approval of projects; participation in proceedings; administration of permitting programs

Sec. 1. (a) In carrying out the purposes of IC 13-13-5-1(1), the department may, in addition to any other action that is necessary or appropriate to carry out the purpose of IC 13-13-5-1(1), do the following:

- (1) Cooperate with the United States Surgeon General and other agencies of the federal government, other states, interstate agencies, and other interested parties in all matters relating to water pollution, including the development of programs for eliminating or reducing pollution and improving the sanitary condition of waters.
- (2) On behalf of Indiana, apply for and receive money made available to the department under the Federal Water Pollution Control Act by any agency of the federal government. However, all money received from any federal agency:
 - (A) shall be paid into the state treasury; and
 - (B) shall be expended, under the direction of the department, solely for the purpose for which the grant has been made.
- (3) Approve projects for which application for loans or grants under the Federal Water Pollution Control Act is made by:
 - (A) any political subdivision or other public body created by or under Indiana law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes;
 - (B) a state agency; or
 - (C) an interstate agency.
- (4) Participate through the department's authorized representatives in proceedings under the Federal Water Pollution Control Act.
- (5) Give consent on behalf of Indiana to requests by the Administrator of the Federal Security Agency to the Attorney General of the United States for the bringing of suit for abatement of pollution.
- (6) Consent to the joinder as a defendant in a suit for the abatement of pollution of a person who is alleged to be discharging matter contributing to the pollution.
- (7) Except for a Class II well (as defined in IC 14-8-2-41) regulated under IC 14:
 - (A) develop a regulatory program for implementation of; and
 - (B) seek authority to implement;the Underground Injection Control program under the federal Safe Drinking Water Act (42 U.S.C. 300f through 300j).
- (8) Subject to subsection (b), enter into an agreement with the

United States Army Corps of Engineers and the United States Environmental Protection Agency to administer a permitting program under Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(b) Administration of a permitting program by the department under an agreement entered into under subsection (a)(8) does not affect the authority of the department of natural resources to regulate activities within the waterways of Indiana under IC 14-26, IC 14-28, or IC 14-29.

As added by P.L.1-1996, SEC.8. Amended by P.L.159-2011, SEC.22.

IC 13-18-2-2

Effect on other laws

Sec. 2. This chapter, IC 13-13-5-1(1), and IC 13-13-5-2:

- (1) do not amend, alter, or repeal any provision of the water pollution control laws; and
- (2) are supplemental to the other provisions of the water pollution control laws.

As added by P.L.1-1996, SEC.8.

IC 13-18-2-3

Requirements for department preparation of list of impaired waters; rule adoption; identification of pollutants under consideration in establishing total maximum daily load for a surface water

Sec. 3. (a) The department shall prepare a list of impaired waters for the purpose of complying with federal regulations implementing Section 303(d) of the federal Clean Water Act (33 U.S.C. 1313(d)). In determining whether a water body is impaired, the department shall consider all existing and readily available water quality data and related information. The department, before submitting the list to the United States Environmental Protection Agency, shall:

- (1) publish the list in the Indiana Register;
- (2) make the list available for public comment for at least ninety (90) days; and
- (3) present the list to the board.

If the United States Environmental Protection Agency changes the list, the board shall publish the changes in the Indiana Register and conduct a public hearing within ninety (90) days after receipt of the changes.

(b) The board shall adopt a rule that:

- (1) establishes the methodology to be used in identifying waters as impaired; and
- (2) specifies the methodology and criteria for including and removing waters from the list of impaired waters.

(c) In the establishment of the total maximum daily load for a surface water under Section 303(d)(1)(C) of the federal Clean Water Act (33 U.S.C. 1313(d)(1)(C)), the department shall, in identifying

the surface water under Section 303(d)(1)(A) of the federal Clean Water Act (33 U.S.C. 1313(d)(1)(A)), make every reasonable effort to identify the pollutant or pollutants under consideration for the establishment of the total maximum daily load.

(d) The department shall comply with subsection (e) if either of the following applies:

(1) The department:

(A) is unable in identifying the surface water as described in subsection (c) to identify the pollutant or pollutants under consideration for the establishment of the total maximum daily load; and

(B) determines, after identifying the surface water as described in subsection (c), that one (1) or more pollutants should be under consideration for establishment of the total maximum daily load.

(2) The department:

(A) in identifying the surface water as described in subsection (c), identifies the pollutant or pollutants under consideration for the establishment of the total maximum daily load; and

(B) determines, after identifying the pollutant or pollutants as described in clause (A), that one (1) or more other pollutants should be under consideration for establishment of the total maximum daily load.

(e) The department complies with subsection (d) if the department does the following before making a pollutant or pollutants the subject of consideration for the establishment of the total maximum daily load:

(1) Determines and demonstrates that either or both of the following apply:

(A) The surface water does not attain water quality standards (as established in 327 IAC 2-1 and 327 IAC 2-1.5) due to an individual pollutant, multiple pollutants, pollution, or an unknown cause of impairment.

(B) The surface water:

(i) receives a thermal discharge from one (1) or more point sources; and

(ii) does not have or maintain a balanced indigenous population of shellfish, fish, and wildlife.

(2) Publishes in the Indiana Register the determination referred to in subdivision (1).

(3) Makes the determination referred to in subdivision (1) available for public comment for at least ninety (90) days.

(4) Presents the determination referred to in subdivision (1) to the commissioner for final approval after the comment period under subdivision (3).

As added by P.L.140-2000, SEC.16. Amended by P.L.78-2009, SEC.14.