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**TITLE 312 NATURAL RESOURCES COMMISSION**

**Proposed Rule**  
LSA Document #09-80

DIGEST

Adds [312 IAC 6-2-3.8](#), [312 IAC 6-2-6.8](#), and [312 IAC 6-5-10](#) concerning navigable waters and [312 IAC 10-2-24.5](#), [312 IAC 10-2-33.3](#), and [312 IAC 10-5-11](#) concerning nonnavigable waters to address general licenses and individual licenses that govern prospecting for hard mineral resources. Effective 30 days after filing with the Publisher.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

[312 IAC 6-2-3.8](#); [312 IAC 6-2-6.8](#); [312 IAC 6-5-10](#); [312 IAC 10-2-24.5](#); [312 IAC 10-2-33.3](#); [312 IAC 10-5-11](#)

SECTION 1. [312 IAC 6-2-3.8](#) IS ADDED TO READ AS FOLLOWS:

**[312 IAC 6-2-3.8](#) "Hard mineral resources" defined**

Authority: [IC 14-10-2-4](#); [IC 14-28-1-5](#); [IC 14-29-1-8](#)

Affected: [IC 14-28-1](#); [IC 14-29-1](#)

**Sec. 3.8. "Hard mineral resources" means naturally occurring alluvial deposits of the following:**

- (1) Gold.
- (2) Platinum.
- (3) Silver.
- (4) Lead.
- (5) Copper.
- (6) Diamonds and other gemstones.
- (7) Other similar materials.

*(Natural Resources Commission; [312 IAC 6-2-3.8](#))*

SECTION 2. [312 IAC 6-2-6.8](#) IS ADDED TO READ AS FOLLOWS:

**[312 IAC 6-2-6.8](#) "Prospecting" defined**

Authority: [IC 14-10-2-4](#); [IC 14-28-1-5](#); [IC 14-29-1-8](#)

Affected: [IC 14-28-1](#); [IC 14-29-1](#)

**Sec. 6.8. "Prospecting" refers to activities conducted in preparation for or to remove hard mineral resources.**

*(Natural Resources Commission; [312 IAC 6-2-6.8](#))*

SECTION 3. [312 IAC 6-5-10](#) IS ADDED TO READ AS FOLLOWS:

**[312 IAC 6-5-10](#) Prospecting in a navigable waterway**

Authority: [IC 14-10-2-4](#); [IC 14-28-1-5](#); [IC 14-29-1-8](#)

Affected: [IC 14-22-34-12](#); [IC 14-28-1](#); [IC 14-29-1](#); [IC 14-29-3](#)

**Sec. 10. (a) This section governs prospecting in a navigable waterway that is subject to [IC 14-28-1](#), [IC 14-29-1](#), or [IC 14-29-3](#).**

**(b) Unless otherwise provided in this section, a person must not engage in prospecting except as**

approved by the department in a written license.

(c) Without a written license or notice to the department, and except as provided in subsection (d), a person may engage in prospecting within the ordinary high watermark of a navigable waterway upon compliance with each of the following conditions:

- (1) Lawful ingress to and egress from the navigable waterway is obtained.
- (2) Written permission is obtained from any affected riparian owner.
- (3) Prospecting is performed exclusively by one (1) or a combination of the following processes:
  - (A) Without the use of equipment.
  - (B) With the use of nonmotorized equipment, such as a pan, sluice box, or pick and shovel.
  - (C) With the use of suction equipment, including motorized equipment, having a hand-operated nozzle that has an opening not larger than five (5) inches in diameter.
- (4) No mercury or other chemicals are used to assist with the recovery of hard mineral resources.
- (5) Activities occur exclusively between sunrise and sunset.
- (6) No mussels are taken as prescribed by [312 IAC 9-9-3](#).
- (7) No endangered species are taken as prescribed by [IC 14-22-34-12](#).

(d) The following waterways do not qualify for prospecting under subsection (c) or under [312 IAC 10-5-11](#)(c):

- (1) Big Blue River in Harrison County, Crawford County, and Washington County from river mile 57.2 downstream to river mile 11.5.
- (2) The East Branch of the Little Calumet River in Porter County.
- (3) Lake Michigan.
- (4) The Portage Burns Waterway in Porter County.
- (5) St. Joseph River in St. Joseph County from the Twin Branch Dam in Mishawaka downstream to the Michigan State Line.

(e) Nothing in this section is intended to modify the rights of riparian owners.

(Natural Resources Commission; [312 IAC 6-5-10](#))

SECTION 4. [312 IAC 10-2-24.5](#) IS ADDED TO READ AS FOLLOWS:

**[312 IAC 10-2-24.5](#) "Hard mineral resources" defined**

Authority: [IC 14-10-2-4](#); [IC 14-28-1-5](#); [IC 14-29-1-8](#)

Affected: [IC 14-28-1](#); [IC 14-29-1](#)

Sec. 24.5. "Hard mineral resources" means naturally occurring alluvial deposits of the following:

- (1) Gold.
- (2) Platinum.
- (3) Silver.
- (4) Lead.
- (5) Copper.
- (6) Diamonds and other gemstones.
- (7) Other similar materials.

(Natural Resources Commission; [312 IAC 10-2-24.5](#))

SECTION 5. [312 IAC 10-2-33.3](#) IS ADDED TO READ AS FOLLOWS:

**[312 IAC 10-2-33.3](#) "Prospecting" defined**

Authority: [IC 14-10-2-4](#); [IC 14-28-1-5](#); [IC 14-29-1-8](#)

Affected: [IC 14-28-1](#); [IC 14-29-1](#)

**Sec. 33.3. "Prospecting" refers to activities conducted in preparation for or to remove hard mineral**

**resources.**

(Natural Resources Commission; [312 IAC 10-2-33.3](#))

SECTION 6. [312 IAC 10-5-11](#) IS ADDED TO READ AS FOLLOWS:

**[312 IAC 10-5-11](#) Prospecting in a nonnavigable waterway**

**Authority:** [IC 14-10-2-4](#); [IC 14-28-1-5](#);

**Affected:** [IC 14-28-1](#); [IC 14-29-1](#); [IC 14-22-34-12](#)

**Sec. 11. (a)** This section governs prospecting in a nonnavigable waterway that is subject to [IC 14-28-1](#) and this article.

**(b)** Unless otherwise provided in this section, a person must not engage in prospecting in a nonnavigable waterway except as approved by the department in a written license.

**(c)** Without a written license or notice to the department, a person may engage in prospecting in a nonnavigable waterway upon compliance with each of the following conditions:

- (1) Lawful ingress to and egress from the waterway is obtained.
- (2) Written permission is obtained from the property owner or owners.
- (3) Prospecting is performed exclusively by one (1) or a combination of the following processes:
  - (A) Without the use of equipment.
  - (B) With the use of nonmotorized equipment, such as a pan, sluice box, or pick and shovel.
  - (C) With the use of suction equipment, including motorized equipment, having a hand-operated nozzle that has an opening not larger than five (5) inches in diameter.
- (4) No mercury or other chemicals are used to assist with the recovery of hard mineral resources.
- (5) Activities occur exclusively between sunrise and sunset.
- (6) No mussels are taken as prescribed by [312 IAC 9-9-3](#).
- (7) No endangered species are taken as prescribed by [IC 14-22-34-12](#).

**(d)** In addition to the waterways disqualified by [312 IAC 6-5-10\(d\)](#), the following waterways do not qualify for prospecting under subsection (c):

- (1) Cedar Creek in Allen County and Dekalb County from river mile 13.7 to the confluence with the St. Joseph River.
- (2) Galien River in LaPorte County and its tributaries.
- (3) North Fork of Wildcat Creek in Tippecanoe County and Carroll County from river mile 43.11 to river mile 4.82 and the South Fork of Wildcat Creek in Tippecanoe County from river mile 10.21 to river mile 0.00.
- (4) Trail Creek in LaPorte County and its tributaries.
- (5) Tributaries of the East Branch of the Little Calumet River.
- (6) Tributaries of the St. Joseph River that have their confluences downstream of the Twin Branch Dam in Mishawaka.

**(e)** Nothing in this section is intended to modify the rights of riparian owners.

(Natural Resources Commission; [312 IAC 10-5-11](#))

[Notice of Public Hearing](#)

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