

## Final Rule

LSA Document #17-400(F)

## DIGEST

Amends [312 IAC 6.2-1-2](#) to add the definitions of "baseline volume abandonment", "discontinued significant water withdrawal facility", and to amend the definition of "salmonid stream". Amends [312 IAC 6.2-2-3](#) to allow for sale or transfer of all or a portion of a facility's baseline volume and to provide for the relinquishment of a facility's baseline volume. Amends [312 IAC 6.2-2-7](#) to clarify basin-wide conservation and efficiency objectives as anticipated by Resolution 5 adopted by the Great Lakes-St. Lawrence River Basin Water Resources Council. Effective 30 days after filing with the Publisher.

[312 IAC 6.2-1-2](#); [312 IAC 6.2-2-3](#); [312 IAC 6.2-2-7](#)

SECTION 1. [312 IAC 6.2-1-2](#) IS AMENDED TO READ AS FOLLOWS:

[312 IAC 6.2-1-2](#) Definitions

Authority: [IC 14-10-2-4](#); [IC 14-25](#)

Affected: [IC 14-8-2](#); [IC 14-9-3](#); [IC 14-25](#)

Sec. 2. The definitions in [IC 14-8-2](#), Section 1.2 of [IC 14-25-15-1](#), [312 IAC 1](#), and the following definitions apply throughout this article:

(1) "Baseline volume" refers to the amount of water approved through a status determination under [IC 14-25-15-12](#) (or approved through a modification to a status determination or another previous department order) with respect to any of the following categories:

(A) A total water withdrawal capability registered under [IC 14-25-7-15\(c\)\(3\)](#).

(B) A consumptive use attributable to a facility.

(C) A facility that diverts water outside the basin.

**(2) "Baseline volume abandonment" means the voluntary and affirmative termination of a facility's baseline volume as defined in this article, but shall not include the nonuse of a facility's baseline volume unless the facility is considered discontinued by the department.**

~~(2)~~ **(3) "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 to the compact.**

~~(3)~~ **(4) "Basin of Indiana" means the portion of the basin located in the state of Indiana.**

~~(4)~~ **(5) "Best management practices" or "BMPs" means methods or techniques found to be the most effective and practical means in achieving an objective (such as preventing or minimizing water losses) while making the optimum use of available resources.**

~~(5)~~ **(6) "Compact" means the Great Lakes-St. Lawrence River Basin Water Resources Compact described in [IC 14-25-15-1](#).**

~~(6)~~ **(7) "Deputy director" refers to the deputy director for the bureau of water and resource regulation established by [IC 14-9-3](#).**

**(8) "Discontinued significant water withdrawal facility" means a facility that is registered or permitted under this article and [IC 14-25-7-15](#) and meets the following conditions:**

**(A) The water withdrawal equipment of the facility has been removed, or is not maintained in a good state of repair, for a continuous period of more than five (5) years.**

**(B) The facility owner has not provided notification to the department of the intent for future use of the facility.**

~~(7)~~ **(9) "Division" means the division of water of the department.**

~~(8)~~ **(10) "Facility" means a significant water withdrawal facility as defined at [IC 14-25-7-15](#).**

~~(9)~~ **(11) "Q90" means the amount of flow in a stream that was equaled or exceeded by the annual daily mean stream flow ninety percent (90%) of the time.**

~~(10)~~ **(12) "Resolution 5" refers to "Resolution #5--Adoption of Basin-Wide Conservation and Efficiency Objectives", which was adopted by the council on December 8, 2008.**

~~(11)~~ **(13) "Salmonid stream" refers to each of the following:**

(A) Trail Creek and its tributaries downstream to Lake Michigan.

(B) The Galena River and its tributaries in LaPorte County.

(C) East Branch of the Little Calumet River and its tributaries downstream to Lake Michigan via Burns Ditch.

(D) The St. Joseph River and its tributaries in St. Joseph County from the Twin Branch Dam in Mishawaka

downstream to the Indiana/Michigan state line.

**(E) Salt Creek above its confluence with the Little Calumet River.**

**(F) Kintzele Ditch (Black Ditch) from Beverly Drive downstream to Lake Michigan.**

**(G) The Indiana portion of the open waters of Lake Michigan.**

**(H) Those waters designated by the Indiana department of natural resources for put-and-take trout fishing.**

~~(12)~~ **(14)** "Water use audit" means a systematic framework for accurately measuring water use and water loss in a given system.

~~(13)~~ **(15)** "Water withdrawal facility" refers to a system or process that:

(A) is a diversion; or

(B) 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.

(Natural Resources Commission; [312 IAC 6.2-1-2](#); filed Jan 5, 2005, 9:45 a.m.: 28 IR 1459; filed Jan 2, 2009, 1:30 p.m.: [20090128-IR-312080531FRA](#); filed Jul 9, 2014, 11:14 a.m.: [20140806-IR-312130335FRA](#), eff Sep 1, 2014; filed May 9, 2018, 10:01 a.m.: [20180606-IR-312170400FRA](#))

SECTION 2. [312 IAC 6.2-2-3](#) IS AMENDED TO READ AS FOLLOWS:

**[312 IAC 6.2-2-3](#) Facility sale or transfer of all or a portion of baseline volume**

**Authority:** [IC 14-10-2-4](#); [IC 14-25](#)

**Affected:** [IC 14-25-1-11](#); [IC 14-25-15-1](#)

Sec. 3. (a) This section applies to the sale or other transfer of a facility with a baseline volume.

**(b) All or a portion of a facility's baseline volume may be sold or transferred provided that the baseline volume is based on [312 IAC 6.2-1-2\(1\)](#).**

~~(b)~~ **(c)** Not later than March 31 of the year following a sale or other transfer to another person of a right to use all or a portion of a facility's baseline volume, the facility must notify the division on a department form. The notification must include the name and contact information for the buyer or other transferee and any other information reasonably required on the form to achieve compliance with this rule.

~~(c)~~ **(d)** If a facility does not comply with ~~subsection~~ **subsections (b) and (c)**, the sale or transfer is ineffective under [IC 14-25-15](#) and this article. A facility violates this article if the facility authorizes another person to use all or a portion of the facility's baseline volume without complying with ~~subsection~~ **subsections (b) and (c)**. A person also violates this article by using any portion of the baseline volume of a facility unless the facility complies with ~~subsection~~ **subsections (b) and (c)**.

~~(d)~~ **(e)** For a sale or transfer that is effective, the buyer or transferee is beneficiary to the amount of the baseline volume that is sold or transferred. The amount of the approved baseline volume of the seller or transferor is reduced by the amount sold or transferred.

~~(e)~~ **(f)** A buyer or transferee must comply with any action required by Section 4.12(4) of [IC 14-25-15-1](#).

**(g) A facility's baseline volume shall be relinquished when the facility is subject to baseline volume abandonment or the facility is considered to be a discontinued significant water withdrawal facility under this article. The sale or transfer of all or a portion of a facility's baseline volume pursuant to this article shall not be considered baseline volume abandonment.**

(Natural Resources Commission; [312 IAC 6.2-2-3](#); filed Jul 9, 2014, 11:14 a.m.: [20140806-IR-312130335FRA](#), eff Sep 1, 2014; filed May 9, 2018, 10:01 a.m.: [20180606-IR-312170400FRA](#))

SECTION 3. [312 IAC 6.2-2-7](#) IS AMENDED TO READ AS FOLLOWS:

**[312 IAC 6.2-2-7](#) Voluntary conservation and efficiency**

Sec. 7. (a) This section identifies voluntary conservation and efficiency objectives in the basin of Indiana as anticipated by Resolution 5, **including:**

- (1) guiding programs toward long-term sustainable water use;**
- (2) adopting and implementing supply and demand management to promote efficient use and conservation of water resources;**
- (3) improving monitoring and standardizing data reporting among state and provincial water conservation and efficiency programs;**
- (4) developing science, technology, and research; and**
- (5) developing education programs and information sharing for all water users.**

(b) Consistent with Section 4.2 of [IC 14-25-15-1](#), all facilities registered under [IC 14-25-7-15](#) are encouraged to consider and implement measures such as the following:

(1) The development and submission to the division for comment of a water conservation and management plan as follows:

(A) Components may include **the following:**

- (i) A description and quantification of current water use and reuse as identified by a water audit.
- (ii) Water conservation goals.
- (iii) Current and proposed metering activity.
- (iv) Methods to control unaccounted water.
- (v) Methods for water reuse.
- (vi) Methods for leak detection and repair.
- (vii) Other conservation or efficiency measures employed or considered.

(B) An implementation timeline. ~~for each component listed in clause (A).~~

(C) A monitoring plan. ~~that includes measures for adaptive management.~~

(2) The implementation of best management practices developed by the department for the following use categories:

- (A) Industrial.
- (B) Energy production.
- (C) Irrigation.
- (D) Public water supply.
- (E) Rural and other.

(3) The use of other recognized conservation and efficiency programs and information developed by the following:

- (A) United States Environmental Protection Agency.
- (B) American Ground Water Trust.
- (C) Alliance for Water Efficiency.
- (D) Indiana's Water Shortage Plan.
- (E) Another governmental agency or nongovernmental organization.

(4) Reporting participation in a water conservation and efficiency program. The report may include any of the following:

- (A) Elements of the program.
- (B) The resulting savings in water use quantified in gallons or liters. They may include financial savings from reductions to:
  - (i) chemical treatments for public water supply;
  - (ii) expenditures on infrastructure;
  - (iii) pesticides or herbicides; or
  - (iv) additives to irrigation water.
- (C) Any other information supporting improved understanding of conservation and efficiency programs.

(5) Participation in department surveys and questionnaires that seek accurate and timely data regarding conservation and efficiency programs.

(c) The department shall make an annual assessment of the extent to which conservation and efficiency programs meet goals and objectives. The department shall provide the assessment as follows:

- (1) Annually to the council and the regional body.
- (2) On the department's website and as otherwise practicable to the public.

(Natural Resources Commission; [312 IAC 6.2-2-7](#); filed Jul 9, 2014, 11:14 a.m.: [20140806-IR-312130335FRA](#), eff

LSA Document #17-400(F)

Notice of Intent: [20170913-IR-312170400NIA](#)

Proposed Rule: [20180110-IR-312170400PRA](#)

Hearing Held: February 22, 2018

Approved by Attorney General: April 26, 2018

Approved by Governor: May 9, 2018

Filed with Publisher: May 9, 2018, 10:01 a.m.

Documents Incorporated by Reference: None Received by Publisher

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Posted: 06/06/2018 by Legislative Services Agency

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