

TITLE 312 NATURAL RESOURCES COMMISSION

ARTICLE 1. DEFINITIONS

Rule 1. Definitions

312 IAC 1-1-1 Applicability

Authority: IC 14-10-2-4

Affected: IC 14; IC 25

Sec. 1. (a) Except as provided in subsection (b), the definitions contained in this article apply throughout this title.

(b) If a definition in this article conflicts with a definition of specific applicability in another part of this title or in a statute that controls another part of this title, the definition of specific applicability controls. *(Natural Resources Commission; 312 IAC 1-1-1; filed Dec 1, 1995, 10:00 a.m.: 19 IR 656; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA)*

312 IAC 1-1-2 "Administrative law judge" defined

Authority: IC 14-10-2-4

Affected: IC 4-21.5; IC 14-10-2-2; IC 25

Sec. 2. "Administrative law judge" refers to a person appointed by the commission under IC 14-10-2-2 to function as an administrative law judge under IC 4-21.5. *(Natural Resources Commission; 312 IAC 1-1-2; filed Dec 1, 1995, 10:00 a.m.: 19 IR 656; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA)*

312 IAC 1-1-3 "Animal" defined

Authority: IC 14-10-2-4

Affected: IC 14; IC 25

Sec. 3. "Animal" includes all:

- (1) mammals;
- (2) birds;
- (3) reptiles;
- (4) amphibians;
- (5) fish;
- (6) crustaceans; and
- (7) mollusks.

(Natural Resources Commission; 312 IAC 1-1-3; filed Dec 1, 1995, 10:00 a.m.: 19 IR 656; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA)

312 IAC 1-1-4 "Board" defined

Authority: IC 14-10-2-4

Affected: IC 14-9-6-1; IC 25

Sec. 4. "Board" means each of the following:

- (1) Advisory council refers to the advisory council established by IC 14-9-6-1.
- (2) Board of trustees for the division of state museums and historic sites.
- (3) Commission.
- (4) Historic preservation review board.
- (5) Surface coal mine reclamation bond pool fund committee.

(Natural Resources Commission; 312 IAC 1-1-4; filed Dec 1, 1995, 10:00 a.m.: 19 IR 656; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA; filed Mar 4, 2008, 12:31 p.m.: 20080402-IR-312070486FRA)

312 IAC 1-1-4.5 "Boat" defined

Authority: IC 14-10-2-4

Affected: IC 14; IC 25

Sec. 4.5. "Boat" means a watercraft. *(Natural Resources Commission; 312 IAC 1-1-4.5; filed Jun 29, 2007, 2:32 p.m.: 20070725-IR-312060333FRA)*

312 IAC 1-1-5 "Boundary waters" defined

Authority: IC 14-10-2-4

Affected: IC 14; IC 25

Sec. 5. "Boundary waters" means the following:

- (1) The part of the Wabash River that forms the boundary between Illinois and Indiana.
- (2) The part of the Ohio River that forms the boundary between Kentucky and Indiana.
- (3) The part of the Great Miami River that forms the boundary between Ohio and Indiana.
- (4) The part of Lake Michigan that is under the jurisdiction of Indiana.
- (5) The lakes other than Lake Michigan that are on the boundary between Indiana and bordering states.

(Natural Resources Commission; 312 IAC 1-1-5; filed Dec 1, 1995, 10:00 a.m.: 19 IR 657; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA)

312 IAC 1-1-6 "Bureau" defined

Authority: IC 14-10-2-4

Affected: IC 14-9-3-1; IC 15

Sec. 6. "Bureau" refers to any bureau created within the department under IC 14-9-3-1. *(Natural Resources Commission; 312 IAC 1-1-6; filed Dec 1, 1995, 10:00 a.m.: 19 IR 657; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA)*

312 IAC 1-1-7 "Chase" defined

Authority: IC 14-10-2-4

Affected: IC 14; IC 25

Sec. 7. "Chase" means following wildlife without the intent to take. *(Natural Resources Commission; 312 IAC 1-1-7; filed Dec 1, 1995, 10:00 a.m.: 19 IR 657; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA)*

312 IAC 1-1-8 "Commission" defined

Authority: IC 14-10-2-4

Affected: IC 14; IC 25

Sec. 8. "Commission" means the natural resources commission. *(Natural Resources Commission; 312 IAC 1-1-8; filed Dec 1, 1995, 10:00 a.m.: 19 IR 657; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA)*

20070613-IR-312070111RFA)

312 IAC 1-1-9 "Conservation officer" defined

Authority: IC 14-10-2-4
Affected: IC 25

Sec. 9. "Conservation officer" has the meaning set forth in IC 14-9-8-1 [*IC 14-9-8-1 was repealed by P.L.26-2008, SECTION 19, effective July 1, 2008.*]. (*Natural Resources Commission; 312 IAC 1-1-9; filed Dec 1, 1995, 10:00 a.m.: 19 IR 657; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA*)

312 IAC 1-1-10 "Department" defined

Authority: IC 14-10-2-4
Affected: IC 14-9-1-1; IC 25

Sec. 10. "Department" refers to the department of natural resources created by IC 14-9-1-1. (*Natural Resources Commission; 312 IAC 1-1-10; filed Dec 1, 1995, 10:00 a.m.: 19 IR 657; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA*)

312 IAC 1-1-11 "Deputy director" defined

Authority: IC 14-10-2-4
Affected: IC 14; IC 25

Sec. 11. "Deputy director" refers to the deputy director of the bureau that supervises a division. (*Natural Resources Commission; 312 IAC 1-1-11; filed Dec 1, 1995, 10:00 a.m.: 19 IR 657; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA*)

312 IAC 1-1-12 "Director" defined

Authority: IC 14-10-2-4
Affected: IC 14; IC 25

Sec. 12. "Director" refers to the director of the department. (*Natural Resources Commission; 312 IAC 1-1-12; filed Dec 1, 1995, 10:00 a.m.: 19 IR 657; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA*)

312 IAC 1-1-13 "Division" defined

Authority: IC 14-10-2-4
Affected: IC 14-9-4; IC 25

Sec. 13. "Division" refers to a division established under IC 14-9-4. (*Natural Resources Commission; 312 IAC 1-1-13; filed Dec 1, 1995, 10:00 a.m.: 19 IR 657; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA*)

312 IAC 1-1-14 "Division director" defined

Authority: IC 14-10-2-4
Affected: IC 14; IC 25

Sec. 14. "Division director" means the director of a division. (*Natural Resources Commission; 312 IAC 1-1-14; filed Dec 1, 1995, 10:00 a.m.: 19 IR 657; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA*)

312 IAC 1-1-15 "Flood plain" defined

Authority: IC 14-10-2-4

Affected: IC 14; IC 25

Sec. 15. "Flood plain" means the area adjoining a river or stream that has been or may be covered by flood water. (*Natural Resources Commission; 312 IAC 1-1-15; filed Dec 1, 1995, 10:00 a.m.: 19 IR 657; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA*)

312 IAC 1-1-16 "Floodway" defined

Authority: IC 14-10-2-4

Affected: IC 14; IC 25

Sec. 16. "Floodway" means:

- (1) the channel of a river or stream; and
- (2) the parts of the flood plain adjoining the channel that are reasonably required to efficiently carry and discharge the flood water or flood flow of a river or stream.

(*Natural Resources Commission; 312 IAC 1-1-16; filed Dec 1, 1995, 10:00 a.m.: 19 IR 657; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA*)

312 IAC 1-1-17 "Ground water" defined

Authority: IC 14-10-2-4

Affected: IC 14-25-7-3; IC 25

Sec. 17. (a) "Ground water" means, except as provided in subsection (b), all water that fills the natural openings made under the earth's surface. The term includes the following:

- (1) Underground watercourses.
- (2) Artesian basins.
- (3) Reservoirs.
- (4) Lakes.
- (5) Other bodies of water below the earth's surface.

(b) For purposes of IC 14-25-7, "ground water" has the meaning set forth in IC 14-25-7-3. (*Natural Resources Commission; 312 IAC 1-1-17; filed Dec 1, 1995, 10:00 a.m.: 19 IR 658; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA*)

312 IAC 1-1-18 "Hearing officer" defined

Authority: IC 14-10-2-4

Affected: IC 14; IC 25

Sec. 18. "Hearing officer" refers to a person or persons who conduct a hearing for a board or the department other than as an administrative law judge. (*Natural Resources Commission; 312 IAC 1-1-18; filed Dec 1, 1995, 10:00 a.m.: 19 IR 658; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA*)

312 IAC 1-1-19 "Hunt" defined

Authority: IC 14-10-2-4
Affected: IC 14; IC 25

Sec. 19. "Hunt" means to take a wild animal except by trapping. *(Natural Resources Commission; 312 IAC 1-1-19; filed Dec 1, 1995, 10:00 a.m.: 19 IR 658; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA)*

312 IAC 1-1-19.5 "Includes" defined

Authority: IC 14-10-2-4
Affected: IC 14; IC 25

Sec. 19.5. "Includes" means includes, but is not limited to. *(Natural Resources Commission; 312 IAC 1-1-19.5; filed May 11, 2004, 9:00 a.m.: 27 IR 3065; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA)*

312 IAC 1-1-20 "Individual" defined

Authority: IC 14-10-2-4
Affected: IC 14; IC 25

Sec. 20. "Individual" means a human person. *(Natural Resources Commission; 312 IAC 1-1-20; filed Dec 1, 1995, 10:00 a.m.: 19 IR 658; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA)*

312 IAC 1-1-21 "Lake" defined

Authority: IC 14-10-2-4
Affected: IC 14-8-2-259; IC 14-15; IC 14-26-2; IC 14-26-3-1; IC 25

Sec. 21. (a) "Lake" means, except as provided in subsections (b) through (d), a reasonably permanent body of water substantially at rest in a depression in the surface of the earth, if both the depression and the body of water are of natural origin or part of a watercourse. If part of a watercourse, a lake may be formed by damming a river or stream.

(b) For purposes of IC 14-15, "lake" means a natural or an artificial lake.

(c) For purposes of IC 14-26-2, "lake" has the meaning set forth in IC 14-26-2-1.5.

(d) For purposes of IC 14-26-3, "lake" has the meaning set forth in IC 14-26-3-1.

(e) In determining the shoreline or water line of a lake, the following are included:

(1) A bay or cove, except for a determination of a small lake as defined under IC 14-8-2-259.

(2) A man-made channel connected to a public freshwater lake under 312 IAC 11-2-17, if the channel:

(A) existed on March 12, 1947;

(B) as a condition of a department license, was required to conform to IC 14-26-2-9 (or, before their repeals, to conform to IC 13-2-11-2 or IC 13-2-11.1-5); or

(C) was constructed without a department license required under IC 14-26-2 (or, before their repeals, under IC 13-2-11 or IC 13-2-11.1).

(3) If a lake has more than one (1) legal elevation, the highest legal elevation is used.

(Natural Resources Commission; 312 IAC 1-1-21; filed Dec 1, 1995, 10:00 a.m.: 19 IR 658; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA; filed Nov 5, 2008, 2:27 p.m.: 20081203-IR-312080286FRA; errata filed Nov 24, 2008, 11:07 a.m.: 20081210-IR-312080286ACA)

312 IAC 1-1-22 "Law" defined

Authority: IC 14-10-2-4

Affected: IC 4-21.5-1-7; IC 14; IC 25

Sec. 22. "Law" has the meaning set forth in IC 4-21.5-1-7. (*Natural Resources Commission; 312 IAC 1-1-22; filed Dec 1, 1995, 10:00 a.m.: 19 IR 658; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA*)

312 IAC 1-1-23 "License" defined

Authority: IC 14-10-2-4

Affected: IC 4-21.5-1-8; IC 14-8-2-152; IC 25

Sec. 23. "License", except as provided in IC 14-8-2-152, has the meaning set forth in IC 4-21.5-1-8. (*Natural Resources Commission; 312 IAC 1-1-23; filed Dec 1, 1995, 10:00 a.m.: 19 IR 658; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA*)

312 IAC 1-1-23.5 "Motorboat" defined

Authority: IC 14-10-2-4

Affected: IC 14-8-2-202.5; IC 25

Sec. 23.5. (a) "Motorboat" means a watercraft propelled by:

(1) an internal combustion, steam, or electrical inboard or outboard motor or engine; or

(2) any mechanical means.

(b) The term includes the following:

(1) A sailboat that is equipped with a motor or an engine described in subsection (a) when the motor or engine is in operation, whether or not a sail is hoisted.

(2) A personal watercraft as defined in IC 14-8-2-202.5.

(*Natural Resources Commission; 312 IAC 1-1-23.5; filed Jun 29, 2007, 2:32 p.m.: 20070725-IR-312060333FRA*)

312 IAC 1-1-24 "Navigable" defined

Authority: IC 14-10-2-4

Affected: IC 4-21.5; IC 14-29-1-2; IC 25

Sec. 24. (a) "Navigable" means a waterway that has been declared to be navigable or a public highway by one (1) or more of the following:

(1) A court.

(2) The Indiana general assembly.

(3) The United States Army Corps of Engineers.

(4) The Federal Energy Regulatory Commission.

(5) A board of county commissioners under IC 14-29-1-2.

(6) The commission following a completed proceeding under IC 4-21.5.

(b) To assist in the administration of this title, a "Roster of Indiana Waterways Declared Navigable or Nonnavigable" is published at DIN: 20061011-IR-312060440NRA. This roster is not dispositive of whether a waterway is or is not navigable. (*Natural Resources Commission; 312 IAC 1-1-24; filed Dec 1, 1995, 10:00 a.m.: 19 IR 658; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA; filed Mar 4, 2008, 12:31 p.m.: 20080402-IR-312070486FRA*)

312 IAC 1-1-25 "Order" defined

Authority: IC 14-10-2-4
Affected: IC 14; IC 25

Sec. 25. "Order" means an action by the department (including a board, other than the commission, of the department) of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one (1) or more specific persons. (*Natural Resources Commission; 312 IAC 1-1-25; filed Dec 1, 1995, 10:00 a.m.: 19 IR 658; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA*)

312 IAC 1-1-26 "Ordinary high watermark" defined

Authority: IC 14-10-2-4
Affected: IC 14; IC 25

Sec. 26. "Ordinary high watermark" means the following:

(1) The line on the shore of a waterway established by the fluctuations of water and indicated by physical characteristics. Examples of these physical characteristics include the following:

- (A) A clear and natural line impressed on the bank.
- (B) Shelving.
- (C) Changes in character of the soil.
- (D) The destruction of terrestrial vegetation.
- (E) The presence of litter or debris.

(2) Notwithstanding subdivision (1), the shore of Lake Michigan at five hundred eighty-one and five-tenths (581.5) feet I.G.L.D., 1985 (five hundred eighty-two and two hundred fifty-two thousandths (582.252) feet N.G.V.D., 1929).

(*Natural Resources Commission; 312 IAC 1-1-26; filed Dec 1, 1995, 10:00 a.m.: 19 IR 659; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA*)

312 IAC 1-1-27 "Person" defined

Authority: IC 14-10-2-4
Affected: IC 4-21.5-1-11; IC 14-8-2-202; IC 25

Sec. 27. "Person", except as provided in IC 14-8-2-202, has the meaning set forth in IC 4-21.5-1-11. (*Natural Resources Commission; 312 IAC 1-1-27; filed Dec 1, 1995, 10:00 a.m.: 19 IR 659; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA*)

312 IAC 1-1-27.5 "State plane coordinate" or "SPC" defined

Authority: IC 14-10-2-4
Affected: IC 14; IC 32-19-1-1

Sec. 27.5. "State plane coordinate" or "SPC" has the meaning set forth in IC 32-19-1-1. (*Natural Resources Commission; 312 IAC 1-1-27.5; filed May 11, 2004, 9:00 a.m.: 27 IR 3065; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA*)

312 IAC 1-1-28 "Surface water" defined

Authority: IC 14-10-2-4
Affected: IC 14; IC 25

Sec. 28. "Surface water" means all water occurring on the surface of the ground. The term includes the following:

- (1) Water in a stream.
- (2) Natural and artificial lakes.
- (3) Ponds.
- (4) Swales.
- (5) Marshes.
- (6) Diffused surface water.

(Natural Resources Commission; 312 IAC 1-1-28; filed Dec 1, 1995, 10:00 a.m.: 19 IR 659; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA)

312 IAC 1-1-29 "Ultimate authority" defined

Authority: IC 14-10-2-4

Affected: IC 4-21.5-1-15; IC 14; IC 25

Sec. 29. "Ultimate authority" has the meaning set forth in IC 4-21.5-1-15. *(Natural Resources Commission; 312 IAC 1-1-29; filed Dec 1, 1995, 10:00 a.m.: 19 IR 659; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA)*

312 IAC 1-1-29.3 "Universal transverse mercator" or "UTM" defined

Authority: IC 14-10-2-4

Affected: IC 14

Sec. 29.3. "Universal transverse mercator" or "UTM" means UTM Zone 16, NAD 83, in meters. *(Natural Resources Commission; 312 IAC 1-1-29.3; filed May 11, 2004, 9:00 a.m.: 27 IR 3065; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA)*

312 IAC 1-1-29.4 "Watercraft" defined

Authority: IC 14-10-2-4

Affected: IC 14; IC 25

Sec. 29.4. "Watercraft" means any instrumentality or device in or by means of which a person may be transported upon the public water of Indiana. The term includes a motorboat, sailboat, rowboat, skiff, dinghy, or canoe:

- (1) of any length or size; and
- (2) whether or not used to carry passengers for hire.

(Natural Resources Commission; 312 IAC 1-1-29.4; filed Jun 29, 2007, 2:32 p.m.: 20070725-IR-312060333FRA)

312 IAC 1-1-29.5 "Waterway" defined

Authority: IC 14-10-2-4

Affected: IC 14; IC 25

Sec. 29.5. "Waterway" means:

- (1) a river;
- (2) a stream;
- (3) a creek;
- (4) a run;
- (5) a channel;
- (6) a ditch;
- (7) a lake;

- (8) a reservoir; or
- (9) an embayment.

(Natural Resources Commission; 312 IAC 1-1-29.5; filed Feb 7, 2000, 3:31 p.m.: 23 IR 1363; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA)

312 IAC 1-1-30 "Wild animal" defined

Authority: IC 14-10-2-4

Affected: IC 14-22-38-6; IC 25

Sec. 30. (a) "Wild animal", except as provided in subsection (b), means an animal whose species usually:

- (1) lives in the wild; or
- (2) is not domesticated.

(b) For the purposes of IC 14-22-38-6, "wild animal" has the meaning set forth in IC 14-22-38-6. *(Natural Resources Commission; 312 IAC 1-1-30; filed Dec 1, 1995, 10:00 a.m.: 19 IR 659; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA)*

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