

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 established by IC 14-9-6-1.
- (2) Commission.
- (3) Historic preservation review board.
- (4) 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; errata filed Sep 28, 2011, 3:00 p.m.: 20111012-IR-312110574ACA)

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*)

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 14-11-4; IC 25

Sec. 23. (a) Except as provided in subsections (b) and (c), "license" has the meaning set forth in IC 4-21.5-1-8.

(b) For IC 14-11-4 and 312 IAC 2-3, "license" has the meaning set forth in IC 14-8-2-152.

(c) For 312 IAC 8, "license" has the meaning set forth in 312 IAC 8-1.5-13. *(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; filed Aug 18, 2011, 11:38 a.m.: 20110914-IR-312100668FRA)*

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)*

*