

## **IC 4-21.5-7**

### **Chapter 7. Environmental Adjudication**

## **IC 4-21.5-7-1**

### **"Director" defined**

Sec. 1. As used in this chapter, "director" refers to the director of the office of environmental adjudication established by section 3 of this chapter.

*As added by P.L.41-1995, SEC.2.*

## **IC 4-21.5-7-2**

### **"Office" defined**

Sec. 2. As used in this chapter, "office" refers to the office of environmental adjudication established by section 3 of this chapter.

*As added by P.L.41-1995, SEC.2.*

## **IC 4-21.5-7-3**

### **Office of environmental adjudication; duties**

Sec. 3. (a) The office of environmental adjudication is established to review, under this article, agency actions of the department of environmental management, actions of a board described in IC 13-14-9-1, and challenges to rulemaking actions by a board described in IC 13-14-9-1 made pursuant to IC 4-22-2-44 or IC 4-22-2-45.

(b) The office of environmental adjudication shall:

(1) conduct adjudicatory hearings required to implement:

(A) air pollution control laws (as defined in IC 13-11-2-6), water pollution control laws (as defined in IC 13-11-2-261), environmental management laws (as defined in IC 13-11-2-71), and IC 13-19;

(B) rules of:

- (i) the air pollution control board;
- (ii) the water pollution control board;
- (iii) the solid waste management board; and
- (iv) the financial assurance board; and

(C) agency action of the department of environmental management; and

(2) notify a board referred to in subdivision (1)(B) of a final order of the office of environmental adjudication that interprets:

(A) a rule of the board; or

(B) a statute under which a rule of the board is authorized.

*As added by P.L.41-1995, SEC.2. Amended by P.L.1-1996, SEC.27; P.L.240-2003, SEC.1; P.L.99-2005, SEC.1.*

## **IC 4-21.5-7-4**

### **Employees**

Sec. 4. The office consists of the following employees:

(1) A director appointed by the governor who may serve as an environmental law judge.

(2) Environmental law judges, employed by the director.

(3) Any other staff, employed by the director, that are necessary to carry out the functions of the office.

(b) In the event of a vacancy, the governor shall appoint the director based upon recommendations by a four member (4) panel. Not more than two (2) members of the panel may be affiliated with the same political party. The panel shall consist of:

- (1) one (1) person, who shall serve as the chair of the panel, appointed by the chief justice of the supreme court of Indiana;
- (2) one (1) person appointed by the governor;
- (3) one (1) person appointed by the speaker of the house of representatives;
- (4) one (1) person appointed by the president pro tempore of the senate;

The panel shall nominate three (3) candidates for each vacancy and certify them to the governor as promptly as possible, but not later than sixty (60) days from the date a vacancy occurs. Not later than thirty (30) days after receipt of the panel's list of three (3) candidates, the governor may select one (1) candidate from the panel's list, or the governor may request that the panel nominate three (3) additional candidates. The panel shall meet whenever there is a vacancy in the director position.

*As added by P.L.41-1995, SEC.2.*

#### **IC 4-21.5-7-5**

##### **Decisions reviewed by law judge**

Sec. 5. (a) Except as provided in IC 14-10-2-2.5, an environmental law judge is the ultimate authority under this article for reviews of agency actions of the department of environmental management, actions of a board described in IC 13-14-9-1, and challenges to rulemaking actions by a board described in IC 13-14-9-1 made pursuant to IC 4-22-2-44 or IC 4-22-2-45.

(b) An environmental law judge under this chapter has the same authority and responsibilities as an administrative law judge.

*As added by P.L.41-1995, SEC.2. Amended by P.L.99-2005, SEC.2; P.L.84-2008, SEC.1; P.L.32-2011, SEC.7.*

#### **IC 4-21.5-7-5.5**

##### **Consolidated proceedings**

Sec. 5.5. A proceeding that is subject to the jurisdiction of both the office and the natural resources commission's division of hearings established under IC 14-10-2-2 may be consolidated under IC 14-10-2-2.5.

*As added by P.L.84-2008, SEC.2.*

#### **IC 4-21.5-7-6**

##### **Qualification and removal of law judge and director; appointment of special judge**

Sec. 6. (a) An environmental law judge hired after July 1, 1995, and the director must:

- (1) be attorneys admitted to the bar of Indiana;

- (2) have at least five (5) years of experience practicing administrative or environmental law in Indiana;
- (3) be independent of the department of environmental management; and
- (4) be subject to all provisions applicable to an administrative law judge under this article.

(b) The director or an environmental law judge may be removed for cause under:

- (1) this article;
- (2) IC 4-15-2, through application of the standards for removal for cause of a person in the state service (as defined in IC 4-15-2-3.8); or
- (3) applicable provisions of the code of judicial conduct.

(c) The director may appoint a special environmental law judge. The special environmental law judge must meet the requirements of subsection (a).

*As added by P.L.41-1995, SEC.2. Amended by P.L.99-2005, SEC.3.*

#### **IC 4-21.5-7-7**

##### **Powers of office**

Sec. 7. The office may:

- (1) adopt forms; and
- (2) establish procedural rules IC 4-22-2;

consistent with this article.

*As added by P.L.41-1995, SEC.2.*

#### **IC 4-21.5-7-8**

##### **Proposed budget; payment of expenses**

Sec. 8. (a) The director shall prepare the proposed budget for the office.

(b) The expenses of the office shall be paid from money allotted to the office of environmental adjudication to maintain the office.

*As added by P.L.41-1995, SEC.2. Amended by P.L.25-1997, SEC.2.*

#### **IC 4-21.5-7-9**

##### **Receipt and acceptance of gifts**

Sec. 9. The office, on behalf of the state, may accept and receive from any source gifts and other funds that are made available to the state for the purposes of this chapter.

*As added by P.L.25-1997, SEC.3.*