



INDIANA DEPARTMENT OF TRANSPORTATION

Driving Indiana's Economic Growth

Design Memorandum No. 14-14 Technical Advisory

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TO: All Design, Operations, and District Personnel, and Consultants

FROM: /s/Crystal M. Weaver
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SUBJECT: Flood Control Act Amendment

The Indiana Department of Natural Resources has announced changes to the Flood Control Act, specifically concerning Construction in a Floodway Permits. Previously, Construction in a Floodway permits were valid indefinitely through the construction process, as long as construction began in some form prior to the permit's stated expiration date. As of July 1, 2014, all Construction in a Floodway permits have a finite life of either two or five years, depending on the applicant and the situation. A one-time extension of up to two years is available. This will primarily affect projects with design or construction delays occurring after the Construction in a Floodway Permit application has been approved.

The Indiana DNR memo detailing the specifics of the policy change is attached to this memo.

July 2014

Important Announcement - Flood Control Act Amendment

A recent amendment to the Flood Control Act, IC 14-28-1, has changed the permit life to limit the number of years that construction in a floodway is authorized under a Certificate of Approval. This amendment brings an end to permits remaining valid indefinitely when the construction had been initiated prior to the permit expiration date.

The amendment does provide a new provision to allow the Department to authorize one (1) permit renewal.

The amendment not only affects Construction in a Floodway permits issued after July 1, 2014 but also valid permits issued before July 1, 2014 are subject to the new permit life limitations and the permit renewal provision.

For a Certificate of Approval that is issued **after** July 1, 2014:

A Certificate of Approval is valid for two (2) years from the date of issuance. Once the two years has expired the permit is no longer valid unless a permit renewal is issued. A one-time permit renewal may be issued for a period not to exceed two (2) additional years providing a renewal request is received at the Division of Water before the initial two (2) year permit life expires.

The Certificate of Approval issued to one of the following:

- A) the Indiana Department of Transportation or a county highway department, if there is any federal funding for the project; or
- B) an electric utility for the construction of a power generating facility,

is valid for five (5) years from the date of issuance. Once the five (5) years has expired the permit is no longer valid unless a permit renewal is issued. A one-time permit renewal may be issued for a period not to exceed two (2) additional years providing a renewal request is received at the Division of Water before the initial five (5) year permit life expires.

For a Certificate of Approval that was issued **before** July 1, 2014:

A Certificate of Approval that was issued **before** July 1, 2014 with a two (2) years permit life is valid for two (2) years beginning July 1, 2014. Once the two (2) years expires on July 1, 2016, the permit is no longer valid unless a permit renewal is issued. A one-time permit renewal may be issued for a period not to exceed two (2) additional years providing a renewal request is received at the Division of Water before July 1, 2016.

A Certificate of Approval that was issued **before** July 1, 2014 with a five (5) year permit life is valid for five (5) years beginning July 1, 2014. Once the five (5) years expires on July 1, 2019, the permit is no longer valid unless a permit renewal is issued. A one-time permit renewal may be issued for a period not to exceed two (2) additional years providing a renewal request is received at the Division of Water before July 1, 2019.

If you have further questions concerning this amendment to the Flood Control Act, please contact IDNR, Division of Water at 317-232-4160, toll free at 1-877-928-3755 or by email at water_inquiry@dnr.in.gov.

The Flood Control Act can be found on the web at http://iga.in.gov/static-documents/2/f/1/6/2f1650cc/TITLE14_AR28_ch1.pdf.