

CHAPTER 1 - INTRODUCTION TO WATERWAY PERMITTING

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Intended Use of Manual for INDOT and Local Projects

This manual has been written to set expectations for waterway permitting deliverables and review paths for projects developed by the Indiana Department of Transportation (INDOT). Other projects may also benefit from the guidance in this manual. Specifically, preparers of permits for local projects that receive federal funds and which follow INDOT standard specifications are encouraged to use this manual; however, INDOT does not review permits or other related deliverables for local projects.

CHAPTER 1 - INTRODUCTION TO WATERWAY PERMITTING

WHAT ARE WATERWAY PERMITS?

Waterway permits are legal documents authorizing impacts to aquatic resources. These permits are products of environmental laws and are the primary means by which regulatory agencies ensure compliance with environmental regulations. Each permit contains conditions that must be followed in order for the authorization to remain valid.

The Indiana Department of Transportation (INDOT) Ecology and Waterway Permitting Office (EWPO) developed this manual as guidance for project managers and designers. It should be used as a reference when evaluating impacts to water resources and the potential permitting requirements for INDOT projects. This manual summarizes major environmental laws and regulations, describes the permitting programs administered by resource agencies in Indiana, and describes resources subject to the jurisdiction of these agencies.

1.1 MANUAL ORGANIZATION

The INDOT Waterway Permitting Manual has eight chapters. Chapter 1 provides general information on INDOT's organization as well as relevant environmental laws, regulations, and policies. Chapter 2 summarizes the waterway permitting process as it relates to INDOT projects. The remaining chapters focus on the various waterway permitting agencies and is organized to discuss federal regulatory agencies, followed by state regulatory agencies, and finally local regulatory agencies. Chapter 3 provides general information on two areas under the jurisdiction of the U.S. Environmental Protection Agency (USEPA): underground injection control and sole source aquifers. Chapter 4 describes waterway permitting requirements of the U.S. Army Corps of Engineers (USACE). Chapter 5 describes bridge permitting requirements of the United States Coast Guard (USCG). Chapter 6 discusses the Indiana Department of Environmental Management's (IDEM's) permitting requirements related to waterways and erosion and sediment control. Chapter 7 describes the jurisdiction and permit requirements of the Indiana Department of Natural Resources (IDNR). Chapter 8 discusses the process for obtaining a regulated drain permit for the five Indiana counties that require them. Additional reference material is also included in the appendices.

1.2 INDOT ENVIRONMENTAL SERVICES DIVISION ORGANIZATION AND ROLES

The Environmental Services Division (ESD) is a part of INDOT Central Office. ESD is responsible for ensuring that INDOT projects comply with all local, state, and federal environmental laws and regulations during the project development process. ESD also provides technical support for projects under construction. There are three offices within ESD: Cultural Resources, Environmental Policy, and Ecology and Waterway Permitting. Each office provides technical assistance and training to INDOT personnel, consultants, and the public on the environmental requirements that pertain to transportation projects.

The Ecology and Waterway Permitting Office is comprised of the Ecology and Waterway Permitting teams and Storm Water Team. Each staff member within the EWPO is assigned an INDOT district or districts and typically will coordinate on all project needs within their assigned area. A map with the most

current staff assignments is available on the INDOT EWPO webpage (<http://www.in.gov/indot/2522.htm>). The roles and responsibilities of the two teams are:

Storm Water:

- Develop statewide policies, procedures, and standards relating to storm water quality;
- Prepare or review Rule 5 Storm Water Pollution Prevention Plans (SWPPPs);
- Conduct field visits on INDOT projects under construction to verify compliance with Rule 5 and provide technical assistance;
- Coordinate between INDOT and IDEM regarding Rule 5 inspections and violations;
- Coordinate with INDOT district staff tasked with erosion and sediment control compliance; and
- As an MS4 (Municipal Separate Storm Sewer System), develop and implement the INDOT Rule 13 Storm Water Quality Management Plan (SWQMP).

Ecology and Waterway Permitting:

- Prepare or review waters of the U.S. reports or other ecological evaluations;
- Prepare permit determinations (PD);
- Prepare, review, and process waterway permit applications for INDOT projects with impacts to aquatic resources;
- Prepare, review, and process waterway permit amendments and extensions;
- Prepare or review mitigation plans and coordinate on mitigation site selection;
- Conduct field visits on INDOT projects under construction to verify compliance with applicable environmental laws and regulations and provide technical guidance to resolve compliance issues; and
- Prepare or review monitoring reports for INDOT mitigation sites.

The EWPO's role in the project development process begins when a waters of the U.S. investigation is conducted during the preparation of the environmental document(s) for each project. A report is generated as a result of this investigation. In most cases, EWPO staff review reports submitted by INDOT district staff or consultants. In some cases this report will be prepared by a staff member. A waters of the U.S. investigation should identify all water features within and adjacent to the proposed project limits. Water features include, but are not limited to, rivers, streams, creeks, wetlands, ponds, lakes, agricultural ditches and county drains. In addition, non-jurisdictional features, such as roadside ditches that lack an ordinary high water mark (OHWM), should be discussed in the report. The investigation should also provide preliminary data on each resource, such as the OHWM for streams or the delineated wetland boundary for wetlands, as well as the quality of the resource within the study area. For more detailed information on waters of the U.S. investigations, and other ecological evaluations, please refer to the INDOT Ecology Manual located on the ESD webpage (<http://www.in.gov/indot/2522.htm>).

After the waters investigation is complete, EWPO will conduct a preliminary permit determination (PD). The designer should request a preliminary PD when stage one design (30%) has been reached. Sufficient detail at this stage is present to determine the likely impacts and permits needed for the project. A PD gives the designer and project manager an idea of what waterway permits, if any, may be required for their project. The EWPO preliminary permit determination will include the general timeline for when permit applications should be submitted for INDOT review and processing. Complete applications should be submitted to the EWPO or loaded into ERMS based on the timelines included in Table 2.1 to minimize the risk of not meeting the project's letting schedule.

Waterway permit applications are prepared by the designer or their designated consultant, but in some cases the EWPO will assist with application preparation. Applications will be reviewed by EWPO staff

for completeness and accuracy. All waterway permits must be loaded into INDOT's Electronic Records Management System (ERMS) by the designer or access provided through other acceptable means such as the consultant's File Transfer Protocol (FTP) site. The coordinator will forward them to the appropriate team lead. Smaller applications can be mailed directly to the team lead to start processing sooner.

When the review is complete, the application will be signed by the EWPO Manager or one of the three team leads. *Only designated members of the EWPO office are authorized by the INDOT Commissioner to sign off on waterway permit applications.* Once signed, EWPO staff will submit the application to the appropriate regulatory agency(s) and coordinate on any questions or comments received during regulatory agency review. All waterway permit conditions, including any mitigation requirements, are legal obligations that must be reflected in the construction plans and included in applicable special provisions for implementation during project construction. In addition, waterway permits and other documents, such as the waters determination report that delineated wetlands/waterways within the project area, should be included in the contract letting documents and/or accessible to the construction supervision staff. Permits must be amended if there will be additional permanent or temporary impacts to aquatic resources that were not included in the original permit application.

During construction, EWPO staff will visit projects to verify that they are in compliance with applicable environmental laws and regulations. When issues arise, staff will provide technical expertise to resolve any compliance concerns. EWPO staff will also provide technical guidance and coordinate the responses to regulatory agencies' routine or follow-up inspections.

1.3 RELEVANT ENVIRONMENTAL LAWS, DECISIONS, AND EXECUTIVE ORDERS

National Environmental Policy Act (1969)

The Council on Environmental Quality (CEQ) located within the Executive Office of the President has oversight over the implementation of the National Environmental Policy Act (NEPA) by federal agencies. The purpose of NEPA is to ensure that environmental factors receive equal weight when compared to other factors in the decision making process. It requires all federal agencies and their designees to disclose and consider the environmental implications of proposed actions. To comply with NEPA, INDOT documents the environmental impacts of its transportation projects and, when necessary, provides the opportunity for public input and participation throughout project development. NEPA established three levels of analysis that depend on if the project has "potential to affect the quality of the human environment". These are as follows: Categorical Exclusion (CE), Environmental Assessment (EA), or an Environmental Impact Statement (EIS). A project that qualifies for a CE does not individually or cumulatively have a significant effect on the quality of the human environment. An EA is prepared for projects not eligible for a CE to determine if a proposed action or its alternatives have potentially significant environmental effects. The EA process will conclude with either a Finding of No Significant Impact (FONSI) or a determination that an Environmental Impact Statement must be prepared. An EIS is a detailed written report that provides full and fair discussion on significant environmental impacts and informs decision-makers and the public of the reasonable alternatives that would avoid or minimize adverse impacts or enhance the quality of the human environment.

The Environmental Policy Office is responsible for ensuring all INDOT projects are in compliance with NEPA. Guidance from this office is available online (<http://www.in.gov/indot/2523.htm>), including the most recent version of the Categorical Exclusion Manual and the procedural manual for preparing environmental studies. NEPA documents include information that is useful when preparing permit applications, including:

- Presence of aquatic resources, including but not limited to floodplains, rivers, streams, wetlands, and ponds;
- Existing aquatic resource quality, including habitat assessments;
- Presence of federal and/or state listed endangered, threatened, or rare species;
- Historical properties subject to Section 106 of the National Historic Preservation Act;
- Presence of environmentally sensitive areas, such as karst resources; and
- Preliminary estimates of aquatic resource impacts and the likely waterway permitting need associated with these impacts.

Section 404 Clean Water Act (1972)

The Clean Water Act (CWA) is the principal federal law protecting our nation’s waters, including lakes, rivers, wetlands, and coastal areas. Formerly referred to as the Federal Water Pollution Control Act of 1972, its ultimate goal is to maintain the chemical, physical, and biological integrity of our nation’s waters. Its interim goal is to make surface waters usable for drinking water and recreation activities such as fishing and swimming.

Section 404 of the CWA pertains to the discharge of fill materials into waters of the United States. The 404 regulatory program is administered by the U.S. Army Corps of Engineers (USACE) with oversight from the U.S. Environmental Protection Agency (USEPA). Jurisdictional resources include:

- Traditionally navigable waters;
- Wetlands adjacent to traditional navigable waters;
- Non-navigable tributaries of traditional navigable waters where water flow is year round or relatively permanent (typically three months); and
- Wetlands directly adjacent to non-navigable tributaries.

The USACE makes the final ruling on whether or not an aquatic resource is a jurisdictional feature (water of the U.S.) or whether or not a wetland is “*isolated*.” An “*isolated*” wetland is not under the USACE’s jurisdiction, but falls under the state isolated wetlands program regulated by the Indiana Department of Environmental Management (IDEM).

Wetlands are delineated by using the 1987 *U.S. Army Corps of Engineers Wetland Delineation Manual* and applicable regional supplements. There are three regional supplements that cover the State of Indiana: Midwest, Eastern Mountains and Piedmont, and Northcentral and Northeast. See the INDOT Ecology Manual for more information on the USACE Regional Supplements.

USACE’s approval of discharges of dredged or fill material is contingent upon the project complying with the guidelines of Section 404 (b)(1) of the CWA, as follows:

- There is no practicable alternative to the proposed discharge that would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences (i.e. the Least Environmentally Damaging Practicable Alternative or LEDPA);
- The project must not cause or contribute to violation of state water quality standards or toxic effluent standards;
- The project must not jeopardize the continued existence of federally listed endangered and threatened species or their critical habitats;
- The project must not cause or contribute to significant degradation of the waters of the U.S.; and

- The project must include appropriate and practicable steps to avoid and minimize potential adverse impacts of the discharge on the aquatic ecosystem.

In order to comply with these guidelines, USACE permit applications must demonstrate that INDOT has taken steps to avoid impacts to water resources (where practical), minimize potential impacts to waterways, and provide compensatory mitigation for any remaining unavoidable impacts through activities to restore or create water resources.

To streamline permitting, USACE has a set of general permit programs for projects with low impacts to aquatic resources: the nationwide permit (NWP) program and the regional general permit (RGP) program. The majority of INDOT projects are permitted using these two programs. Any project that exceeds the impacts thresholds of these programs, or cannot comply with one or more of their general conditions, requires a 404 individual permit (IP). Refer to Chapter 4 for more information about these USACE programs.

Tulloch Rule (1993)

The Tulloch Rule, issued in 1993 by USEPA and USACE, revised the definition of "discharge of dredged material" to include the incidental fallback of any excavated materials that occurs during dredging operations. Activities such as mechanized land clearing, ditching, draining, and stream channelization were problematic under the CWA due to confusion over whether or not the excavation and spilling of debris associated with these activities constitutes discharge of materials into waters of the U.S. However, a 1998 court decision found that these agencies lacked authority under the CWA to regulate such activities if conducted in such a manner as to result in only "incidental fallback" (excavated material that falls back to substantially the same place as the initial removal). In May 1999, USEPA and USACE issued a final rule modifying the definition of "discharge of dredged material" in order to respond to the Court's finding and to ensure compliance with the Court decision.

USEPA and USACE proposed further rule revisions that were finalized and went into effect in April 2001. The final rule modifies the definition of "discharge of dredged material" by clarifying what types of activities USEPA and USACE believe typically result in regulated discharges, based on the nature of the equipment and agency experience. Under the rule, these agencies regard the use of mechanized earth moving equipment to conduct land clearing, ditching, channelization, in-stream mining, or other earth-moving activity in waters of the U.S. as resulting in a discharge of dredged material, unless project-specific evidence shows that the activity results in only "incidental fallback."

The Tulloch Rule does not allow for side casting of materials. Any materials removed from a jurisdictional water should be removed from the waterway, placed into a hauling truck (or other secure means of removal), and disposed of at an approved upland location away from aquatic resources subject to waterway permits. INDOT would need project specific evidence showing that the activity only resulted in incidental fallback to apply this rule. The volume and amount of material, as well as the nature and distance of relocation, are relevant in determining whether incidental fallback or a regulated discharge occurred.

SWANCC Decision (2001)

The U.S. Supreme Court made its ruling on *Solid Waste Agency of Northern Cook County (SWANCC) v. U.S. Army Corps of Engineers* on January 9, 2001. SWANCC, a consortium of Chicago municipalities, selected an abandoned sand and gravel pit as a solid waste disposal site. The bottom of this pit contained permanent and seasonal ponds and wetlands. The operation

called for filling in some of these aquatic resources. Because of this, SWANCC applied for a Section 404 permit which was subsequently denied by the USACE.

Section 404 of the CWA authorizes the USACE to issue permits for the discharge of dredged or fill material into “navigable waters of the United States.” However, the USACE did retain authority over hydrologically isolated wetlands, such as those at the SWANCC site, through its 1986 Migratory Bird Rule, which stated that Section 404 extends to intrastate waters that provide habitat for migratory birds. The SWANCC decision held that USACE exceeded its statutory authority by using the Migratory Bird Rule to assert CWA jurisdiction over isolated wetlands. USACE still regulates isolated wetlands that support interstate commerce, but the SWANCC decision prohibits the Corps from using the Migratory Bird Rule as the sole basis for assertion of regulatory jurisdiction under the CWA in determining the interstate commerce connection.

The SWANCC verdict also extended USACE’s authority under Section 404 to all wetlands adjacent to navigable or interstate waters and their tributaries. The decision approved a definition of adjacent as “bordering, contiguous, or neighboring.” Thus, wetlands separated from other waters of the U.S. by man-made barriers such as dikes, natural river berms, and beach dunes are adjacent wetlands. Historical connections on U.S. Geological Survey (USGS) topographic maps should be used to determine adequate connection between a wetland and waters of the U.S. The USACE makes the final determination on the jurisdiction of wetlands.

Rapanos Decision (2006)

The U.S. Supreme Court’s decision in the case of *Rapanos v. United States* (126 S.Ct. 2208) in 2006 resulted in changes to the jurisdiction of the USACE and USEPA under Section 404 of the Clean Water Act. The U.S government alleged that Rapanos illegally discharged fill material into protected wetlands violating the CWA. Rapanos argued that the disturbed wetlands were not “adjacent” wetlands subject to the CWA because they had only a surface connection to non-navigable waters of the United States. The Supreme Court ruled that the USACE must establish a “significant nexus” on a case by case basis when determining whether or not a water is jurisdictional. The USACE assesses the flow characteristics and functions of the tributary, and the functions performed by wetlands adjacent to the tributary, to determine if they will significantly affect the chemical, physical, and biological integrity of the downstream traditional navigable waters when making a significant nexus assessment. This considers hydrologic and ecologic factors.

As a result of the Supreme Court’s ruling, the USACE and USEPA will assert their jurisdiction over the following waters:

- Traditionally navigable waters;
- Wetlands adjacent to traditional navigable waters;
- Non-navigable tributaries of traditional navigable waters where water flow is year round or relatively permanent (typically three months); and
- Wetlands directly adjacent to non-navigable tributaries.

The USACE and EPA will determine jurisdiction using significant nexus for the following waters:

- Non-navigable tributaries without relatively permanent flow;
- Wetlands adjacent to non-navigable tributaries without relatively permanent flow; and
- Wetlands not directly adjacent to waters with a relatively permanent flow.

The USACE and USEPA will not assert jurisdiction over the following features:

- Swales or erosion features; and
- Ditches (including roadside ditches) excavated wholly in and draining only uplands that do not carry a relatively permanent flow of water.

The Environmental Law Institute published the Second Edition of the *Clean Water Act Jurisdiction Handbook* in May 2012. Chapter 4 of the handbook provides wetland and stream checklists to help assess clean water act jurisdiction. See additional resources in the appendices for a link to this document.

Endangered Species Act (1973)

The Endangered Species Act (ESA) protects federally listed endangered and threatened species and requires conservation of their critical habitats. All federal agencies must protect these species and preserve their habitats. This act is administered by the U.S. Fish and Wildlife Service (USFWS). INDOT complies with the ESA by performing ecological coordination during the preparation of the project's NEPA document. Refer to the INDOT Ecology Manual for detailed information on Section 7 consultation. INDOT waterway permit applications are required to ensure project compliance with the ESA prior to authorizing waterway permits.

Section 401 Clean Water Act (1972)

The CWA requires each state to establish and evaluate its water quality standards. Under Section 401 <http://www.epa.gov/OWOW/wetlands/regs/sec401.html>, states are required to certify that the discharge of fill will not violate their water quality standards. In Indiana, Section 401 is administered by IDEM. Anyone who wishes to discharge dredged or fill material into waters of the U.S. must obtain a Section 401 Water Quality Certification (WQC) from IDEM. This includes individuals, businesses, and government agencies. The applicant must demonstrate that the proposed project will comply with Indiana's water quality standards.

Because the need for a Section 404 permit from the USACE triggers the need for a Section 401 permit, IDEM works closely with the USACE throughout the application review process. However, there are differences with the authority of each agency which may result in the requirement for different levels of permitting. Chapters 4 and 6 will explore this further. When a USACE 404 permit is required, a Section 401 Water Quality Certification must be obtained from IDEM. IDEM will review the proposed activity to determine if it complies with state water quality standards. A project may not proceed until INDOT has received a certification (or other authorization) from IDEM. If USACE determines that a Section 404 permit is not needed, then another form of authorization from IDEM may be required. This is addressed for "isolated" wetlands where USACE has determined that it has no federal jurisdiction.

Isolated Wetlands in Indiana (2004)

At the time of the SWANCC decision, many states, including Indiana, did not have wetland regulations specifically for isolated wetlands. The general assembly gave IDEM authority to regulate isolated wetlands through rule making and permitting (IC 13-18-22). An isolated wetland is a wetland not subject to regulation under Section 404(a) of the CWA. IC 13-18-22 establishes a wetland classification system, general permits and exemptions, and gives IDEM the authority to regulate the placement of dredged or fill material into non-exempt isolated wetlands. This will be explained further in Section 6.5.

Executive Order 11990 (1977)

Executive Order 11990 requires each federal agency to develop procedures to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of

wetlands. This order states that each federal agency shall avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds:

- There is no practicable alternative to such construction; and
- The proposed action includes all practicable measures to minimize impacts to wetlands.

The Federal Highway Administration (FHWA) has adopted policies to implement the requirements of Executive Order 11990. This includes a wetland finding in NEPA documentation for projects impacting wetlands. FHWA policy requires that wetlands be identified, characterized, and evaluated for the extent of impacts through the NEPA and project development process. INDOT is required to evaluate practicable avoidance alternatives to wetland impacts. If avoidance alternatives are not practicable, then practicable measures to minimize harm are considered and included in the project. Note that this order includes isolated wetlands and requires the same avoidance and minimization efforts required for jurisdictional wetlands.

Rivers and Harbors Act (1899)

Section 9 of the Rivers and Harbors Act prohibits the construction of any dam or dike across any navigable water of the U.S. without USACE authorization. It also prohibits the construction of bridges or causeways in or over commercially navigable waters of the U.S. without authorization by the United States Coast Guard (USCG) through the issuance of a bridge permit or permit amendment. The purpose of the Act is to prevent interference with the navigability of navigable waters by bridges or other obstructions to include controlling horizontal and vertical clearances for commercial navigation.

Section 10 of the Rivers and Harbors Act is administered by the USACE. It prohibits the creation of any obstruction to the navigable capacity of any waters of the U.S. without prior USACE approval. Section 10 requires a permit for all work (other than construction of bridges or causeways) performed in or over navigable waters of the U.S. Activities that would require USACE approval include, but are not limited to, structure construction or the excavation, fill, alteration or modification of jurisdictional waters.

Fish and Wildlife Coordination Act (1936)

The Fish and Wildlife Coordination Act of 1936, and its subsequent amendments, requires federal agencies to consult with the USFWS and the head of the state agency exercising administration over the wildlife resources that will be impacted (Indiana Department of Natural Resources (IDNR)). The goal of the Act is the conservation of wildlife resources. INDOT performs ecological coordination during the preparation of most NEPA documents. Early coordination letters are sent to both USFWS and IDNR and are included in the final NEPA document. Agencies reviewing waterway permit applications will request the results of the coordination (for example: a request from the USACE regarding compliance with the ESA).

Flood Control Act (1995)

The Flood Control Act (IC 14-28-1) regulates various development activities within the 100-year floodway of any Indiana waterway. The intent of this legislation is to prevent loss of lives and property from flooding. Development activities include bank protection, structure work (bridges/culverts), excavations, fills, outfalls, and certain utility work. The IDNR is the regulatory authority for this act and requires permits for any non-exempt work within the floodway.

In addition to reviewing a project's impacts on the floodway's capacity, IDNR will also evaluate the project's environmental impact to the floodway. If the project is found to have "unreasonable detrimental

effects upon fish, wildlife, or botanical resources,” compensatory mitigation may be required. Refer to Chapter 7 for more information on IDNR Flood Control Act permitting.

Wild and Scenic Rivers Act (1968)

The Wild and Scenic Rivers Act established national rivers which, with their immediate environments, possess outstanding or remarkable scenic, recreational, geological, fish and wildlife, historic, cultural, or other similar values. The act requires that these rivers be preserved in free-flowing condition, and their immediate environments protected for the benefit and enjoyment of present and future generations. A system of National Wild and Scenic Rivers was established to protect selected rivers and their surrounding environment. Indiana currently has no designated National Wild and Scenic Rivers, though the Maumee River (including its tributaries) is designated for potential addition to the National Wild and Scenic Rivers System.

NPDES General Permit Rule Program (1992)

The National Pollution Discharge Elimination System (NPDES) is administered by the USEPA. This agency delegates authority to the states to administer the program. In Indiana, IDEM’s Rule 5 general permit program (327-IAC 15-5) focuses on reducing pollutants, especially sediment, associated with construction as well as post construction pollutants.

All projects that disturb soil are required to incorporate appropriate erosion and sediment control measures. In addition, projects disturbing more than one acre of soil are required to submit a formal application to IDEM for approval. A general permit is a permit by rule, and as such it is not "issued" in the same manner as a typical permit. A Rule 5 general permit is called a Notice of Intent (NOI) because the applicant is essentially notifying IDEM of their intent to operate the proposed construction project in a manner consistent with the rule. Refer to Section 6.6 for more information on Rule 5 permitting.

Indiana State Drainage Law (1981)

Indiana state law (IC 36-9-27) grants each county the authority to conduct and regulate activities within designated open drains and tiles for the purposes of maintaining efficient and effective flow through the drains. Each county has a drainage board with jurisdiction over regulated drains. The county’s surveyor works with the board to implement drainage laws.

All counties can require the property owner to obtain permission from the board prior to engaging in activities that have the potential to negatively affect the flow conditions of the regulated drain and/or add pollutants to the regulated drain. This includes properties owned by INDOT. State law grants authority to the counties to require permits for activities on regulated drains. INDOT applies for any necessary county regulated drain permits with the county surveyor prior to initiated work in a regulated drain. Refer to Chapter 8 for more information regarding county regulated drain permitting.