



# INDIANA

Original Wetland Acreage	Remaining Wetland Acreage	Acreage Lost	% Lost
5,600,000	750,633	4,849,367	-87%

**Indiana Wetlands:** Palustrine wetlands, which are the most abundant wetlands remaining in the State, are distributed throughout Indiana in topographic depressions, between agricultural fields, and in riparian zones along rivers, streams, and lakes. Palustrine forested wetlands are the most common wetlands in Indiana.

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## SUMMARY

### Overall Program:

All wetlands are protected under Indiana's water quality standards, which establish narrative and numeric criteria, designated uses, and an antidegradation policy that applies uniformly to all waters. No wetland-specific water quality standards exist at this time. See complete rules at:

<http://www.in.gov/legislative/iac/T03270/A00020.PDF>

The Department of Environmental Management implements Section 401 of the Clean Water Act, which regulates impacts to wetlands that involve the placement of dredged or fill materials into wetlands and other waters, as well as mechanical clearing of wetlands and some dredging activities.

Isolated wetlands, or those waters no longer subject to regulation under the Clean Water Act, are regulated under IC 13-18-22 (<http://www.in.gov/legislative/ic/code/title13/ar18/ch22.html>).

This statute creates a category of waters of the state known as State Regulated Wetlands, which are defined as wetlands as delineated under the 1987 Corps of Engineers Wetlands Delineation Manual and are considered isolated and not subject to federal law. This law establishes a classification system for wetlands and a set of general permits, exemptions, and individual permitting authority.

Wetlands are also regulated under the Flood Control Act, administered by the Department of Natural Resources (<http://www.in.gov/legislative/ic/code/title14/ar28/ch1.html>)

### **Innovative Features and New Programs/Initiatives:**

The adoption of state law to regulate isolated wetlands occurred in 2004 with the passage of IC 13-18-22. This is the first state law to specifically confer authority on a state agency to regulate wetlands; the law creates a definition of wetlands that is consistent with the basic definition used by federal regulatory agencies.

A Regional General Permit that replaces many of the Corps of Engineers Nationwide Permits is in place. An Interagency Coordinated Agreement on Mitigation Banking is in place.

The Department of Environmental Management is working on laying the groundwork for a status and trends survey of wetland losses and gains and is considering a statewide wetland inventory using remote sensing and limited ground truthing. Coefficients of conservatism have been developed for all plants in Indiana that may be found in wetlands, which will become a component of a future wetland assessment methodology.

An interagency website devoted to wetland information, including permitting, conservation, success stories, and links to organizations was created in cooperation by the Department of Environmental Management, the Department of Natural Resources, and the Office of the Commissioner of Agriculture. It is <http://www.in.gov/wetlands/>.

### **State Wetland Conservation Plan**

The Indiana Wetland's Conservation Plan was adopted by the Natural Resources Commission in April of 1996. The plan is to be used to guide wetlands conservation efforts throughout the state.

### **No Net Loss/Net Gain Goal**

No net loss of wetlands and a net gain of wetlands is the adopted goal of the Department of Environmental Management's regulatory programs. A similar goal appears in IC 13-18-22:

*The goal of the permitting program for wetland activities in state regulated wetlands is to:*  
*(1) promote a net gain in high quality isolated wetlands; and*  
*(2) assure that compensatory mitigation will offset the loss of isolated wetlands allowed by the permitting program.*

### **INDIVIDUAL FEATURES:**

#### **Regulation**

#### **Wetland Regulatory Statutes and Administrative Rules**

Floodways. Ind. Code Ann. (13-2-22) The Department of Natural Resources regulates construction within floodways. Effects on fish, wildlife, and botanical resources must be considered.

Inland Lake Preservation Act (13-2-11) Indiana Department of Natural Resources regulates activities in lakes and shorelines below mean water level. This does not apply to Lake Michigan.

Water Pollution Control Act (IC 13-1-3) - Makes it unlawful to discharge materials to waters of the state, which includes wetlands, that would interfere with any lawful water use or whereby any fish life or any beneficial animal or vegetable life in any waters may be destroyed or the growth or propagation thereof

prevented or injuriously affected. Thus, most wetland fills would be unlawful, unless compensatory mitigation is provided.

Indiana's Water Quality Standards (327 IAC 2) - Nondegradation policy, minimum surface water quality standards and numerical criteria apply to all waters of the state, including wetlands.

State Regulated Wetlands (IC 13-18-22) – State law that regulates the discharge of dredged or fill materials to wetlands considered isolated and not regulated under federal law. Allows the Department of Environmental Management to consider the effects of wetland fills on a variety of factors, including water quality, fish and wildlife, and hydrology.

Section 401 of the Clean Water Act – The Department of Environmental Management implements all aspects of the Clean Water Act, and draws its authority from the Act to administer this program. Effects of all aspects of a project on water quality that requires a federal permit or license to discharge dredged or fill materials are considered under this process.

### **Wetland Definition and/or Delineation; Comparability With Federal Definition**

Isolated wetlands are defined as follows:

#### **IC 13-11-2-265.7**

Sec. 265.7. "Wetlands", for purposes of IC 13-18, means areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include:

- (1) swamps;
- (2) marshes;
- (3) bogs; and
- (4) similar areas.

*As added by P.L.282-2003, SEC.33.*

In addition, wetland delineation is also defined for isolated wetlands.

#### **IC 13-11-2-265.8**

##### **"Wetlands delineation"**

Sec. 265.8. "Wetlands delineation" or "delineation", for purposes of section 74.5 of this chapter, means a technical assessment:

- (1) of whether a wetland exists on an area of land; and
- (2) if so, of the type and quality of the wetland based on the presence or absence of wetlands characteristics, as determined consistently with the Wetlands Delineation Manual, Technical Report Y-87-1 of the United States Army Corps of Engineers.

*As added by P.L.282-2003, SEC.34.*

These definitions are also used by the Department of Environmental Management through policy in its Section 401 Water Quality Certification Program.

## **Evaluation Methodology**

No official methods adopted. However, an Indiana-specific Rapid Assessment of Wetlands was developed as a part of the Indiana Wetland Conservation Plan. See the following website: <http://www2.taylor.edu/upland/departments/envscience/wetlands/iswamp/Manual.htm>

The Department of Environmental Management has developed the first component of a multivariate approach to wetlands assessment. See the following website: <http://www.in.gov/idem/water/planbr/401/fqaindianarprt.doc>

In the long term, the use of remote sensing, aerial photography, and other landscape-focused methods of assessment will be the focus of the Department of Environmental Management over the next few years.

## **Regulated and Exempted Activities**

Activities regulated by wetland-related laws include the placement of dredged or fill materials in wetlands, mechanical clearing of wetlands, and some excavation activities. Discharges of pollutants are also regulated.

Exempt activities include drainage of wetlands and normal agricultural practices. For State Regulated Wetlands, all exemptions under Section 404(f) of the Clean Water Act apply, as well as discharges of fill materials in a de minimis amount.

## **Special Provisions for Agriculture and Forestry**

Indiana's State Regulated Wetlands law exempts all activities subject to the USDA Swampbuster provisions on agricultural lands. Indiana also uses the Section 404(f) exemptions for normal agricultural activities in both the Section 401 program and the State Regulated Wetland Program.

## **Penalties and Enforcement**

Both the Departments of Environmental Management and Natural Resources have separate authorities to enforce laws and regulations specific to that agency. Violators of laws may be subject to penalties of up to \$25,000/day for knowing and willful violations. In addition, wetland violation and enforcement cases are often coordinated with other agencies, such as the USEPA, Corps of Engineers, and Department of Justice.

## **Permit Tracking**

The Department of Environmental Management is working on a wetland tracking database that, when completed, will compile information on permits issued, mitigation sites and success, wetland conservation projects, and enforcement-related activities.

## **State General Permit (PGP or SPGP) for 404**

None developed at this time.

## **Assumption of Section 404 Powers**

The Department of Environmental Management has studied this question and determined that insufficient resources and regulatory authority exists at the state level to seek formal assumption. No efforts are planned at this time to conduct further evaluations.

## **Joint Permitting**

The Department of Environmental Management and the Corps of Engineers have an agreement regarding the joint noticing of applications for Section 404 and Section 401. An interagency task force examined the issues surrounding a joint permit between the Departments of Natural Resources, the Department of Environmental Management, and the Corps of Engineers, but was deemed unworkable due to lack of resources and administrative issues within each program.

## **Special Area Management Plans and Advanced Identification Plans**

An ADID of the Lake Michigan rim watersheds was completed by USEPA in 2002. The ADID covered portions of Lake, Porter, and Laporte Counties.

## **Role of Local Governments**

Under the State Wetland Regulatory Program, local governments may pass resolutions or other official statements regarding a given project and its ability or lack thereof to avoid wetlands. Local governments in Porter and DeKalb counties have passed wetland ordinances, but the scope of the ordinances is designed to insure coordination with state and federal wetland programs.

## **Staffing**

The Department of Environmental Management has five (5) staff persons devoted to the review of permits, wetland compliance activities, mitigation site inspections, development of rules, policy, and methods, and interagency coordination on wetlands.

## **Water Quality Standards**

### **Wetlands and Water Quality Standards**

Indiana's wetlands are covered by the surface water quality standards (327 IAC 2). These standards apply to all waters of the state, which includes both adjacent wetlands and non-exempt isolated wetlands. No wetland-specific water quality standards exist at this time.

### **Wetland Definition**

Isolated wetlands are defined under IC 13-11-2-265.7 (see "Wetland Definition and/or Delineation; Comparability with Federal Definition" above under Regulation). No specific definition of wetlands exists within the surface water quality standards.

### **Designated Uses**

No specific designated uses have been established that would apply to wetlands.

### **Narrative and/or Numeric Criteria**

No specific narrative or numeric criteria have been developed that apply to wetlands.

### **Antidegradation Policy**

No specific antidegradation policy has been developed that applies to wetlands.

## **Other**

None.

## **Staffing**

No staff specifically devoted to this task.

## **Mitigation**

### **Mitigation Policy**

State wetlands regulatory programs adhere to the no net loss/net gain policy. In general, all impacts to wetlands allowed by the regulatory process that are greater than one-tenth (0.1) acres in size require some form of compensatory mitigation.

### **Mitigation Banks**

An Interagency Coordinated Agreement on mitigation banking was formally established in 2002. Mitigation banks are considered one of many options to replace wetlands allowed under applicable programs. There are no laws, rules, or policy that provide specific incentives for the utilization of banks. Currently there are two (2) privately run mitigation banks in the state. The Department of Transportation is investigating the creation of at least two public banks to be used solely by the Department of Transportation. At least three (3) other private banks are under active review by the various agencies.

### **In Lieu Fee Program**

The state has no in lieu fee programs and in lieu fees are strongly discouraged.

### **Ad Hoc Arrangements**

On a case by case basis, consideration is given to unique opportunities for wetland mitigation, which may include creation of mitigation on public lands, donation of property to a conservation-based organization, or other similar arrangement.

### **Mitigation Database**

No database exists at present, but a database is currently under development.

## **Staffing**

One (1) person is devoted part time to mitigation-related issues.

## **Monitoring and Assessment**

### **Mapping /Inventory**

Complete National Wetland inventory maps for the state were completed in the late 1980's. These maps are available in both paper and digital formats. Wetlands are classified using the Cowardin classification system. No updates have occurred, but investigation of a status and trends survey is underway.

## **Wetland Classification and Assessment**

None exists at present. The Department of Environmental Management is currently developing a classification system for isolated wetlands as required by state law.

## **Overall Wetland Gain and Loss Tracking System**

No comprehensive tracking system of wetland losses and gains exists in the state.

## **Staffing**

No staff are devoted to this activity.

## **Restoration**

### **Program Description**

A number of federal, state, and private programs exist that provide direct funding, technical assistance, or match-making services across the state. A compendium of information on these programs can be found on the following website: <http://www.in.gov/wetlands/publications/summary.pdf>.

### **Restoration Program Goals**

Goals are unique to each program, but generically, most programs are interested in restoring wetlands in areas where anthropogenic manipulations of hydrology have occurred and where such projects can provide direct benefits, such as the creation of waterfowl and migratory bird habitat.

### **Eligibility Criteria**

Eligibility criteria vary from program to program, but most focus on volunteer enrollments and properties that historically contained wetlands.

### **Restoration Database**

No comprehensive database exists at this time.

### **Staffing**

Two persons on the state level and three on the federal level

## **Public/Private Partnerships**

### **Acquisition Program**

The chief program in the state is the Indiana Heritage Trust. The program is administered by the Department of Natural Resources and is funded primarily through the sale of environmental license plates. The purpose of the program is to acquire state interests in real property that are examples of outstanding natural resources and habitats or have historical or archaeological significance or provide areas for conservation, recreation, protection or restoration of native biological diversity within the state of Indiana. The use of the power of eminent to carry out its purposes is expressly prohibited. Property will be acquired only from willing sellers. The program has purchased and protected more than 33,000 acres for recreation and wildlife. Some land is bought outright by the Trust; some in partnership with other

conservation organizations; some with money from federal, county or local governments; and some by bargain sale when owners donate profit toward the purchase price.

### **Public Outreach/Education**

Staff from both the Departments of Environmental Management and Natural Resources conduct on-demand seminars, talks, and other information exchanges on wetland functions, wildlife, wetland benefits, regulation, and conservation. An interagency website on wetlands provides a clearinghouse for information on wetlands - <http://www.in.gov/wetlands/>.

### **Tax Incentives**

The primary program in the state is the Classified Wildlife Habitat Program. This program provides a property tax reduction to landowners enrolling 15 or more acres of wildlife habitat, which can include wetlands. The landowner must follow a management plan prepared by the District Wildlife Biologist to remain in compliance with the program. A legal description of the acreage must be prepared by a registered surveyor and recorded in the County Recorders Office. The assessed value of lands classified as wildlife habitat is reduced to \$1 per acre for property tax purposes.

### **Technical Assistance**

The Department of Natural Resources, as well as the Natural Resources Conservation Service and the Fish and Wildlife Service provide support to landowners interested in creating, maintaining, or managing wetlands on their property. The Departments of Environmental Management and Natural Resources are currently developing a "Landowner's Guide to Wetlands", which will be a web-based publication that will compile key information on wetland programs, sources of information and technical support.

### **Other Nonregulatory Incentives for Private Landowners**

Not applicable.

### **Wetland Training and Education**

Staff from both the Departments of Environmental Management and Natural Resources conduct on-demand seminars, talks, and other information exchanges on wetland functions, wildlife, wetland benefits, regulation, and conservation. An interagency website on wetlands provides a clearinghouse for information on wetlands - <http://www.in.gov/wetlands/>.

### **Watershed Planning**

No formal programs at this time, but wetlands are considered as a part of the overall landuse and effects of non-point source pollution in the development of watershed plans funded by Section 319 grants and in the development of Total Maximum Daily Loads for impaired waters.

### **Special Problems**

Indiana faces diverse challenges, with many isolated wetlands located in areas of rapid urbanization (Northwest Indiana and the Fort Wayne metro area), protection of unique resources such as globally rare dune and swale habitat, and a lack of a comprehensive landuse strategy for the state that would examine the land needs for agriculture, urban areas, sprawl effects, and natural resource management.

## Coordination

No formal coordination of regulatory or conservation activities exists. However, the Departments of Environmental Management and Natural Resources coordinate on an as-needed basis on wetland regulatory issues, which often includes the USEPA, the Corps of Engineers, the Natural Resources Conservation Service, and the US Fish and Wildlife Service.

## Contact Person(s)

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## Contact Points

Information on wetland regulatory programs can be located on this website:

<http://www.in.gov/idem/water/planbr/401/>

Information on wetland conservation and other general information can be found on this website:

<http://www.in.gov/wetlands/>

## Guidebooks, Brochures, Websites, Other Educational Materials

Indiana Wetlands - <http://www.in.gov/wetlands/>

- General information on wetlands, programs, links, and news updates

Publications - <http://www.in.gov/idem/water/planbr/401/publications.html>

## Brochures and Informational Guides

- [Do I Need A Permit For That? \[PDF\]](#) - This brochure provides a general guide to when you need a permit for constructing in an Indiana Wetland.
- [Dredging? Filling? Excavating? \[PDF\]](#) - This brochure describes how IDEM regulates construction in wetlands and other waters.
- [Get Your Feet Wet In Indiana's Wetlands](#) - This brochure provides a general overview of the many facets of Indiana's wetlands.
- [Waterways Permitting Handbook \[PDF\]](#) - This manual provides detailed information on state and federal requirements for obtaining a permit for constructing in an Indiana Wetland.

## Floristic Quality Assessment

- [Floristic Quality Assessment Introduction](#)
- [Floristic Quality Assessment in Indiana: The Concept, Use, and Development of Coefficients of Conservatism \[Word - 3.95 MB file size\]](#)
- [Floristic Quality Assessment for Plant Communities of Indiana: Species List and Coefficients of Conservatism \[Excel\]](#)

Mitigation Bank Interagency Coordinated Agreement -

<http://www.in.gov/idem/water/planbr/401/banking.html>

"Getting Your Feet Wet in Indiana Wetlands" - Video

Choose a bandwidth: [56k](#) - [100k](#) - [300k](#) (requires Windows Media Player)