



Indiana Department of Environmental Management

Protecting Hoosiers and Our Environment Since 1986



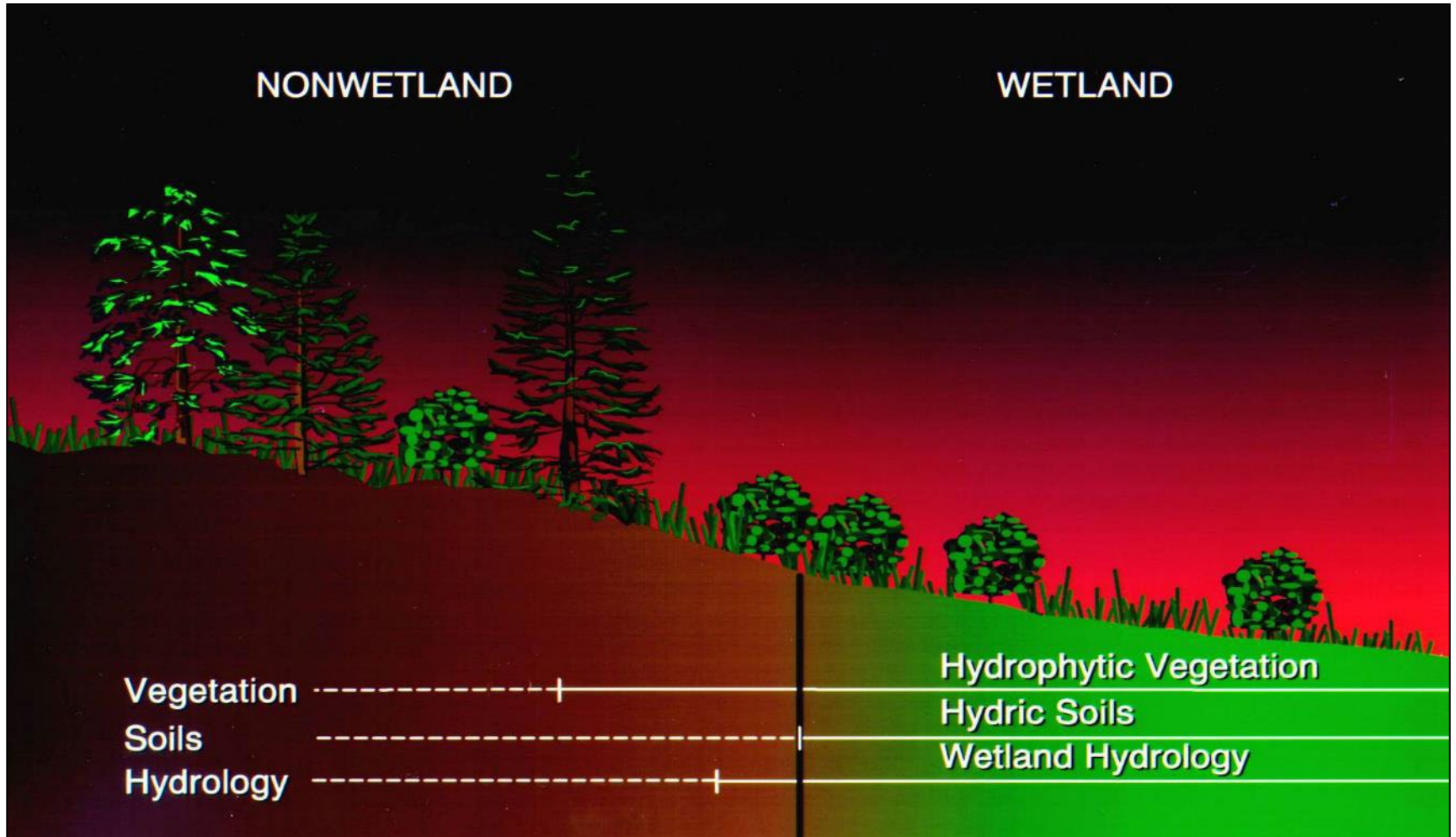
Indiana Waterway Regulation

Indiana Department of Environmental Management
Office of Water Quality





Wetlands Are Transitional Areas





Wetland?

Determined using:

- The 1987 U.S. Army Corps of Engineers Wetland Delineation Manual
- The Regional Supplements:
 - Midwest Region
 - Eastern Mountains and Piedmont Region
 - Northcentral and Northeast Region

ERDC/EL TR-12-9

Environmental Laboratory



US Army Corps
of Engineers®
Engineer Research and
Development Center

Wetlands Regulatory Assistance Program

Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Eastern Mountains and Piedmont Region (Version 2.0)

U.S. Army Corps of Engineers

April 2012



Approved for public release; distribution is unlimited.



Hydrology





Hydric Soils





Hydrophytic Vegetation





Wetland Regulatory Framework

- Section 404 of the Clean Water Act – U.S. Army Corps of Engineers dredge and fill permit
- Section 401 of the Clean Water Act – State Water Quality Certification
- State Water Quality Standards (327 IAC 2)
- State Regulated Wetlands Law (IC 13-18-22)
- Food Security Act Administered by the Natural Resource Conservation Service (unrelated to the CWA)

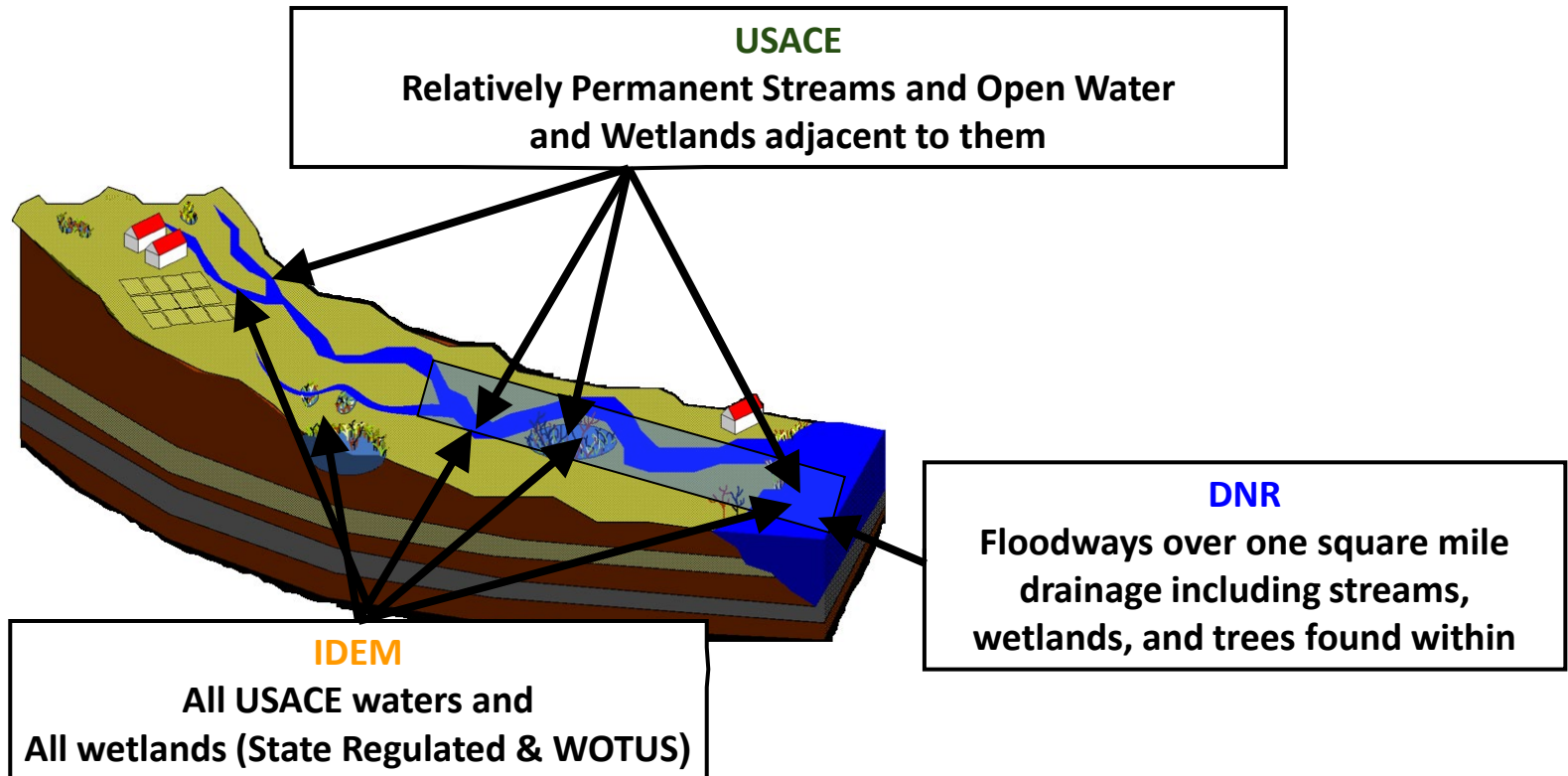


Coordination With the Natural Resource Conservation Service (NRCS)

- For the 1985 Farm Bill and Food Security Act
- NRCS determinations do not affect IDEM jurisdiction.
- Work in waters on agricultural land requires USACE and IDEM coordination



Who Has Jurisdiction?





WOTUS?

- Determined by U.S Army Corps of Engineers
- Approved Jurisdictional Determination:
good for five years



What Activities Does IDEM Regulate?

- Filling (including stump removal)
- Dredging



What is Fill?

- Soil, rock, sand, gravel
- Riprap, articulated mats
- Pipes and culverts
- Tile and tile outlets
- Dredged material
- Dams
- Mechanized land clearing
- Stump removal





IDEM's Programs

- 401 Water Quality Certification
- State Isolated Wetlands Law



NOTE:

Water resource impacts are regulated by:

- IDEM
- IDNR
- U.S. Army Corps of Engineers (USACE)



Section 404 of the Clean Water Act

- Implemented by the U.S. Army Corps of Engineers (USACE) and overseen by the U.S. EPA
- Establishes permitting program to regulate discharges of dredged and fill material into Waters of the U.S. (jurisdictional waters)
 - A waterbody, being a stream/river, lake or wetland, that has a hydrological connection (drains into) a navigable water body (significant nexus)
 - Only the USACE (overseen by the U.S. EPA) can make this determination



Section 401 of the Clean Water Act

- Implemented by IDEM
- Water Quality Certifications issued
- Ensures activities authorized by federal permits or licenses maintain the:
 - chemical,
 - physical, and
 - biological integrity of Indiana's waters



Methods of Water Quality Certification

- Individual
- General
 - Nationwide Permits (NWP)
 - Regional General Permit (RGP)





General Certifications

- Use RGP form
- 401 WQC for projects with “minimal impact”
- USACE is the lead agency and determines if a project falls under a general permit
- Common General Permits:
 - RGP
 - NWP 3 Maintenance
 - NWP 12 Utility Line Activities
 - NWP 33 Temporary Construction, Access, and Dewatering



NWP & RGP Notification Form

- Two pages
- 401 WQC for projects with “minimal impact”
- 30-day review time frame
- Automatic approval unless there is a problem
- Applicants must meet the terms and conditions of the IDEM General WQC



General WQC Major Thresholds

- Impacts to streams/shorelines must be less than 300 linear feet
- Impacts to wetlands/open water must be less than 0.10 acre
- Stream encapsulation must be for the purposes of a constructing a crossing:
 - Must be less than 150 feet in length
 - Requirements for oversizing/embedding



Individual 401 WQC

- For projects requiring a site-specific individual 401 WQC (projects exceeding general permits)
- Nine-page form
- 120-day review period
- Public Notice required
- Avoidance and minimization required
- Mitigation often required



State Regulated Wetland Law

- Established 2004
- Regulates wetlands not under the Clean Water Act
- IC 13-18-22
- 327 IAC 17
- Distinguishes wetlands by Class
- Modifications Prior to 2021:
 - Allow mitigation through in-lieu fee
 - Exempt some surveyor maintenance of regulated drains
- Modifications in 2021 and 2024



Indiana Code Changed in 2021

- IC 13-11-2-25.8 (Amended)
- IC 13-11-2-48.5 (Added)
- IC 13-11-2-72.4 (Added)
- IC 13-11-2-74.5 (Modified)
- IC 13-11-2-104.8 (Added)
- IC 13-11-2-265.8 (Amended)
- IC 13-18-22-1 (Amended)
- IC 13-18-22-3 (Amended/Added)
- IC 13-18-22-4 (Amended)
- IC 13-18-22-7 (Amended)
- IC 13-18-22-8 (Amended)
- IC 13-18-22-12 (Added)
- IC 13-18-23-1 (Amended)
- IC 14-12-4 (Added)



Public Law 1-2024 Changes

- IC 13-11-2-25.8 (Class III definition)
- IC 13-11-2-74.5 (Municipal Wetland Exemption Added)
- IC 13-18-22-1 (Municipal Wetlands moved to 13-11)
- IC 13-18-22-4 (Changed General Permit)
- IC 13-18-22-6 (Added preservation ratios)



New Class III Wetland Definition

Highest quality wetland habitat:

- Rare or ecologically important type
- Some must be no more than minimally disturbed

Rare or Ecologically Important Wetlands:

(1) Is the wetland a listed rare or ecologically important type under IC 13-11-2-25.8(3)(A)?

Yes No

If Yes, please indicate type:

- | | | | | | |
|------------------------------------|--------------------------------|---|------------------------------------|---|---|
| <input type="checkbox"/> Acid Bog | <input type="checkbox"/> Fen | <input type="checkbox"/> Circumneutral Seep | <input type="checkbox"/> Muck Flat | <input type="checkbox"/> Dune and Swale | <input type="checkbox"/> Sinkhole Pond |
| <input type="checkbox"/> Acid Seep | <input type="checkbox"/> Panne | <input type="checkbox"/> Cypress Swamp | <input type="checkbox"/> Sand Flat | <input type="checkbox"/> Forest Fen | <input type="checkbox"/> Sinkhole Swamp |

If Yes, the Wetland is Class III. This form is now complete.

If No, proceed to Question (2).

(2) Is the wetland a listed rare or ecologically important type under IC 13-11-2-25.8(3)(B)?

Yes No

If Yes, please indicate type:

- | | | | | | |
|--------------------------------------|---------------------------------------|---|--|--------------------------------------|---|
| <input type="checkbox"/> Shrub Swamp | <input type="checkbox"/> Sedge Meadow | <input type="checkbox"/> Forested Swamp | <input type="checkbox"/> Wet Floodplain Forest | <input type="checkbox"/> Wet Prairie | <input type="checkbox"/> Wet Sand Prairie |
|--------------------------------------|---------------------------------------|---|--|--------------------------------------|---|

If Yes OR No, proceed to Question (3).



Class II Wetland Definition

New:

- New: Some rare and ecologically important wetland types that have been disturbed

Unchanged:

- Supports moderate habitat or hydrological functions
- Dominated by native species
- Without the presence of or habitat for rare, threatened, or endangered species



Class I Wetland Definition

Unchanged:

- At least 50% of the wetland has been disturbed or affected
- Supports only minimal/does not support significant wildlife or aquatic habitat or hydrologic function
- Does not provide critical habitat for rare, threatened, or endangered species
- Typified by low species diversity
- Contains greater than 50% non-native invasive vegetation



State Regulated Exemptions

Dredge and fill activities to the following do not require a permit:

- Class I wetlands
- Class II wetlands $\frac{3}{8}$ acre or smaller or if within a municipality $\frac{3}{4}$ acre
 - If multiple wetlands exist on a tract, the exemption is limited to 60% of the total acreage of those wetlands delineated at $\frac{3}{8}$ or in municipality $\frac{3}{4}$ acre or less
- House construction on wetlands cultivated and harvested in preceding 10 years



State Regulated Permits

- State Regulate Wetland General Permit (SRGP):
 - Effective July 20, 2024
 - Impacts to Class II wetlands less than 0.25 acre
 - 30-day review time period
 - No public notice
- Isolated Wetland Individual Permits (IWIP):
 - Impacts to Class II wetlands greater than 0.25 acre
 - Impacts to Class III wetlands regardless of size
 - 90-day review period
 - 30-day public notice



New Class Determination Worksheet

State Regulated Wetland Class Determination Worksheet

Agent First Name: _____ Agent Last Name: _____ Agent Affiliation (Company Name): _____

Phone Number: _____ Email Address: _____

Project Name: _____ Wetland ID (Per the Wetland Delineator): _____ Wetland Size (Acres): _____

Project Description (If Applicable): _____

INSTRUCTIONS

1. Read all questions and instructions thoroughly before filling out this form.
2. Complete this form when conducting wetland delineations. At least one form should be completed for each wetland on-site. Multiple forms are required for wetlands that have zones of different classifications.
3. Submit all completed forms with your wetland delineation and Approved Jurisdictional Determination or official U.S. Army Corps of Engineers correspondence when applying for Waters of the State Determinations or State Regulated Wetland Permits.
4. Please attach any additional comments, justifications, and/or supporting documentation related to this class determination as a separate attachment appended to this form.
5. Additional instructions and guidance for completing this form can be found at the following website: https://www.in.gov/dem/wetlands/9903/1916_modeland_guidance_class_determination.pdf
6. Completed forms and materials or questions regarding this form may be submitted to appropriate program staff which can be found at the following website: <https://www.in.gov/dem/wetlands/contact>

Please complete ALL questions and assessments to complete the tables below.

Table 1:

Question (2) is YES	Moderate Habitat or Hydrology or Both Question (4) and/or (5) are YES	Neither Moderate Habitat nor Hydrology Both Question (4) and (5) are NO
Undisturbed or Minimally Disturbed Question (3) is YES	Class III	Class II
More than Minimally Disturbed Question (3) is NO	Class II	Class II

Table 2:

Question (2) is NO	Moderate Habitat or Hydrology or Both Question (4) and/or (5) are YES	Neither Moderate Habitat nor Hydrology Both Question (4) and (5) are NO
Undisturbed or Minimally Disturbed Question (3) is YES	Class II	Class I
More than Minimally Disturbed Question (3) is NO	Class II	Class I

Select the State Regulated Wetland Classification based on the tables above: Class I Class II Class III

11-2-25.8(3)(A)? Yes No

Muck Flat Dune and Swale Sinkhole Pond
Sand Flat Forest Fen Sinkhole Swamp

11-2-25.8(3)(B)? Yes No

Wet Floodplain Forest Wet Prairie Wet Sand Prairie

Recovery (2) Recent or no recovery (1)

Recovery (3) Poor (1)

Disturbance (3) Recent or no recovery (1)

Disturbance (5) Dredging Farming Nutrient Enrichment

Additional photos, narrative, etc., as necessary to justify score.

Interspersion (Score = _____)

Coverage of any combination of Sensitive Species Council List [sensitiveplants.html](https://www.in.gov/dem/wetlands/9903/1916_modeland_guidance_class_determination.pdf)

Interspersion (5) Low Moderate High

Interspersion (Score = _____)

Microtopography (Score = _____)

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

11-2-25.8(3)(A)? Yes No

Muck Flat Dune and Swale Sinkhole Pond
Sand Flat Forest Fen Sinkhole Swamp

11-2-25.8(3)(B)? Yes No

Wet Floodplain Forest Wet Prairie Wet Sand Prairie

Recovery (2) Recent or no recovery (1)

Recovery (3) Poor (1)

Disturbance (3) Recent or no recovery (1)

Disturbance (5) Dredging Farming Nutrient Enrichment

Additional photos, narrative, etc., as necessary to justify score.

Interspersion (Score = _____)

Coverage of any combination of Sensitive Species Council List [sensitiveplants.html](https://www.in.gov/dem/wetlands/9903/1916_modeland_guidance_class_determination.pdf)

Interspersion (5) Low Moderate High

Interspersion (Score = _____)

Microtopography (Score = _____)

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

11-2-25.8(3)(A)? Yes No

Muck Flat Dune and Swale Sinkhole Pond
Sand Flat Forest Fen Sinkhole Swamp

11-2-25.8(3)(B)? Yes No

Wet Floodplain Forest Wet Prairie Wet Sand Prairie

Recovery (2) Recent or no recovery (1)

Recovery (3) Poor (1)

Disturbance (3) Recent or no recovery (1)

Disturbance (5) Dredging Farming Nutrient Enrichment

Additional photos, narrative, etc., as necessary to justify score.

Interspersion (Score = _____)

Coverage of any combination of Sensitive Species Council List [sensitiveplants.html](https://www.in.gov/dem/wetlands/9903/1916_modeland_guidance_class_determination.pdf)

Interspersion (5) Low Moderate High

Interspersion (Score = _____)

Microtopography (Score = _____)

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

11-2-25.8(3)(A)? Yes No

Muck Flat Dune and Swale Sinkhole Pond
Sand Flat Forest Fen Sinkhole Swamp

11-2-25.8(3)(B)? Yes No

Wet Floodplain Forest Wet Prairie Wet Sand Prairie

Recovery (2) Recent or no recovery (1)

Recovery (3) Poor (1)

Disturbance (3) Recent or no recovery (1)

Disturbance (5) Dredging Farming Nutrient Enrichment

Additional photos, narrative, etc., as necessary to justify score.

Interspersion (Score = _____)

Coverage of any combination of Sensitive Species Council List [sensitiveplants.html](https://www.in.gov/dem/wetlands/9903/1916_modeland_guidance_class_determination.pdf)

Interspersion (5) Low Moderate High

Interspersion (Score = _____)

Microtopography (Score = _____)

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

11-2-25.8(3)(A)? Yes No

Muck Flat Dune and Swale Sinkhole Pond
Sand Flat Forest Fen Sinkhole Swamp

11-2-25.8(3)(B)? Yes No

Wet Floodplain Forest Wet Prairie Wet Sand Prairie

Recovery (2) Recent or no recovery (1)

Recovery (3) Poor (1)

Disturbance (3) Recent or no recovery (1)

Disturbance (5) Dredging Farming Nutrient Enrichment

Additional photos, narrative, etc., as necessary to justify score.

Interspersion (Score = _____)

Coverage of any combination of Sensitive Species Council List [sensitiveplants.html](https://www.in.gov/dem/wetlands/9903/1916_modeland_guidance_class_determination.pdf)

Interspersion (5) Low Moderate High

Interspersion (Score = _____)

Microtopography (Score = _____)

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

11-2-25.8(3)(A)? Yes No

Muck Flat Dune and Swale Sinkhole Pond
Sand Flat Forest Fen Sinkhole Swamp

11-2-25.8(3)(B)? Yes No

Wet Floodplain Forest Wet Prairie Wet Sand Prairie

Recovery (2) Recent or no recovery (1)

Recovery (3) Poor (1)

Disturbance (3) Recent or no recovery (1)

Disturbance (5) Dredging Farming Nutrient Enrichment

Additional photos, narrative, etc., as necessary to justify score.

Interspersion (Score = _____)

Coverage of any combination of Sensitive Species Council List [sensitiveplants.html](https://www.in.gov/dem/wetlands/9903/1916_modeland_guidance_class_determination.pdf)

Interspersion (5) Low Moderate High

Interspersion (Score = _____)

Microtopography (Score = _____)

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

11-2-25.8(3)(A)? Yes No

Muck Flat Dune and Swale Sinkhole Pond
Sand Flat Forest Fen Sinkhole Swamp

11-2-25.8(3)(B)? Yes No

Wet Floodplain Forest Wet Prairie Wet Sand Prairie

Recovery (2) Recent or no recovery (1)

Recovery (3) Poor (1)

Disturbance (3) Recent or no recovery (1)

Disturbance (5) Dredging Farming Nutrient Enrichment

Additional photos, narrative, etc., as necessary to justify score.

Interspersion (Score = _____)

Coverage of any combination of Sensitive Species Council List [sensitiveplants.html](https://www.in.gov/dem/wetlands/9903/1916_modeland_guidance_class_determination.pdf)

Interspersion (5) Low Moderate High

Interspersion (Score = _____)

Microtopography (Score = _____)

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

11-2-25.8(3)(A)? Yes No

Muck Flat Dune and Swale Sinkhole Pond
Sand Flat Forest Fen Sinkhole Swamp

11-2-25.8(3)(B)? Yes No

Wet Floodplain Forest Wet Prairie Wet Sand Prairie

Recovery (2) Recent or no recovery (1)

Recovery (3) Poor (1)

Disturbance (3) Recent or no recovery (1)

Disturbance (5) Dredging Farming Nutrient Enrichment

Additional photos, narrative, etc., as necessary to justify score.

Interspersion (Score = _____)

Coverage of any combination of Sensitive Species Council List [sensitiveplants.html](https://www.in.gov/dem/wetlands/9903/1916_modeland_guidance_class_determination.pdf)

Interspersion (5) Low Moderate High

Interspersion (Score = _____)

Microtopography (Score = _____)

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

11-2-25.8(3)(A)? Yes No

Muck Flat Dune and Swale Sinkhole Pond
Sand Flat Forest Fen Sinkhole Swamp

11-2-25.8(3)(B)? Yes No

Wet Floodplain Forest Wet Prairie Wet Sand Prairie

Recovery (2) Recent or no recovery (1)

Recovery (3) Poor (1)

Disturbance (3) Recent or no recovery (1)

Disturbance (5) Dredging Farming Nutrient Enrichment

Additional photos, narrative, etc., as necessary to justify score.

Interspersion (Score = _____)

Coverage of any combination of Sensitive Species Council List [sensitiveplants.html](https://www.in.gov/dem/wetlands/9903/1916_modeland_guidance_class_determination.pdf)

Interspersion (5) Low Moderate High

Interspersion (Score = _____)

Microtopography (Score = _____)

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low High

Microtopography (Score = _____)

Microtopography (5) Absent Low



Class Determination Worksheet

Table 1:

Question (2) is YES	Moderate Habitat or Hydrology or Both Question (4) and/or (5) are YES	Neither Moderate Habitat nor Hydrology Both Question (4) and (5) are NO
Undisturbed or Minimally Disturbed Question (3) is YES	Class III	Class II
More than Minimally Disturbed Question (3) is NO	Class II	Class II

Table 2:

Question (2) is NO	Moderate Habitat or Hydrology or Both Question (4) and/or (5) are YES	Neither Moderate Habitat nor Hydrology Both Question (4) and (5) are NO
Undisturbed or Minimally Disturbed Question (3) is YES	Class II	Class I
More than Minimally Disturbed Question (3) is NO	Class II	Class I

Select the State Regulated Wetland Classification based on the tables above:

Class I

Class II

Class III



Considerations for Implementation of the Law

- Is it a wetland?
 - Hydric soils
 - Hydrophytic vegetation
 - Hydrology
- What class is the State Regulated Wetland?
- What is fill?
- Is it waters of the United States (WOTUS)?



Indiana Department of Environmental Management

Protecting Hoosiers and Our Environment Since 1986



Determine Permits Needed

IDEM and Indiana DNR
Waterways Inquiry Request
waterways.in.gov

Two Agencies, One Response





waterways.in.gov

Indiana Waterways

Waterways

About Waterways

Indiana Department of Environmental Management (IDEM)

Indiana Department of Natural Resources (DNR)

Waterways Permitting

IDEM

DNR

Resources

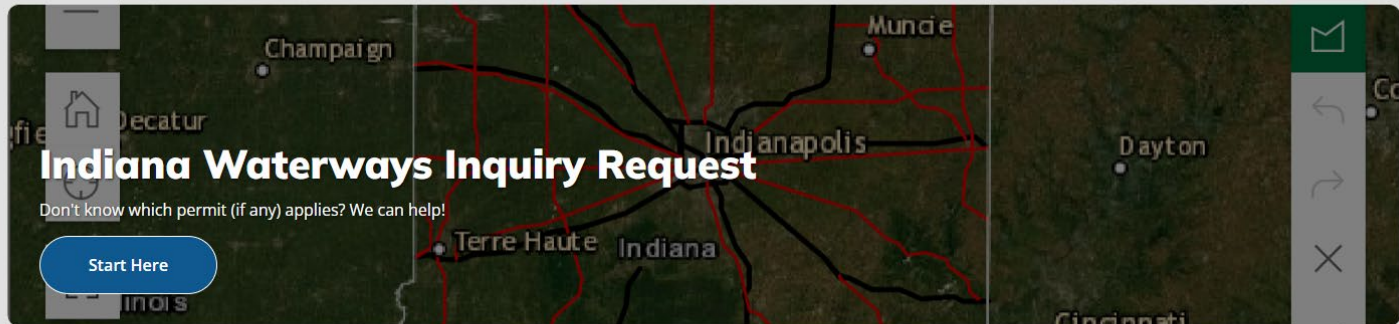
Waterways Permitting Handbook

Application Forms

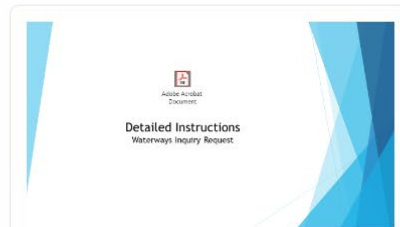
Affiliated Agencies

Contact Us

I Want To



For Section 401 Water Quality Certifications, Isolated Wetland permits, Construction in a Floodway permits or other construction along streams, lakes, or dams ONLY.



Helpful Tips Before you Begin...

- Know your project location
- Be able to describe your project
- Valid email address required
- Decision will take up to 14 days



Questions?



wetlands.IN.gov