IDEM Wetlands and Streams Regulatory Overview

An overview of IDEM permitting for work in Waters of the State
Who Has Jurisdiction?

- **Navigable waters & Open Water:** IDNR, USACE, & IDEM
- **Non-wetland floodway:** IDNR
- **Stream > 1 sq. mile drainage:** IDNR, USACE & IDEM
- **Adjacent wetland:** USACE & IDEM
- **Isolated wetland:** IDEM
- **Stream with < 1 square mile drainage area:** USACE & IDEM
- **Floodway wetland:** IDNR, USACE & IDEM
- **Navigable waters & Open Water:** IDNR, USACE & IDEM
IDEEM’s Regulations

• Section 401 of the Clean Water Act est. 1972
  • Regulates the placement of fill material into a Water of the State
    – Jurisdictional streams and ditches (defined bed and bank, and an ordinary high water mark)
    – Jurisdictional wetlands, lakes, and some ponds
  • State Isolated Wetlands Law IC 13-18-22, 327 IAC 17 est. 2004
    • Regulates the placement of fill material into isolated wetlands
      – Certain activities within isolated wetlands are exempt from regulation ("normal farming," emergency repair of levees, irrigation ditches, farm roads and more) and certain isolated wetlands are exempt due to their size and quality
  • State Water Quality Standards 327 IAC 2
  • Rule 5 Construction Permit

• Due to these regulations, some work will require a permit prior to starting a project.
IDEM Permit Applications

• Regional General Permit Notification Form
  – 2 page form for projects with minimal impact
  – Less than 0.10 acre and less than 300 feet of impact is likely minimal impact
  – 30 day review time
  – No application fee

• Individual 401 Water Quality Certification
  – Site specific permit for projects that exceed the conditions of the Regional General Permit
  – More than 0.10 acre or 300 feet of impact, projects that permanently change flow, bed elevation, or area, and stream relocations are examples
  – 120 day review period which includes 21 days on Public Notice
  – May require mitigation for the impacts depending on the situation
  – No application fee

• Isolated Wetland Permits
One-Step Excavation

- If done a certain way, one-step excavation of a stream does not require a permit from IDEM.

Follow these guidelines:

- Keep machinery out of the stream, operate from an upland area
- Remove material from the stream bed only and don’t grade the banks
- Do not relocate the material within the stream or place it along the banks
- Store or dispose of removed materials in an upland location where they cannot re-enter the stream or other water body
  - The material cannot be placed/sidecast into a wetland, regulated floodway, or other Water of the State
- If accessing the stream requires even temporary impacts to wetlands or removal of stumps below the OHWM, a permit is needed
Which Activities Require A Permit?

- Placement of dirt, rock, sand, gravel, riprap, etc. below the Ordinary High Water Mark of a stream/open water, or in a wetland
- Excavating or mechanically clearing wetlands
- Pipes, culverts, some bridges (new and replacement structures)
- Damming streams/pump arounds
- Bank stabilization, bank grading
- Stump removal from a forested wetland or streambanks below the Ordinary High Water Mark
Benefits of Riparian Buffers

- Stabilize stream banks and reduce erosion
- Reduce risk of the stream moving
- Filter sediment and materials, reducing the amount materials that reach the stream
- Reduce the impacts of flooding by intercepting and temporarily storing rainfall
- Provide habitat for fish/wildlife and organic material as food for aquatic organisms
- Moderates the temperature of waterways by providing shade
Planning a Project?
Call us!
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Rule 5
Wetlands.in.gov