



## CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 140

**Citations Affected:** IC 14-8-2; IC 14-28-1; IC 36-9-27.2.

**Synopsis:** Natural resources. Provides that a person may perform certain activities without obtaining a permit from the department of natural resources (department). Provides certain guidelines for cutting, relocating, or removing logs that are crossways in a channel. Provides that a person who removes a logjam from a river or stream: (1) is not required to cut a log or separate a tree from its root system if, in the opinion of the person, the cutting would create an unreasonable risk of bodily harm to the person; and (2) need not remove the dislodged logs from the floodplain if the logs are dried and burned so completely as to eliminate the potential for a new logjam. Permits a person to remove a logjam or mass of wood debris from a river or stream with mechanical equipment appropriate to the task of removing logjam or debris. Authorizes a person to remove debris from a stream under certain conditions without needing a permit from the department. Exempts the state and a county, city, or town from submitting various documents when applying for certain floodway permits. Requires the Indiana state department of agriculture to oversee and take all actions necessary to prepare and publish an updated version of the Indiana Drainage Handbook. **(This conference committee report does the following: (1) Adds language from SB 184 authorizing a person to remove debris from a stream under certain conditions without the need to obtain a permit from the department. (2) Provides that an individual is not required to cut a log or separate a tree from its root system if it would create an unreasonable risk of bodily harm to the individual. (3) Permits a person to remove a logjam or a mass of wood debris from a river or stream with mechanical equipment appropriate to the task of removing the logjam or debris. (4) Allows an individual to not remove the dislodged logs from a floodplain if the logs are dried and burned so completely as to eliminate the potential for a new logjam. (5) Exempts the state and a county, city, or town from submitting various documents when applying for certain floodway permits. (6) Requires the Indiana state department of agriculture to oversee and take all actions necessary to prepare and publish an updated version of the Indiana Drainage Handbook.)**

**Effective:** July 1, 2024.



Adopted	Rejected
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## CONFERENCE COMMITTEE REPORT

**MR. SPEAKER:**

*Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill No. 140 respectfully reports that said two committees have conferred and agreed as follows to wit:*

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 14-8-2-156.5 IS ADDED TO THE INDIANA
- 3 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
- 4 **[EFFECTIVE JULY 1, 2024]: Sec. 156.5. "Logjam", for purposes of**
- 5 **IC 14-28-1, has the meaning set forth in IC 14-28-1-3.5.**
- 6 SECTION 2. IC 14-8-2-158.5 IS ADDED TO THE INDIANA
- 7 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
- 8 **[EFFECTIVE JULY 1, 2024]: Sec. 158.5. "Mass of wood debris", for**
- 9 **purposes of IC 14-28-1, has the meaning set forth in IC 14-28-1-3.7.**
- 10 SECTION 3. IC 14-28-1-3.5 IS ADDED TO THE INDIANA CODE
- 11 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
- 12 **1, 2024]: Sec. 3.5. As used in this chapter, "logjam" means an**
- 13 **accumulation of lodged trees, root wads, or other debris that**
- 14 **impedes the ordinary flow of water through a waterway. The term**
- 15 **does not include the development of sandbars, sedimentation, or**
- 16 **accumulations of stone or gravel. Logjams are evidenced by a**
- 17 **blockage that does any of the following:**
- 18 (1) **Traverses the waterway.**
- 19 (2) **Causes upstream ponding.**
- 20 (3) **Results in significant bank erosion.**

1 SECTION 4. IC 14-28-1-3.7 IS ADDED TO THE INDIANA CODE  
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 3 1, 2024]: **Sec. 3.7. As used in this chapter, "mass of wood debris"  
 4 means an accumulation of lodged trees or other woody debris that  
 5 does any of the following:**

6 **(1) Causes or threatens to cause flooding on a road or private  
 7 property.**

8 **(2) Impedes navigation by a boat.**

9 **(3) Reduces the capacity of a waterway to transport water.**

10 SECTION 5. IC 14-28-1-22, AS AMENDED BY P.L.191-2023,  
 11 SECTION 8, AND AS AMENDED BY P.L.247-2023, SECTION 6,  
 12 AND AS AMENDED BY THE TECHNICAL CORRECTIONS BILL  
 13 OF THE 2024 GENERAL ASSEMBLY, IS CORRECTED AND  
 14 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]:  
 15 Sec. 22. (a) As used in subsection (b)(1) with respect to a stream, "total  
 16 length" means the length of the stream, expressed in miles, from the  
 17 confluence of the stream with the receiving stream to the upstream or  
 18 headward extremity of the stream, as indicated by the solid or dashed,  
 19 blue or purple line depicting the stream on the most current edition of  
 20 the seven and one-half (7 1/2) minute topographic quadrangle map  
 21 published by the United States Geological Survey, measured along the  
 22 meanders of the stream as depicted on the map.

23 **(b) This section does not apply to the following: A person is not  
 24 required to obtain a permit from the department for the following  
 25 activities:**

26 (1) A reconstruction or maintenance project (as defined in  
 27 IC 36-9-27) on a stream or an open regulated drain if the total  
 28 length of the stream or open drain is not more than ten (10) miles.

29 (2) A construction or reconstruction project on a state or county  
 30 highway bridge in a rural area that crosses a stream having an  
 31 upstream drainage area of not more than fifty (50) square miles  
 32 and the relocation of utility lines associated with the construction  
 33 or reconstruction project if confined to an area not more than one  
 34 hundred (100) feet from the limits of the highway construction  
 35 right-of-way.

36 (3) The performance of an activity described in subsection (c)(1)  
 37 or (c)(2) by a surface coal mining operation that is operated under  
 38 a permit issued under IC 14-34.

39 (4) Any other activity that is determined by the commission,  
 40 according to rules adopted under IC 4-22-2, to pose not more than  
 41 a minimal threat to floodway areas.

42 (5) An activity in a boundary river floodway to which section 26.5  
 43 of this chapter applies.

44 *(6) The activities of a forestry operation that are:*

45 *(A) conducted in compliance with the Indiana Logging and  
 46 Forestry Best Management Practices Field Guide published  
 47 by the department of natural resources; and*

48 *(B) confined to a waterway that has a watershed not greater  
 49 than ten (10) square miles.*

50 ~~(6)~~ (7) The removal of a logjam or mass of wood debris that has  
 51 accumulated in a river or stream, subject to the following

1 conditions:

2 (A) Work must not be within a salmonid stream designated  
3 under 327 IAC 2-1.5-5 without the prior written approval of  
4 the department's division of fish and wildlife.

5 (B) Work must not be within a natural, scenic, or recreational  
6 river or stream designated under 312 IAC 7-2.

7 (C) Except as otherwise provided in Indiana law, **the**  
8 **following apply to logs that are crossways in the channel:**

9 (i) Free logs **must be relocated and removed from the**  
10 **flood plain. or A free log includes a log that is still**  
11 **attached to a root system that is no longer in the ground.**

12 (ii) Affixed logs ~~that are crossways in the channel~~ must be  
13 cut, relocated, and removed from the floodplain. **An affixed**  
14 **log includes a log that is still attached to a root system**  
15 **that is still in the ground. If the root system is still in the**  
16 **ground, the log must be cut so as to allow the root system**  
17 **to remain in the ground. However, cutting and removing**  
18 **the affixed log is not required if, in the opinion of the**  
19 **individual removing the log, the cutting and removing**  
20 **would create an unreasonable risk of bodily harm to the**  
21 **individual.**

22 Logs may be maintained in the floodplain if properly anchored  
23 or otherwise secured so as to resist flotation or dislodging by  
24 the flow of water and placement in an area that is not a  
25 wetland. Logs must be removed and secured with a minimum  
26 of damage to vegetation.

27 (D) Isolated or single logs that are embedded, lodged, or  
28 rooted in the channel, and that do not span the channel or  
29 cause flow problems, must not be removed unless the logs are  
30 either of the following:

31 (i) Associated with or in close proximity to larger  
32 obstructions.

33 (ii) Posing a hazard to agriculture, business, navigation, or  
34 property.

35 (E) A leaning or severely damaged tree that is in immediate  
36 danger of falling into the waterway may be cut and removed.  
37 The root system and stump of the tree must be left in place.

38 (F) To the extent practicable, the construction of access roads  
39 must be minimized, and should not result in the elevation of  
40 the floodplain.

41 (G) To the extent practicable, work should be performed  
42 exclusively from one (1) side of a waterway. Crossing the bed  
43 of a waterway is prohibited.

44 (H) To prevent the flow of sediment laden water back into the  
45 waterway, appropriate sediment control measures must be  
46 installed.

47 (I) Within fifteen (15) days, all bare and disturbed areas must  
48 be revegetated with a mixture of grasses and legumes. Tall  
49 fescue must not be used under this subdivision, except that low  
50 endophyte tall fescue may be used in the bottom of the  
51 waterway and on side slopes.

- 1           **(J) A logjam or mass of wood debris that is removed from**  
 2           **a river or stream may be burned so completely as to**  
 3           **eliminate the risk that the resulting ash and remnants will**  
 4           **not cause another logjam, unless a local ordinance specifies**  
 5           **otherwise.**
- 6           **(K) Subject to clause (M), a person removing a logjam or**  
 7           **a mass of wood debris from a river or stream under this**  
 8           **subdivision without obtaining a permit:**
- 9               **(i) may use the means that the person believes to present**  
 10              **the lowest risk of physical injury to individuals**  
 11              **performing the removal work; and**
- 12              **(ii) may, subject to clause (G), use mechanical equipment**  
 13              **appropriate to the task of removing the logjam or mass**  
 14              **of wood debris.**
- 15           **(L) A person removing a logjam or a mass of wood debris**  
 16           **from a river or stream under this subdivision must comply**  
 17           **with the following:**
- 18               **(i) Section 404 of the federal Clean Water Act (33 U.S.C.**  
 19               **1344).**
- 20               **(ii) IC 13-18-22 (state regulated wetlands).**
- 21           **(c) Except for an activity under subsection (b), a person who**  
 22           **desires to:**
- 23               (1) erect, make, use, or maintain a structure, an obstruction, a  
 24               deposit, or an excavation; or
- 25               (2) suffer or permit a structure, an obstruction, a deposit, or an  
 26               excavation to be erected, made, used, or maintained;
- 27           in or on a floodway must file with the director a verified written  
 28           application for a permit. *The permit application must be accompanied*  
 29           *by a nonrefundable minimum fee of two hundred dollars (\$200).*
- 30           **(d) ~~The~~ A permit application for a permit filed under this section:**
- 31               (1) must set forth the material facts ~~together with~~ concerning the  
 32               structure, obstruction, deposit, or excavation; and
- 33               (2) must be accompanied by plans and specifications for the  
 34               structure, obstruction, deposit, or excavation.
- 35           **(e) This subsection does not apply to the state or a county, city,**  
 36           **or town. A person who files a permit application under this section**  
 37           **must provide:**
- 38               (1) documentation of the person's ownership of the site where the  
 39               proposed work will be performed; or
- 40               (2) an affidavit from the owner of the site where the proposed  
 41               work will be performed expressly authorizing the performance of  
 42               the proposed work on that site.
- 43           **(f) A person who applies for a permit under this section may file an**  
 44           **amendment to the person's permit application. The director may**  
 45           **approve a permit application amendment filed under this subsection**  
 46           **only if the permit, as amended by the amendment, would meet the**  
 47           **requirements of this section.**
- 48           **(g) Two (2) or more persons may jointly apply for a permit under**  
 49           **this section.**
- 50           **(~~e~~) (h) An applicant A person described in subsection (c) must**  
 51           **receive a permit from the director for the work before beginning**

1 construction. The director shall issue a permit only if, in the opinion of  
 2 the director, the applicant has clearly proven that the structure,  
 3 obstruction, deposit, or excavation will not do any of the following:

- 4 (1) Adversely affect the efficiency of or unduly restrict the  
 5 capacity of the floodway.  
 6 (2) Constitute an unreasonable hazard to the safety of life or  
 7 property.  
 8 (3) Result in unreasonably detrimental effects upon fish, wildlife,  
 9 or botanical resources.

10 ~~(f)~~ (i) In deciding whether to issue a permit under this section, the  
 11 director shall consider the cumulative effects of the structure,  
 12 obstruction, deposit, or excavation. The director may incorporate in and  
 13 make a part of an order of authorization conditions and restrictions that  
 14 the director considers necessary for the purposes of this chapter.

15 ~~(g)~~ (j) *The following apply to a permit issued under this section:*

16 (1) *Except as provided in subdivisions (2) and (3), a permit is*  
 17 *valid for two (2) years after the date of issuance of the permit.*

18 (2) *A permit issued to:*

19 (A) the Indiana department of transportation or a county  
 20 highway department *in connection with a construction project,*  
 21 *if there is any federal funding for the project; or*

22 (B) an electric utility for the construction of a power  
 23 generating facility;

24 *is valid for five (5) years from the date of issuance ~~and~~ of the*  
 25 *permit.*

26 (3) *is valid for the duration of a permitted project subject to*  
 27 *periodic compliance evaluations for A permit issued to a*  
 28 *quarrying or aggregate company for the excavation of industrial*  
 29 *materials, including:*

30 (A) clay and shale;

31 (B) crushed limestone and dolostone;

32 (C) dimension limestone;

33 (D) dimension sandstone;

34 (E) gypsum;

35 (F) peat;

36 (G) construction sand and gravel; and

37 (H) industrial sand;

38 *is valid for the duration of the permitted project, subject to*  
 39 *periodic compliance evaluations.*

40 However, a permit issued under this section expires if construction is  
 41 not commenced within two (2) years after the permit is issued. *Except*  
 42 *as provided under section 22.1 of this chapter, a permit that is active*  
 43 *and was issued under subdivision (1) before July 1, 2014, is valid for*  
 44 *two (2) years beginning July 2014, and a permit that is active and was*  
 45 *issued under subdivision (2) before July 1, 2014, is valid for five (5)*  
 46 *years beginning July 2014.*

47 ~~(h)~~ (k) The holder of a permit issued under subsection ~~(g)(3)~~ (j)(3)  
 48 shall notify the commission *of the completion of the permitted project*  
 49 *within six (6) months ~~of~~ after completing the permitted project.*

50 ~~(i)~~ (l) *The following apply to the renewal of a permit issued under*

1 *this section:*

2 (1) A permit to which subsection ~~(g)(1)~~ (j)(1) applies may be  
3 renewed one (1) time for a period not to exceed two (2) additional  
4 years. ~~and~~

5 (2) A permit to which subsection ~~(g)(2)~~ (j)(2) applies may be  
6 renewed one (1) time for a period not to exceed five (5) additional  
7 years.

8 ~~(f)~~ (m) The director shall send a copy of each permit issued under  
9 this section to each river basin commission organized under:

- 10 (1) IC 14-29-7 or IC 13-2-27 (before its repeal); or
- 11 (2) IC 14-13-9, IC 14-30-1 (before its repeal), or IC 36-7-6
- 12 (before its repeal);

13 that is affected.

14 ~~(k)~~ (n) The permit holder shall post and maintain a permit issued  
15 under this section at the authorized site.

16 ~~(l)~~ (o) For the purposes of this chapter, the lowest floor of a  
17 building, including a residence or abode, that is to be constructed or  
18 reconstructed in the one hundred (100) year floodplain of an area  
19 protected by a levee that is:

- 20 (1) inspected; and
  - 21 (2) found to be in good or excellent condition;
- 22 by the United States Army Corps of Engineers shall not be lower than  
23 the one hundred (100) year frequency flood elevation plus one (1) foot.

24 SECTION 6. IC 36-9-27.2 IS ADDED TO THE INDIANA CODE  
25 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
26 JULY 1, 2024]:

27 **Chapter 27.2. Indiana Drainage Handbook**

28 **Sec. 1. As used in this chapter, "advisory board" refers to the**  
29 **Indiana Drainage Handbook advisory board.**

30 **Sec. 2. As used in this chapter, "department" refers to the**  
31 **Indiana state department of agriculture.**

32 **Sec. 3. As used in this chapter, "Indiana Drainage Handbook"**  
33 **refers to the publication "Indiana Drainage Handbook: An**  
34 **Administrative and Technical Guide for Activities within Indiana**  
35 **Streams and Ditches", which was prepared by the Christopher B.**  
36 **Burke Engineering Company in accordance with P.L.329-1995,**  
37 **published in 1996, and revised and republished in 1999.**

38 **Sec. 4. (a) The department shall oversee and take all actions**  
39 **necessary for the preparation and publication of an updated**  
40 **version of the Indiana Drainage Handbook.**

41 **(b) The department may select a contractor to draft the updated**  
42 **version of the Indiana Drainage Handbook. The contractor**  
43 **selected under this subsection shall be subject to the supervision of**  
44 **the department, and the text developed by the contractor shall be**  
45 **subject to review and comment by the advisory board.**

46 **Sec. 5. (a) The secretary of agriculture and rural development**  
47 **shall appoint an Indiana Drainage Handbook advisory board to:**

- 48 (1) advise the contractor and the department on the
- 49 preparation of the updated version of the Indiana Drainage
- 50 Handbook; and
- 51 (2) review and comment on:

- 1                   (A) the structure of; and  
 2                   (B) the text of drafts of;  
 3           the updated version of the Indiana Drainage Handbook.  
 4   (b) The advisory board must include the following:  
 5       (1) A representative of the department.  
 6       (2) A licensed county surveyor.  
 7       (3) A county commissioner.  
 8       (4) A representative of a soil and water conservation district.  
 9       (5) A licensed engineer.  
 10      (6) A representative of the department of natural resources.  
 11      (7) A representative of the department of environmental  
 12      management.  
 13      (8) A farmer from northern Indiana.  
 14      (9) A farmer from central Indiana.  
 15      (10) A farmer from southern Indiana.  
 16      (11) A representative of the construction industry.  
 17      (12) A representative of the United States Fish and Wildlife  
 18      Service.  
 19      (13) A representative of the United States Army Corps of  
 20      Engineers.  
 21      (14) A representative of the United States Department of  
 22      Agriculture's Natural Resources Conservation Service.  
 23      (15) An individual focused on environmental stewardship and  
 24      sustainability.  
 25   (c) The secretary of agriculture and rural development shall  
 26   appoint one (1) member of the advisory board as chairperson.  
 27   (d) A member of the advisory board serves until:  
 28       (1) the updated version of the Indiana Drainage Handbook is  
 29       published on the website of the department of natural  
 30       resources or the department; and  
 31       (2) the secretary of agriculture and rural development  
 32       declares that the work of the advisory board is concluded.  
 33   (e) A vacancy on the advisory board shall be filled by  
 34   appointment by the secretary of agriculture and rural  
 35   development.  
 36   Sec. 6. (a) The advisory board may not take official action or  
 37   make official recommendations on:  
 38       (1) general drainage policies;  
 39       (2) the text of drafts of the updated version of the Indiana  
 40       Drainage Handbook; or  
 41       (3) the structure of the updated version of the Indiana  
 42       Drainage Handbook.  
 43   (b) Advice and comments provided by the advisory board are  
 44   not binding on the department or the contractor selected under  
 45   section 4 of this chapter.  
 46   Sec. 7. (a) The advisory board shall meet at the call of the  
 47   chairperson. After the contractor is selected under section 4 of this  
 48   chapter, the advisory board:  
 49       (1) shall meet at least two (2) times to review the work of the  
 50       contractor; and  
 51       (2) may meet at other times at the call of the chairperson as



1           the contractor's work on the updated Indiana Drainage  
2           Handbook progresses.  
3           **(b) The expenses of the advisory board shall be paid from funds**  
4           **appropriated to the department.**  
5           **(c) Each member of the advisory board who is not a state**  
6           **employee is entitled to the minimum salary per diem provided by**  
7           **IC 4-10-11-2.1(b). The member is also entitled to reimbursement**  
8           **for traveling expenses as provided under IC 4-13-1-4 and other**  
9           **expenses actually incurred in connection with the member's duties**  
10           **as provided in the state policies and procedures established by the**  
11           **Indiana department of administration and approved by the budget**  
12           **agency.**  
13           **Sec. 8. (a) The department shall staff the advisory board.**  
14           **(b) The department may record and keep records of comments**  
15           **provided by the advisory board to the department or the**  
16           **contractor selected under section 4 of this chapter.**  
          (Reference is to ESB 140 as printed February 22, 2024.)

**Conference Committee Report**  
**on**  
**Engrossed Senate Bill 140**

**S**igned by:

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Senator Leising  
Chairperson

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Representative Baird

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Senator Qaddoura

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Representative Boy

**Senate Conferees**

**House Conferees**