

## **IC 14-24-4.5**

### **Chapter 4.5. Pest Control Compact**

#### **IC 14-24-4.5-1**

##### **Enactment; findings**

Sec. 1. (a) The pest control compact is enacted and entered into with all other jurisdictions legally joining the compact in the form substantially as follows in this chapter.

(b) The party states find the following:

(1) In the absence of the higher degree of cooperation among the party states possible under this compact, the annual loss of approximately one hundred thirty-seven billion dollars (\$137,000,000,000) from the depredations of pests is virtually certain to continue, if not to increase.

(2) Because of the varying climatic, geographic, and economic factors, each state may be affected differently by particular species of pests. However, all states share the inability to protect themselves fully against the pests that present serious dangers.

(3) The migratory character of pest infestations makes it necessary for states to complement each other's activities when faced with conditions of infestation and reinfestation.

(4) While every state is seriously affected by a substantial number of pests, and every state is susceptible to infestation by many species of pests not causing damage to its crops, plant life, and products, the fact that relatively few species of pests present equal danger to, or are of interest to, all states makes the establishment and operation of a fund from which individual states may obtain financial support for pest control programs of benefit to them in other states and to which they may contribute in accordance with their relative interest, the most equitable means of financing cooperative pest eradication and control programs.

*As added by P.L.225-2005, SEC.24.*

#### **IC 14-24-4.5-2**

##### **Definitions**

Sec. 2. As used in this chapter:

(1) "State" means a state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(2) "Requesting state" means a state that invokes the procedures of the compact to secure the undertaking or intensification of measures to control or eradicate one (1) or more pests within one (1) or more other states.

(3) "Responding state" means a state requested to undertake or intensify the measures referred to in subdivision (2).

(4) "Pest or pathogen" means an invertebrate animal, a pathogen, a parasitic plant, or a similar or an allied organism that can cause disease or damage in any crop, tree, shrub, grass,

or other plant of substantial value.

(5) "Fund" means the pest control insurance fund established by section 3 of this chapter.

(6) "Governing board" means the administrators of the compact representing all the party states when the administrators act as a body under authority vested in the administrators by the compact.

(7) "Executive committee" means the committee established under section 5(e) of this chapter.

(8) "Compact" refers to the pest control compact enacted under section 1(a) of this chapter.

*As added by P.L.225-2005, SEC.24.*

### **IC 14-24-4.5-3**

#### **Fund established**

Sec. 3. The pest control insurance fund is established to finance other than normal pest control operations that states may be called upon to engage in under the compact. The fund consists of money appropriated to the fund by the party states and any donations and grants accepted by the fund. All appropriations, except as conditioned by the rights and obligations of party states expressly set forth in the compact, must be unconditional and may not be restricted by the appropriating state to use in the control of a specified pest or pests. Donations and grants may be conditional or unconditional. However, the fund may not accept any donation or grant whose terms are inconsistent with the compact.

*As added by P.L.225-2005, SEC.24.*

### **IC 14-24-4.5-4**

#### **Administration of fund; members; seal; elections; personnel; bylaws; report**

Sec. 4. (a) The fund shall be administered by the governing board and executive committee as provided in this chapter. The actions of the governing board and the executive committee under the compact are considered the actions of the fund.

(b) The members of the governing board are entitled to one (1) vote on the board. Action of the governing board is not binding unless taken at a meeting at which a majority of the total number of votes on the governing board is cast in favor of the proposed action. Action of the governing board may be only at a meeting at which a majority of the members is present.

(c) The fund shall have a seal that may be employed as an official symbol and that may be affixed to documents and used as the governing board provides.

(d) The governing board shall elect annually, from among its members, a chairperson, a vice chairperson, a secretary, and a treasurer. The chairperson may not serve consecutive terms. The governing board may appoint an executive director and fix the executive director's duties and compensation, if any. The executive director shall serve at the pleasure of the governing board. The

governing board shall provide for the bonding of the officers and employees of the fund as is appropriate.

(e) Notwithstanding the civil service, personnel, or other merit system laws of any of the party states, the executive director, or if there is not an executive director, the chairperson, in accordance with the procedures the bylaws provide, shall appoint, remove, or discharge any personnel as is necessary to perform the functions of the fund and shall fix the duties and compensation of any personnel. The governing board in its bylaws shall provide for the personnel policies and programs of the fund.

(f) The fund may borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental agency or from any person, firm, association, or corporation.

(g) The fund may accept for purposes of the fund or functions under this compact donations, grants, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, or corporation and may receive, use, and dispose of the same. A donation, gift, or grant accepted by the governing board under this subsection or services borrowed under subsection (f) shall be reported in the annual report of the fund. The annual report must include the nature, amount, and conditions, if any, of the donation, gift, or grant or services borrowed and the identity of the donor or lender.

(h) The governing board shall adopt bylaws for the conduct of the business of the fund and may amend and rescind these bylaws. The fund shall publish the bylaws of the fund in convenient form and shall file a copy of the bylaws and a copy of any amendment to the bylaws with the appropriate agency or officer in each of the party states.

(i) The fund annually shall make to the governor and legislature of each party state a report covering the fund's activities for the preceding year. The fund may make additional reports it considers desirable. The report to the legislature under this subsection must be in an electronic format under IC 5-14-6.

(j) The fund may do other things as are necessary and incidental to the conduct of the fund's affairs under the compact.

*As added by P.L.225-2005, SEC.24.*

#### **IC 14-24-4.5-5**

##### **State compact administrator; meetings; applications; executive committee**

Sec. 5. (a) Each party state must have a compact administrator who shall be selected and serve in a manner as the laws of the party state may provide and who shall:

- (1) assist in the coordination of activities under the compact in the compact administrator's state; and
- (2) represent the compact administrator's state on the governing board of the fund.

(b) If the laws of the United States specifically provide, or if an administrative provision is made within the federal government, the United States may be represented on the governing board by not more than three (3) representatives. A representative of the United States shall be appointed and serve in a manner as provided by federal law, but the representative may not vote on the governing board or the executive committee.

(c) The governing board shall meet at least once each year to determine policies and procedures in the administration of the fund and, consistent with the compact, supervise and give direction to the expenditure of money from the fund. Additional meetings of the governing board shall be held on call of the chairperson, the executive committee, or a majority of the governing board.

(d) When the governing board meets, it shall act upon applications for assistance from the fund and authorize disbursements from the fund. When the governing board is not meeting, the executive committee shall act as agent of the governing board, with full authority to act for the governing board in acting upon the applications for assistance.

(e) The executive committee consists of the chairperson of the governing board and four (4) additional members of the governing board chosen by the governing board so that one (1) member represents each of four (4) geographic groupings of party states. The governing board shall make the geographic groupings. If there is representation of the United States on the governing board, one (1) United States representative may meet with the executive committee. The chairperson of the governing board shall be chairperson of the executive committee. An action of the executive committee is not binding unless taken at a meeting at which at least four (4) members of the executive committee are present and vote in favor of the action. Necessary expenses of each of the five (5) members of the executive committee incurred in attending meetings of the executive committee, when not held at the same time and place as a meeting of the governing board, are charges against the fund.

*As added by P.L.225-2005, SEC.24.*

#### **IC 14-24-4.5-6**

##### **Efforts to control pests and pathogens; applications; appeals; payment of claims**

Sec. 6. (a) Each party state pledges to each other party state that the party state will employ its best efforts to eradicate, or control within the strictest practicable limits, all pests or pathogens. The performance of this responsibility involves the following:

(1) The maintenance of pest control and eradication activities of interstate significance by a party state at a level that would be reasonable for the party state's own protection in the absence of the compact.

(2) The meeting of emergency outbreaks or infestations of interstate significance to not less an extent than would have been done in the absence of the compact.

(b) Whenever a party state is threatened by a pest or pathogen not present within its borders but present within another party state, or whenever a party state is undertaking or engaged in activities for the control or eradication of a pest or pathogen and finds that control or eradication activities are or would be impracticable or substantially more difficult to accomplish because of failure of another party state to cope with infestation or threatened infestation, that state may request the governing board to authorize expenditures from the fund for eradication or control measures to be taken by one (1) or more of the other party states at a level sufficient to prevent, or to reduce to the greatest practicable extent, infestation or reinfestation of the requesting state. Upon the governing board's authorization, the responding state or states shall take or increase any eradication or control measures warranted. A responding state shall use money available from the fund expeditiously and efficiently to assist in providing the protection requested.

(c) To apply for expenditures from the fund, a requesting state shall submit the following in writing:

(1) A detailed statement of the circumstances that occasion the request to invoke the compact.

(2) Evidence that the pest or pathogen on account of whose eradication or control assistance is requested constitutes a danger to an agricultural or a forest crop, product, tree, shrub, grass, or other plant having a substantial value to the requesting state.

(3) A statement of the extent of the present and projected program of the requesting state and its subdivisions, including full information as to the legal authority for the conduct of the program or programs and the expenditures being made or budgeted for the program or programs, in connection with the eradication, control, or prevention of introduction of the pest or pathogen concerned.

(4) Proof that the expenditures being made or budgeted as detailed in subdivision (3) do not constitute a reduction of the effort for the control or eradication of the pest or pathogen concerned or, if there is a reduction, the reasons why the level of program detailed in subdivision (3) constitutes a normal level of pest control activity.

(5) A declaration as to whether, to the best of its knowledge and belief, the conditions that the requesting state believes require the invoking of the compact in the particular instance can be abated by a program undertaken with the aid of money from the fund in one (1) year or less, or whether the request is for an installment in a program that is likely to continue for a longer period.

(6) Other information the governing board requires consistent with the compact.

(d) The governing board or executive committee shall give due notice of any meeting at which an application for assistance from the fund is to be considered. The notice shall be given to the compact

administrator of each party state and to the other officers and agencies as may be designated by the laws of the party states. The requesting state and any other party state are entitled to be represented and present evidence and argument at the meeting.

(e) Upon the submission as required by subsection (c) and any other information that the governing board has or acquires, and upon determining that an expenditure of funds is within the purposes of and justified by the compact, the governing board or executive committee shall authorize support of the program. The governing board or executive committee may meet at any time or place to receive and consider an application. All determinations of the governing board or executive committee, with respect to an application, together with the reasons for the determination shall be recorded and subscribed in a manner that shows and preserves the votes of the individual members of the board or committee.

(f) A requesting state that is dissatisfied with a determination of the executive committee, upon notice in writing given within twenty (20) days of the determination with which it is dissatisfied, is entitled to receive a review of the determination at the next meeting of the governing board. Determinations of the executive committee are reviewable only by the governing board at one (1) of its regular meetings or at a special meeting held in a manner the governing board authorizes.

(g) Responding states required to undertake or increase measures under the compact may receive money from the fund, either at the time or times when the state incurs expenditures because of the measures, or as reimbursement for expenses incurred and chargeable to the fund. The governing board shall adopt and may amend or revise procedures for submission and payment of claims from the fund.

(h) Before authorizing the expenditure of money from the fund under an application of a requesting state, the fund shall ascertain the extent and nature of any timely assistance or participation that is available from the federal government and shall request the appropriate agency or agencies of the federal government for any available assistance and participation.

(i) The fund may negotiate and execute a memorandum of understanding or other appropriate instrument defining the extent and degree of assistance or participation between and among the fund, cooperating federal agencies, states, and any other entities concerned.

*As added by P.L.225-2005, SEC.24.*

#### **IC 14-24-4.5-7**

##### **Advisory and technical committees**

Sec. 7. The governing board may establish advisory and technical committees composed of state, local, and federal officials and private persons to advise the governing board concerning any of its functions. An advisory or technical committee or a member or members of the committee may meet with and participate in the

governing board's deliberations upon request of the governing board or executive committee. An advisory or a technical committee may furnish information and recommendations concerning any application for assistance from the fund being considered by the governing board or committee, and the governing board or committee may receive and consider the same. However, a participant in a meeting of the governing board or executive committee held under section 6(d) of this chapter is entitled to know the substance of the advisory or technical committee's information and recommendations at the time of the meeting if made before the meeting or as a part of the meeting, or, if made after the meeting, not later than the time at which the governing board or executive committee makes its disposition of the application.

*As added by P.L.225-2005, SEC.24.*

#### **IC 14-24-4.5-8**

##### **Application for nonparty state**

Sec. 8. (a) A party state may make an application for assistance from the fund concerning a pest in a nonparty state. The application shall be considered and disposed of by the governing board or executive committee in the same manner as an application with respect to a pest within a party state, except as provided in this section.

(b) At or in connection with any meeting of the governing board or executive committee held under section 6(d) of this chapter, a nonparty state is entitled to appear, participate, and receive information only to the extent as the governing board or executive committee may provide. A nonparty state is not entitled to review of a determination made by the executive committee.

(c) The governing board or executive committee shall authorize expenditures from the fund to be made in a nonparty state only after determining that the conditions in the nonparty state and the value of the expenditures to the party states as a whole justify the expenditures. The governing board or executive committee may set any conditions it considers appropriate concerning the expenditure of money from the fund in a nonparty state and may enter into an agreement or agreements with nonparty states and other jurisdictions or entities as it considers necessary or appropriate to protect the interests of the fund with respect to expenditures and activities outside party states.

*As added by P.L.225-2005, SEC.24.*

#### **IC 14-24-4.5-9**

##### **Budget; accounts**

Sec. 9. (a) The fund shall submit to the executive head or designated officer or officers of each party state a budget for the fund for a period as may be required by the laws of that party state for a presentation to the party state's legislature.

(b) Each of the budgets must contain specific recommendations of the amount or amounts to be appropriated by each of the party

states. The request for appropriations shall be apportioned among the party states as follows:

- (1) One-tenth (0.1) of the total budget in equal shares.
- (2) The remainder in proportion to the value of agricultural and forest crops and products, excluding animals and animal products, produced in each party state.

In determining the value of the party states' crops and products, the fund may employ any source of information it believes presents the most equitable and accurate comparisons among the party states. Each of the budgets and requests for appropriations must indicate the source or sources used in obtaining information concerning value of products.

(c) The financial assets of the fund shall be maintained in two (2) accounts to be designated respectively as the "operating account" and the "claims account". The operating account consists only of those assets necessary for the administration of the fund during the ensuing two (2) year period. The claims account must contain all money not included in the operating account and may not exceed the amount reasonably estimated to be sufficient to pay all legitimate claims on the fund for three (3) years. If the claims account has reached its maximum limit or would reach its maximum limit by the addition of money requested for appropriation by the party states, the governing board shall reduce the budget requests on a pro rata basis in a manner that keeps the claims account within its maximum limit. Any money in the claims account by virtue of conditional donations, grants, or gifts shall be included in calculations made under this subsection only to the extent that the money is available to meet demands arising out of the claims.

(d) The fund shall not pledge the credit of any party state. The fund may meet any of its obligations in whole or in part with money available to it under section 4(g) of this chapter. However, the governing board takes specific action setting aside the money before incurring any obligation to be met in whole or in part. Except where the fund makes use of money available to it under section 4(g) of this chapter, the fund shall not incur any obligation before the allotment of money by the party states adequate to meet the obligation.

(e) The fund shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the fund are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the fund shall be audited yearly by a certified or licensed public accountant and report of the audit must be included in and become part of the annual report of the fund.

(f) The accounts of the fund must be open at any reasonable time for inspection by authorized officers of the party states and by any persons authorized by the fund.

*As added by P.L.225-2005, SEC.24.*

#### **IC 14-24-4.5-10**

**Effective date of compact; withdrawal**

Sec. 10. (a) The compact becomes effective when enacted into law by any five (5) or more states. After the compact becomes effective, the compact becomes effective as to any other state upon the state's enactment of the compact.

(b) A party state may withdraw from the compact by enacting a statute repealing the law enacting the compact, but a withdrawal does not take effect until two (2) years after the executive head of the withdrawing state gives notice in writing of the withdrawal to the executive heads of all other party states. A withdrawal does not affect any liability incurred by or chargeable to a party state before the time of the withdrawal.

*As added by P.L.225-2005, SEC.24.*

#### **IC 14-24-4.5-11**

##### **Implementary provisions of compact**

Sec. 11. This compact shall be liberally construed to effectuate the purposes of the compact. The provisions of the compact are severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability of the compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of the compact and its applicability to any government, agency, person, or circumstance is not affected thereby. If this compact is held contrary to the constitution of any party state, the compact remains in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

*As added by P.L.225-2005, SEC.24.*

#### **IC 14-24-4.5-12**

##### **Cooperation**

Sec. 12. Consistent with law and within available appropriations, the departments, agencies, and officers of Indiana may cooperate with the fund.

*As added by P.L.225-2005, SEC.24.*

#### **IC 14-24-4.5-13**

##### **Compact administrator; bylaws**

Sec. 13. (a) The director of the Indiana state department of agriculture or the director's designee shall serve as compact administrator for Indiana. The duties of the compact administrator are considered a regular part of the duties of the commissioner of agriculture.

(b) Copies of bylaws and amendments to the compact adopted under section 4(h) of this chapter must be filed with the compact administrator.

*As added by P.L.225-2005, SEC.24. Amended by P.L.1-2006, SEC.215; P.L.120-2008, SEC.8.*

#### **IC 14-24-4.5-14**

**Request for assistance**

Sec. 14. Within the meaning of sections 6(b) and 8(a) of this chapter, a request or an application for assistance from the fund may be made by the director of the Indiana state department of agriculture or the director's designee whenever the director or director's designee believes the conditions qualifying the state for assistance exist and it would be in the best interest of the state to make a request.

*As added by P.L.225-2005, SEC.24. Amended by P.L.1-2006, SEC.216; P.L.120-2008, SEC.9.*

**IC 14-24-4.5-15****Notices**

Sec. 15. The compact administrator is designated to receive notices under section 6(d) of this chapter.

*As added by P.L.225-2005, SEC.24.*

**IC 14-24-4.5-16****Crediting account**

Sec. 16. The department, agency, or officer expending or becoming liable for an expenditure on account of a control or eradication program undertaken or intensified under the compact shall have credited to the department's, agency's, or officer's account, in the state treasury, the amount or amounts of any payments made to Indiana to defray the cost of the program or any part of the program, or as reimbursement from the program.

*As added by P.L.225-2005, SEC.24.*

**IC 14-24-4.5-17****Executive head**

Sec. 17. When the compact refers to the executive head, with reference to Indiana, the executive head is the governor.

*As added by P.L.225-2005, SEC.24.*