

January 29, 1998

HOUSE BILL No. 1237

DIGEST OF HB 1237 (Updated January 27, 1998 6:40 pm - DI 02)

Citations Affected: IC 14-27; IC 14-34.

Synopsis: Coal mining and other regulation. Makes the law on the regulation of dams, dikes, and levees inapplicable to certain dams, dikes, floodwalls, or levees. Authorizes the director of the DNR to issue a surface coal mining and reclamation permit subject to the condition that the permittee obtain or maintain in force other licenses or permits required for the mining operation. Provides, for purposes of the requirement of notice and an administrative hearing before a surface coal mining permit may be revised, except for a nonsignificant revision, that: (1) a proposed revision is significant if certain conditions exist; and (2) certain other revisions are nonsignificant. Provides that a nonsignificant revision in a mining or reclamation plan must be reviewed and approved in writing by the director of the DNR before it may be implemented. Allows a proposed change in a mining permit that meets certain criteria to be approved as a minor field revision by
(Continued next page)

Effective: July 1, 1998.

Stilwell, Steele, Crooks

January 13, 1998, read first time and referred to Committee on Natural Resources.
January 28, 1998, amended, reported — Do Pass.

HB 1237—LS 6709/DI 55



C
O
P
Y

Digest Continued

a field inspector in an inspection report or on a form signed in the field. Allows the area covered by a mining permit to be extended without applying for a new permit in the case of an incidental boundary revision. Provides, for purposes of the requirement that reclamation efforts proceed as contemporaneously as practicable with surface coal mining operations unless an extension is approved by the director for good cause, that the requirement is satisfied by the completion of certain reclamation efforts by certain deadlines. Repeals a provision requiring the natural resources commission to adopt rules defining nonsignificant revisions of a surface coal mining and reclamation operations permit.

C
o
p
y



January 29, 1998

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

HOUSE BILL No. 1237

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 14-27-7-4, AS ADDED BY P.L.1-1995, SECTION
2 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 1998]: Sec. 4. (a) The department shall make an engineering inspection
4 of all dams, levees, dikes, and floodwalls and appurtenant works:
5 (1) at least one (1) time every two (2) years or at more frequent
6 intervals if the exigencies of the case require; or
7 (2) upon the written request of an affected person or agency.
8 (b) The department shall place in the files of the department a report
9 of each inspection conducted under subsection (a).
10 (c) This chapter does not apply to the following:
11 (1) A dam that meets the following conditions:
12 (A) Is built for the sole purpose of erosion control, watering
13 livestock, recreation, or providing a haven or refuge for fish or
14 wildlife.
15 (B) Has a drainage area above the dam of not more than one

HB 1237—LS 6709/DI 55



C
O
P
Y

- 1 (1) square mile.
- 2 (C) Does not exceed twenty (20) feet in height from the natural
- 3 stream bed to spillway level.
- 4 (D) Does not impound more than one hundred (100) acre-feet
- 5 of water.
- 6 (2) A levee, dike, or floodwall that meets the following
- 7 conditions:
- 8 (A) Is under a single private ownership.
- 9 (B) Provides protection only to land or other property under
- 10 the single private ownership.
- 11 **(3) A dam, dike, floodwall, or levee that is regulated under the**
- 12 **federal Mine Safety and Health Act of 1977, unless the dam,**
- 13 **dike, floodwall, or levee is proposed to be retained after bond**
- 14 **release.**
- 15 SECTION 2. IC 14-34-4-18, AS ADDED BY P.L.1-1995,
- 16 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 17 JULY 1, 1998]: Sec. 18. (a) Each permit issued by the director is
- 18 subject to conditions imposed by the director. The conditions must
- 19 include at a minimum a requirement for the operator to pay to the
- 20 federal Office of Surface Mining all fees owed under 30 CFR Part 870.
- 21 (b) **The director may issue a permit subject to the condition that**
- 22 **the permittee obtain or maintain in force other licenses or permits**
- 23 **required for the surface coal mining and reclamation operation.**
- 24 **However, the imposition of a condition under this subsection does**
- 25 **not authorize or require the director to administer or enforce the**
- 26 **requirements of any federal law or of any state law other than this**
- 27 **article.**
- 28 SECTION 3. IC 14-34-5-7, AS ADDED BY P.L.1-1995, SECTION
- 29 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 30 1998]: Sec. 7. (a) **Any revision to an approved mining or**
- 31 **reclamation plan that would adversely affect the permittee's**
- 32 **compliance with IC 14-34 is subject to review and approval by:**
- 33 **(1) the director; or**
- 34 **(2) the director's designated representative;**
- 35 **as provided in sections 7 through 8.1 of this chapter.**
- 36 ~~(a)~~ (b) The director may approve an application for a revision of a
- 37 permit submitted under section 5 of this chapter if the application is
- 38 based only on nonsignificant revisions of the permit. ~~(as defined in the~~
- 39 ~~rules adopted under section 6 of this chapter):~~
- 40 ~~(b)~~ (c) The director may approve an application under subsection ~~(a)~~
- 41 (b) without notice and a hearing.
- 42 SECTION 4. IC 14-34-5-8, AS ADDED BY P.L.1-1995, SECTION

C
O
P
Y

1 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 2 1998]: Sec. 8. (a) Unless an application for revision of a permit
 3 submitted under section 5 of this chapter is based only on
 4 nonsignificant revisions, (as defined in the rules adopted under section
 5 6 of this chapter), the application may be approved only after the notice
 6 and hearing requirements of this article for issuance of a permit have
 7 been fulfilled.

8 (b) The director may impose other conditions for approval of the
 9 application.

10 SECTION 5. IC 14-34-5-8.1 IS ADDED TO THE INDIANA CODE
 11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 12 1, 1998]: **Sec. 8.1. For purposes of sections 7 and 8 of this chapter,
 13 a proposed revision of a permit is significant if any of the following
 14 conditions exists:**

15 (1) **The changes may result in an adverse impact beyond that
 16 previously considered, affecting cultural resources that are
 17 listed on or eligible to be listed on:**

18 (A) **the National Register of Historic Places; or**

19 (B) **the register of Indiana historic sites and historic
 20 structures established under IC 14-21-1.**

21 (2) **Blasting will be used in an area that was previously
 22 classified in the permit as a nonblasting area.**

23 (3) **The changes may result in an adverse impact beyond that
 24 previously considered, affecting a water supply to which
 25 IC 14-25-4 applies.**

26 (4) **The changes:**

27 (A) **require the identification, disturbance, or handling of
 28 toxic forming or acid forming materials different from
 29 those previously considered; and**

30 (B) **have the potential for causing an additional impact not
 31 previously considered.**

32 (5) **The changes may result in an adverse impact on fish,
 33 wildlife, and related environmental values beyond that
 34 previously considered.**

35 (6) **The addition of:**

36 (A) **a coal processing facility; or**

37 (B) **any permanent support facility;**

38 **is proposed, and the addition of the facility will cause an
 39 impact not previously considered, except that the addition of
 40 a temporary coal processing facility used exclusively for
 41 crushing and screening need not be considered a significant
 42 revision.**

C
O
P
Y



1 SECTION 6. IC 14-34-5-8.2 IS ADDED TO THE INDIANA CODE
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 1998]: **Sec. 8.2. (a) For purposes of sections 7 and 8 of this
 4 chapter, a proposed permit revision that:**

5 (1) is subject to the rule of the natural resources commission
 6 concerning coal mining and reclamation permitting
 7 procedures (310 IAC 12-3); and
 8 (2) requires technical review or design analysis;
 9 is a nonsignificant revision.

10 (b) The following are nonsignificant permit revisions under
 11 subsection (a):

12 (1) For surface mines, changes of the:

13 (A) direction of mining; or

14 (B) location of mining equipment;

15 within the permit area.

16 (2) The substitution of mining equipment designed for the
 17 same purpose, the use of which is not detrimental to the
 18 achievement of final reclamation or subsidence control.

19 (3) For underground mines, any change in the direction or
 20 location of mining within the permit area or shadow area in
 21 response to unanticipated events.

22 (4) Any other change in the mining or reclamation plan that
 23 the director reasonably determines:

24 (A) will not have a significant effect:

25 (i) on the achievement of final reclamation plans under
 26 IC 14-34-3-12;

27 (ii) on subsidence control plans; and

28 (iii) on the surrounding area;

29 (B) does not involve significant delay in achieving final
 30 reclamation or significant change in the land use; or

31 (C) is necessitated by unanticipated and unusually adverse
 32 weather conditions, other acts of God, strikes, or other
 33 causes beyond the reasonable control of the permittee, if
 34 all steps specified by the director to maximize
 35 environmental protection are taken.

36 SECTION 7. IC 14-34-5-8.3 IS ADDED TO THE INDIANA CODE
 37 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 38 1, 1998]: **Sec. 8.3. A nonsignificant revision in a mining or
 39 reclamation plan must be:**

40 (1) reviewed; and

41 (2) approved in writing;

42 by the director before it may be implemented.

C
O
P
Y



1 SECTION 8. IC 14-34-5-8.4 IS ADDED TO THE INDIANA CODE
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 1998]: **Sec. 8.4. (a) If the director determines that a proposed
 4 change in a permit:**

5 (1) is subject to the rule of the natural resources commission
 6 concerning coal mining and reclamation permitting
 7 procedures (310 IAC 12-3); but

8 (2) does not require technical review or design analysis;
 9 the proposed change may be approved as a minor field revision by
 10 a field inspector in an inspection report or on a form signed in the
 11 field under IC 14-34-2-5.

12 (b) A minor field revision approved under this section:

13 (1) must be properly documented and separately filed; and

14 (2) may include the following:

15 (A) Soil stockpile location and configurations.

16 (B) As-built pond certifications.

17 (C) Minor transportation facilities changes.

18 (D) Any of the following for a pond:

19 (i) Depth.

20 (ii) Shape.

21 (iii) Orientation.

22 (E) An area for temporary drainage control or temporary
 23 water storage.

24 (F) Equipment changes.

25 (G) Explosive storage areas.

26 (H) Minor mine management or support facility locations
 27 (except for the disposal or storage of refuse).

28 (I) Adding United States Natural Resources Conservation
 29 Service conservation practices.

30 (J) Methods of erosion protection on diversions.

31 (K) Temporary cessation of mining.

32 (L) Minor diversion location changes.

33 SECTION 9. IC 14-34-5-8.5 IS ADDED TO THE INDIANA CODE
 34 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 35 1, 1998]: **Sec. 8.5. An extension of the area covered by a permit,
 36 except for an incidental boundary revision under section 8.6 of this
 37 chapter, must be made by applying for a new permit.**

38 SECTION 10. IC 14-34-5-8.6 IS ADDED TO THE INDIANA
 39 CODE AS A NEW SECTION TO READ AS FOLLOWS
 40 [EFFECTIVE JULY 1, 1998]: **Sec. 8.6. (a) For the area covered by
 41 a permit to be extended under this section as an incidental
 42 boundary revision, all of the following must apply:**

C
O
P
Y



- 1 **(1) The extension may not constitute a significant revision to**
 2 **the method of conduct of mining or reclamation operations**
 3 **contemplated by the original permit.**
 4 **(2) The extension must be required for the orderly and**
 5 **continuous mining and reclamation operation.**
 6 **(3) The extension must adjoin the permit or shadow area**
 7 **acreage.**
 8 **(4) The extended area must be mined and reclaimed in**
 9 **conformity with the approved permit plans.**
 10 **(5) The area of the extension may not exceed the lesser of:**
 11 **(A) ten percent (10%) of the area originally covered by the**
 12 **permit; or**
 13 **(B) twenty (20) acres.**
 14 **(b) The aggregate of all incidental boundary revisions of a**
 15 **permit under this section may not exceed the area originally**
 16 **covered by the permit by more than fifteen percent (15%).**
 17 **However, the director may waive the limitation under this**
 18 **subsection if the director finds that:**
 19 **(1) all other provisions of this section are met; and**
 20 **(2) the interests of the public are not adversely affected.**
 21 **(c) The aggregate of all incidental boundary revisions of a**
 22 **permit under this section that involve coal removal may not exceed**
 23 **the area originally covered by the permit by more than ten percent**
 24 **(10%).**
 25 **(d) To obtain an incidental boundary revision under this section,**
 26 **a permittee must submit to the director an application containing**
 27 **the following:**
 28 **(1) A statement of the size of:**
 29 **(A) the original permit area; and**
 30 **(B) the additional area that would be added by the**
 31 **boundary revision.**
 32 **(2) A statement of the uses that:**
 33 **(A) were made of the land before mining; and**
 34 **(B) will be made of the land after mining.**
 35 **(3) A showing that the requirements of subsection (a) are met.**
 36 **(4) A map showing the additional area to be added by the**
 37 **boundary revision.**
 38 **(5) Proof of the permittee's legal right to enter and conduct**
 39 **surface coal mining and reclamation operations on the**
 40 **additional area to be added by the boundary revision.**
 41 **(6) Any necessary plans that are not contained in the permit**
 42 **already approved.**

C
O
P
Y

- 1 **(7) A statement indicating whether any areas unsuitable for**
 2 **mining are contained in the permit already approved.**
- 3 **(e) An application for an incidental boundary revision may not**
 4 **be approved unless the applicant demonstrates and the director**
 5 **finds the following:**
- 6 **(1) That reclamation of the area as required by this article**
 7 **can be accomplished.**
- 8 **(2) That the application complies with all requirements of this**
 9 **article.**
- 10 **(f) The director shall approve or deny an incidental boundary**
 11 **revision of a permit under this section within thirty (30) days after**
 12 **the application for the proposed boundary revision is submitted to**
 13 **the director, unless the director finds that more than thirty (30)**
 14 **days are needed to adequately review the application and make the**
 15 **findings required by subsection (e).**
- 16 **(g) This section does not alter the general requirements of this**
 17 **article for the submission of fees and bonds.**
- 18 SECTION 11. IC 14-34-10-2, AS ADDED BY P.L.179-1995,
 19 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 1998]: Sec. 2. (a) As used in this section:
- 21 **(1) "erosion" does not include the movement of soil or rock**
 22 **particles that does not cause:**
- 23 **(A) air or water pollution outside the area subject to a**
 24 **permit;**
- 25 **(B) the loss or contamination of materials required to be**
 26 **salvaged under this article; or**
- 27 **(C) interference with attainment of the approved**
 28 **post-mining land use; and**
- 29 **(2) "higher or better uses" means postmining land uses that have**
 30 **a higher:**
- 31 ~~(1)~~ **(A) economic value; or**
- 32 ~~(2)~~ **(B) nonmonetary benefit;**
- 33 to the landowner or the community than the premining land uses.
- 34 (b) In addition to other standards a permittee must meet under rules
 35 of the commission, a permittee shall do the following:
- 36 (1) Place markers on the site to readily identify the permit area.
- 37 (2) Conduct the surface coal mining operation in a manner that
 38 maximizes the use and conservation of the solid fuel resource that
 39 is recovered so that reffecting the land in the future through
 40 surface coal mining is minimized.
- 41 (3) Restore the land affected to a condition capable of supporting
 42 the uses that the land was capable of supporting before mining or

C
O
P
Y



1 higher or better uses of which there is a reasonable likelihood if:

2 (A) those uses do not:

3 (i) present an actual or a probable hazard to public health or
4 safety; or

5 (ii) pose an actual or a probable threat of water diminution
6 or pollution; and

7 (B) the permit applicant's declared proposed land use
8 following reclamation:

9 (i) is not impractical or unreasonable;

10 (ii) is not inconsistent with applicable land use policies and
11 plans;

12 (iii) does not involve unreasonable delay in implementation;

13 or

14 (iv) does not violate federal, state, or local law.

15 (4) Except as provided in subdivisions (5) and (6) and section 4
16 of this chapter with respect to all surface coal mining operations
17 backfill, compact where advisable to ensure stability or prevent
18 the leaching of toxic materials and grade to restore the
19 approximate original contour of the land with all highwalls, spoil
20 piles, and depressions eliminated. Small depressions are allowed
21 if needed to retain moisture to assist revegetation or as otherwise
22 authorized under this article.

23 (5) In a surface coal mining operation that:

24 (A) is carried out at the same location over a substantial time;

25 (B) transects the coal deposit and the thickness of the coal
26 deposit relative to the volume of the overburden that is large;
27 and

28 (C) has overburden and other spoil and waste materials at a
29 particular point in the permit area or otherwise available from
30 the entire permit area that is insufficient, giving due
31 consideration to volumetric expansion, to restore the
32 approximate original contour;

33 the operator, at a minimum, shall backfill, grade, and compact,
34 where advisable, using all available overburden and other spoil
35 and waste materials to attain the lowest practicable grade but not
36 more than the angle of repose to provide adequate drainage and
37 to cover all acid-forming and other toxic materials to achieve an
38 ecologically sound land use compatible with the surrounding
39 region.

40 (6) If in surface coal mining:

41 (A) the volume of overburden is large relative to the thickness
42 of the coal deposit; and

C
O
P
Y



- 1 (B) the operator demonstrates that due to volumetric
 2 expansion the amount of overburden and other spoil and waste
 3 materials removed in the course of the mining operation is
 4 more than sufficient to restore the approximate original
 5 contour;
 6 the operator shall, after restoring the approximate contour,
 7 backfill, grade, and compact, where advisable, the excess
 8 overburden and other spoil and waste materials to attain the
 9 lowest grade but not more than the angle of repose and to cover
 10 all acid-forming and other toxic materials to achieve an
 11 ecologically sound land use compatible with the surrounding
 12 region. The overburden or spoil shall be shaped and graded in a
 13 way that prevents slides, erosion, and water pollution and
 14 revegetated in accordance with the requirements of this article.
- 15 (7) Stabilize and protect all surface areas, including spoil piles,
 16 affected by the surface coal mining and reclamation operation to
 17 effectively control erosion and attendant air and water pollution.
- 18 (8) Remove the topsoil from the land in a separate layer and:
 19 (A) replace the topsoil on the backfill area; or
 20 (B) if the topsoil is not used immediately;
 21 (i) segregate the topsoil in a separate pile from other spoil;
 22 and
 23 (ii) if the topsoil is not replaced on a backfill area within a
 24 time short enough to avoid deterioration of the topsoil,
 25 maintain a successful cover by quick growing plants or other
 26 means so that the topsoil is preserved from wind and water
 27 erosion, remains free of any contamination by other acid or
 28 toxic material, and is in a usable condition for sustaining
 29 vegetation when restored during reclamation.
- 30 However, if the topsoil is of insufficient quantity or of poor
 31 quality to sustain vegetation or if other strata are more suitable for
 32 vegetation requirements, the operator shall remove, segregate, and
 33 preserve, in a like manner, the strata that are best able to support
 34 vegetation.
- 35 (9) Restore the topsoil or the best available subsoil that is best
 36 able to support vegetation.
- 37 (10) For all prime farmland as identified in IC 14-34-3-3(16),
 38 comply with the specifications for soil removal, storage,
 39 replacement, and reconstruction established by rules of the
 40 commission and do the following:
 41 (A) Segregate the A horizon of the natural soil unless it is
 42 shown that other available soil materials will create a final soil

C
O
P
Y

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

that has a greater productive capacity, stockpile this material, if not used immediately, separately from other spoil, and provide needed protection from wind and water erosion or contamination by other acid or toxic material.

(B) Segregate the B horizon of the natural soil, or underlying C horizons or other strata, or a combination of those horizons or other strata that are texturally and chemically suitable for plant growth and equal to or more favorable for plant growth than the B horizon, in sufficient quantities to create in the regraded final soil a root zone of comparable depth and quality to that existing in the natural soil, stockpile this material, if not used immediately, separately from other spoil, and provide needed protection from wind and water erosion or contamination by other acid or toxic material.

(C) Replace and regrade the root zone material described in clause (B) with proper compaction and uniform depth over the regraded spoil material.

(D) Redistribute and grade in a uniform manner the surface soil horizon described in clause (A).

(11) Create, if authorized in the approved surface coal mining and reclamation plan, permanent impoundments of water on mining sites. The permittee may create the permanent impoundment only after the permittee demonstrates the following:

(A) The size of the impoundment is adequate for the intended purposes.

(B) The impoundment dam construction will be designed to achieve necessary stability with an adequate margin of safety compatible with that of structures constructed under 16 U.S.C. 1006.

(C) The quality of impounded water will be suitable, on a permanent basis, for the intended use and discharges from the impoundment will not degrade the water quality below water quality standards established under applicable federal and state law in the receiving stream.

(D) The level of water will be reasonably stable.

(E) Final grading will provide adequate safety and access for proposed water users.

(F) The water impoundments will not result in the diminution of the quality or quantity of water used by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses.

(12) Conduct an augering operation associated with surface coal

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

mining in a manner that maximizes the recoverability of mineral reserves remaining after the surface coal mining and reclamation operation is complete and seal all auger holes with an impervious and noncombustible material to prevent drainage except where the director determines that the resulting impoundment of water in those auger holes may create a hazard to the environment or the public health or safety. The director may prohibit augering if necessary to:

(A) maximize the use, recoverability, or conservation of the solid fuel resources; or

(B) protect against adverse water quality impacts.

(13) Minimize disturbances to the prevailing hydrologic balance at the mine site and associated offsite areas and to the quality and quantity of water in surface and ground water systems during and after surface coal mining and reclamation operations by doing the following:

(A) Avoiding acid or other toxic mine drainage by measures such as the following:

(i) Preventing or removing water from contact with toxic-producing deposits.

(ii) Treating drainage to reduce toxic content that adversely affects downstream water upon being released to watercourses.

(iii) Casing, sealing, or otherwise managing boreholes, shafts, and wells and keep acid or other toxic drainage from entering ground and surface water.

(B) Conducting surface coal mining and reclamation operations so as to prevent, to the extent possible using the best technology currently available, violations of the effluent limitations for coal mining operations established under applicable state or federal law.

(C) Constructing siltation structures under clause (B) before commencement of surface coal mining operations that will be certified by an engineer licensed under IC 25-31 and constructed as designed and approved in the reclamation plan.

(D) Cleaning out and removing temporary or large settling ponds or other siltation structures from drainageways after disturbed areas are revegetated and stabilized and depositing the silt and debris at a site and in a manner approved by the director.

(E) Restoring recharge capacity of the mined area to approximate premining conditions.

C
O
P
Y



- 1 (F) Avoiding channel deepening or enlargement in operations
- 2 requiring the discharge of water from mines.
- 3 (G) Other actions required under the permit.
- 4 (14) With respect to surface disposal of mine wastes, tailings, coal
- 5 processing wastes, and other wastes in areas other than the mine
- 6 workings or excavations, the following:
- 7 (A) Stabilize all waste piles in designated areas through
- 8 construction in compacted layers, including the use of
- 9 incombustible and impervious materials if necessary.
- 10 (B) Assure the following:
- 11 (i) The final contour of the waste pile will be compatible
- 12 with natural surroundings.
- 13 (ii) The site will be stabilized and revegetated according to
- 14 this article.
- 15 (15) Refrain from surface coal mining within five hundred (500)
- 16 feet of active and abandoned underground mines to prevent
- 17 breakthroughs and to protect the health or safety of miners.
- 18 However, the director shall permit an operator to mine near,
- 19 through, or partially through an abandoned underground mine or
- 20 closer to an active underground mine if the following conditions
- 21 exist:
- 22 (A) The nature, timing, and sequencing of the approximate
- 23 coincidence of specific coal surface mining activities with
- 24 specific underground coal mining activities are jointly
- 25 approved by the regulatory authorities concerned with surface
- 26 coal mining regulation and the health and safety of
- 27 underground miners.
- 28 (B) The operations will result in:
- 29 (i) improved resource recovery;
- 30 (ii) abatement of water pollution; or
- 31 (iii) elimination of hazards to the health and safety of the
- 32 public.
- 33 (16) Design, locate, construct, operate, maintain, enlarge, modify,
- 34 and remove or abandon, in accordance with the standards and
- 35 criteria used by the United States Secretary of the Interior to
- 36 ensure that flood control structures are safe and effectively
- 37 perform their functions, all existing and new coal mine waste
- 38 piles:
- 39 (A) consisting of:
- 40 (i) mine wastes;
- 41 (ii) tailings;
- 42 (iii) coal processing wastes; or

COPY



- 1 (iv) other liquid and solid wastes; and
- 2 (B) used temporarily or permanently as dams or embankments.
- 3 (17) Ensure the following:
- 4 (A) All debris, acid-forming materials, toxic materials, or
- 5 materials constituting a fire hazard are treated, buried, and
- 6 compacted or otherwise disposed of in a manner designed to
- 7 prevent contamination of ground or surface water.
- 8 (B) Contingency plans are developed to prevent sustained
- 9 combustion.
- 10 (18) Ensure that explosives are used only in accordance with the
- 11 following:
- 12 (A) IC 14-34-12.
- 13 (B) Applicable state and federal law.
- 14 (C) The rules adopted by the commission.
- 15 (19) Ensure that all reclamation efforts proceed in an
- 16 environmentally sound manner and as contemporaneously as
- 17 practicable with the surface coal mining operations. However, if
- 18 the applicant proposes to combine surface coal mining operations
- 19 with underground coal mining operations to assure maximum
- 20 practical recovery of the mineral resources, the director may grant
- 21 a variance for specific areas within the reclamation plan from the
- 22 requirement that reclamation efforts proceed as
- 23 contemporaneously as practicable and permit underground coal
- 24 mining operations before reclamation if the following conditions
- 25 are met:
- 26 (A) The director finds in writing the following:
- 27 (i) The applicant has presented, as part of the permit
- 28 application, specific, feasible plans for the proposed
- 29 underground mining operations.
- 30 (ii) The proposed underground mining operations are
- 31 necessary or desirable to assure maximum practical recovery
- 32 of the mineral resource and will avoid multiple disturbance
- 33 of the surface.
- 34 (iii) The applicant has satisfactorily demonstrated that the
- 35 plan for the underground coal mining operations conforms
- 36 to the requirements for underground coal mining in that
- 37 jurisdiction and that permits necessary for the underground
- 38 coal mining operations have been issued by the appropriate
- 39 authority.
- 40 (iv) The applicant has shown the areas proposed for the
- 41 variance are necessary for the implementation of the
- 42 proposed underground coal mining operations.

COPY



- 1 (v) Substantial adverse environmental damage, either onsite
- 2 or offsite, will not result from the delay in completion of
- 3 reclamation as required by this article.
- 4 (vi) The provisions for the offsite storage of spoil will
- 5 comply with subdivision (25).
- 6 (B) The commission has adopted specific rules to govern the
- 7 granting of variances in accordance with this subdivision.
- 8 (C) Variances granted under this subdivision are to be
- 9 reviewed by the director not more than three (3) years from the
- 10 date of issuance of the permit.
- 11 (D) Liability under the bond filed by the applicant with the
- 12 director under IC 14-34-6 is for the duration of underground
- 13 coal mining operations and until the requirements of this
- 14 section and IC 14-34-6 are fully complied with.
- 15 (20) Ensure that the construction, maintenance, and postmining
- 16 conditions of access roads into and across the site of operations
- 17 will control or prevent the following:
- 18 (A) Erosion and siltation.
- 19 (B) Pollution of water.
- 20 (C) Damage to the following:
- 21 (i) Fish or wildlife or their habitat.
- 22 (ii) Public or private property.
- 23 (21) Refrain from the construction of roads or other access ways:
- 24 (A) up a stream bed or drainage channel; or
- 25 (B) in the proximity of a channel;
- 26 that seriously alters the normal flow of water.
- 27 (22) Establish on the regraded areas and all other land affected a
- 28 diverse, an effective, and a permanent vegetative cover:
- 29 (A) of the same seasonal variety native to the area of land to be
- 30 affected; and
- 31 (B) that is capable of self-regeneration and plant succession at
- 32 least equal in extent of cover to the natural vegetation of the
- 33 area.
- 34 However, an introduced species may be used in the revegetation
- 35 process where desirable and necessary to achieve the approved
- 36 postmining land use plan.
- 37 (23) Assume the responsibility for successful revegetation, as
- 38 required by subdivision (22), as follows:
- 39 (A) On lands not eligible for re-mining, for five (5) full years
- 40 after the last year of augmented seeding, fertilizing, irrigation,
- 41 or other work to assure compliance with subdivision (22).
- 42 However, if the director approves a long term intensive

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

agricultural postmining land use, the applicable five (5) or ten (10) year period of responsibility for revegetation commences at the date of initial planting for the long term intensive agricultural postmining land use. If the director issues a written finding approving a long term intensive agricultural postmining land use as part of the mining and reclamation plan, the director may grant exception to subdivision (22).

(B) On lands eligible for re-mining, for two (2) full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to ensure compliance with subdivision (22).

(24) Protect offsite areas from slides or damage occurring during the surface coal mining and reclamation operations and not deposit spoil material or locate any part of the operations or waste accumulations outside the permit area.

(25) Place all excess spoil material resulting from coal surface mining and reclamation activities to ensure the following:

(A) Spoil is transported and placed in a controlled manner in a position for concurrent compaction and in a manner that assures mass stability and prevents mass movement.

(B) The areas of disposal are within the bonded permit areas and all organic matter is removed immediately before spoil placement.

(C) Appropriate surface and internal drainage systems and diversion ditches are used in a manner that prevents spoil erosion and movement.

(D) The disposal area does not contain springs, natural watercourses, or wet weather seeps unless lateral drains are constructed from the wet areas to the main underdrains in a manner that prevents filtration of the water into the spoil pile.

(E) If placed on a slope, the spoil is placed as follows:
(i) On the most moderate slope among the slopes on which, in the judgment of the director, the spoil could be placed in compliance with all the requirements of this article.
(ii) If possible, upon or above a natural terrace, bench, or berm if the placement provides additional stability and prevents mass movement.

(F) Where the toe of the spoil rests on a downslope, a rock toe buttress of sufficient size to prevent mass movement is constructed.

(G) The final configuration is compatible with the natural drainage pattern and surroundings and suitable for intended

C
O
P
Y



- 1 uses.
- 2 (H) Design of the spoil disposal area is certified by an
- 3 engineer licensed under IC 25-31 and in conformance with
- 4 professional standards.
- 5 (I) All other provisions of this article are met.
- 6 (26) To the extent possible using the best technology currently
- 7 available the following:
- 8 (A) Minimize disturbances and adverse impacts of the
- 9 operation on fish, wildlife, and related environmental values.
- 10 (B) Enhance those resources where practicable.
- 11 (27) Provide for an undisturbed natural barrier:
- 12 (A) beginning at the elevation of the lowest coal seam to be
- 13 mined; and
- 14 (B) extending from the outslope for a distance determined by
- 15 the director;
- 16 to serve as a barrier to slides and erosion.
- 17 (28) Replace the water supply of an owner of interest in real
- 18 property who obtains all or part of the owner's supply of water for
- 19 domestic, agricultural, industrial, or other legitimate use from an
- 20 underground or a surface source if the supply is affected by
- 21 contamination, diminution, or interruption proximately resulting
- 22 from the surface coal mine operation. This article does not affect
- 23 the right of a person to enforce or protect under applicable law the
- 24 person's interest in water resources affected by a surface coal
- 25 mining operation.
- 26 (29) Meet other criteria that are necessary to achieve reclamation
- 27 in accordance with the purposes of this article, taking into
- 28 consideration the physical, climatological, and other
- 29 characteristics of the site.
- 30 SECTION 12. IC 14-34-10-2.5 IS ADDED TO THE INDIANA
- 31 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 32 [EFFECTIVE JULY 1, 1998]: **Sec. 2.5. The requirement in section**
- 33 **2(b)(19) of this chapter that reclamation efforts proceed as**
- 34 **contemporaneously as practicable with the surface coal mining**
- 35 **operations, unless an extension is approved by the director for**
- 36 **good cause, means the following as applied to reclamation activities**
- 37 **conducted under this article:**
- 38 (1) For an area from which coal is removed or onto which
- 39 overburden is deposited, except boxcut and excess spoil, the
- 40 following:
- 41 (A) For an operation in which overburden is excavated and
- 42 deposited into spoil ridges by a dragline, shovel, or similar

COPY



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

excavating machine:

(i) backfilling and rough grading are complete not more than one hundred eighty (180) days after deposition of spoil; and

(ii) not more than four (4) spoil ridges by length remain at any time.

(B) For an operation in which overburden is excavated from one (1) or more advancing pits, directly hauled back, dumped, and graded into an inactive pit as one (1) operation, rough backfilling and grading are carried out continuously behind the pit or pits being excavated, and not more than four (4) separate pits are open at any time.

(C) For an operation other than those described in clauses (A) and (B), backfilling and rough grading are completed not later than one hundred eighty (180) days after deposition of spoil and not more than four (4) spoil ridges by length remain at any time.

(2) For boxcut and excess spoil, rough grading is completed within one (1) year after deposition.

(3) For all other areas affected by surface coal mining operations, reclamation is completed in accordance with applicable time limits set forth in the approved reclamation plan.

SECTION 13. IC 14-34-5-6 IS REPEALED [EFFECTIVE JULY 1, 1998].

C
O
P
Y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred House Bill 1237, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 15.

Delete page 2.

Page 3, delete lines 1 through 26.

Page 4, line 11, delete "IC 14-34" and insert "**the federal Mine Safety and Health Act of 1977, unless the dam, dike, floodwall, or levee is proposed to be retained after bond release**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to House Bill 1237 as introduced.)

LYTLE, Chair

Committee Vote: yeas 12, nays 0.

C
O
P
Y

