

Adopted	Rejected
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COMMITTEE REPORT

YES:	13
NO:	0

MR. SPEAKER:

*Your Committee on Natural Resources, to which was referred Senate Bill 272, 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:*

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 natural and cultural resources.
- 4 Delete everything after the enacting clause and insert the
- 5 following:
- 6 SECTION 1. IC 14-27-7-4, AS ADDED BY P.L.1-1995,
- 7 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 8 JULY 1, 1998]: Sec. 4. (a) The department shall make an engineering
- 9 inspection of all dams, levees, dikes, and floodwalls and appurtenant
- 10 works:
- 11 (1) at least one (1) time every two (2) years or at more frequent
- 12 intervals if the exigencies of the case require; or
- 13 (2) upon the written request of an affected person or agency.
- 14 (b) The department shall place in the files of the department a

1 report of each inspection conducted under subsection (a).

2 (c) This chapter does not apply to the following:

3 (1) A dam that meets the following conditions:

4 (A) Is built for the sole purpose of erosion control, watering
5 livestock, recreation, or providing a haven or refuge for fish
6 or wildlife.

7 (B) Has a drainage area above the dam of not more than one
8 (1) square mile.

9 (C) Does not exceed twenty (20) feet in height from the
10 natural stream bed to spillway level.

11 (D) Does not impound more than one hundred (100)
12 acre-feet of water.

13 (2) A levee, dike, or floodwall that meets the following
14 conditions:

15 (A) Is under a single private ownership.

16 (B) Provides protection only to land or other property under
17 the single private ownership.

18 **(3) A dam, dike, floodwall, or levee that is regulated under**
19 **the federal Mine Safety and Health Act of 1977, unless the**
20 **dam, dike, floodwall, or levee is proposed to be retained as a**
21 **permanent structure after bond release.**

22 SECTION 2. IC 14-34-4-18, AS ADDED BY P.L.1-1995,
23 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 1998]: Sec. 18. (a) Each permit issued by the director is
25 subject to conditions imposed by the director. The conditions must
26 include at a minimum a requirement for the operator to pay to the
27 federal Office of Surface Mining all fees owed under 30 CFR Part 870.

28 **(b) The director may issue a permit subject to the condition**
29 **that the permittee obtain or maintain in force other licenses or**
30 **permits required for the surface coal mining and reclamation**
31 **operation. However, the imposition of a condition under this**
32 **subsection does not authorize or require the director to administer**
33 **or enforce the requirements of any federal law or of any state law**
34 **other than this article.**

35 SECTION 3. IC 14-34-5-7, AS ADDED BY P.L.1-1995,
36 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 1998]: Sec. 7. (a) ~~The director may approve an application for~~
38 ~~a revision of a permit submitted under section 5 of this chapter if the~~

1 application is based only on nonsignificant revisions of the permit. (as
 2 defined in the rules adopted under section 6 of this chapter). **A change**
 3 **in mining or reclamation operations from the approved mining and**
 4 **reclamation plans that would adversely affect the permittee's**
 5 **compliance with this article is a permit revision subject to review**
 6 **and approval as provided in this section and sections 8 through 8.4**
 7 **of this chapter.**

8 (b) The director may approve an application under subsection (a)
 9 without notice and a hearing. **A permit revision is either:**

10 (1) **a significant revision subject to sections 8 and 8.1 of this**
 11 **chapter;**

12 (2) **a nonsignificant revision subject to sections 8.2 and 8.3 of**
 13 **this chapter; or**

14 (3) **a minor field revision subject to section 8.4 of this**
 15 **chapter.**

16 (c) **Permit revisions may be approved by:**

17 (1) **the director; or**

18 (2) **the director's designated representative.**

19 (d) **A permit revision may not be approved unless the**
 20 **permittee demonstrates and the director or the director's**
 21 **designated representative finds the following:**

22 (1) **That reclamation as required by this article and by the**
 23 **rules adopted by the commission under IC 14-34-2-1 can be**
 24 **accomplished.**

25 (2) **That applicable requirements of IC 14-34-4-7 that are**
 26 **pertinent to the permit revision are met.**

27 (3) **That the permit revision complies with all applicable**
 28 **requirements of this article and the rules adopted by the**
 29 **commission under IC 14-34-2-1.**

30 SECTION 4. IC 14-34-5-8, AS ADDED BY P.L.1-1995,
 31 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 1998]: Sec. 8. (a) Unless an application for revision of a
 33 permit submitted under section 5 of this chapter is based only on
 34 nonsignificant revisions (as defined in the rules adopted under section
 35 6 of this chapter), **or minor field revisions**, the application may be
 36 approved only after the notice and hearing requirements of this article
 37 for issuance of a permit have been fulfilled.

38 (b) The director may impose other conditions for approval of the

1 application.

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

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

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

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

13 (2) **Blasting will be used in a manner that is likely to cause**
14 **adverse impacts beyond that previously considered to**
15 **persons or property outside the permit area.**

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

19 (4) **The changes:**

20 (A) **require the identification, disturbance, or handling**
21 **of toxic forming or acid forming materials different**
22 **from those previously considered; and**

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

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

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

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

30 (B) **a permanent support facility;**

31 **is proposed, and the addition of the facility will cause an**
32 **impact not previously considered, except that the addition of**
33 **a temporary coal processing facility used exclusively for**
34 **crushing and screening need not be considered a significant**
35 **revision.**

36 (7) **The changes will cause:**

37 (A) **a new or an updated probable hydrologic**
38 **consequences determination; or**

1 **(B) a cumulative hydrologic impact analysis to be**
 2 **required under IC 14-34-3-3.**

3 **(8) A postmining land use will be changed to any of the**
 4 **following:**

5 **(A) A residential land use.**

6 **(B) A commercial or industrial land use.**

7 **(C) A recreational land use.**

8 **(D) Developed water resources as defined in rules**
 9 **adopted by the commission under IC 14-34-2-1 that**
 10 **meets the size criteria of 30 CFR 77.216(a).**

11 SECTION 6. IC 14-34-5-8.2 IS ADDED TO THE INDIANA
 12 CODE AS A NEW SECTION TO READ AS FOLLOWS
 13 [EFFECTIVE JULY 1, 1998]: **Sec. 8.2. For purposes of sections 7, 8,**
 14 **and 8.3 of this chapter, a proposed permit revision is nonsignificant**
 15 **if any of the following conditions exist:**

16 **(1) For surface mines, changes of the:**

17 **(A) direction of mining; or**

18 **(B) location of mining equipment;**

19 **within the permit area.**

20 **(2) The substitution of mining equipment designed for the**
 21 **same purpose, the use of which is not detrimental to the**
 22 **achievement of final reclamation or subsidence control.**

23 **(3) For underground mines, any change in the direction or**
 24 **location of mining within the permit area or shadow area in**
 25 **response to unanticipated events.**

26 **(4) A postmining land use change other than a change**
 27 **described in section 8.1(8) of this chapter.**

28 **(5) Any other change in the mining or reclamation plan that**
 29 **the director reasonably determines:**

30 **(A) will not have a significant effect:**

31 **(i) on the achievement of final reclamation plans**
 32 **under IC 14-34-3-12;**

33 **(ii) on subsidence control plans; and**

34 **(iii) on the surrounding area;**

35 **(B) does not involve significant delay in achieving final**
 36 **reclamation or significant change in the land use; or**

37 **(C) is necessitated by unanticipated and unusually**
 38 **adverse weather conditions, other acts of God, strikes,**

1 or other causes beyond the reasonable control of the
2 permittee, if all steps specified by the director to
3 maximize environmental protection are taken.

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

8 (1) reviewed; and

9 (2) approved in writing;

10 **by the director before it may be implemented.**

11 SECTION 8. IC 14-34-5-8.4 IS ADDED TO THE INDIANA
12 CODE AS A NEW SECTION TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 1998]: **Sec. 8.4. (a) For purposes of section 7
14 and 8 of this chapter, a proposed revision of a permit is a minor
15 field revision if the proposed change:**

16 (1) does not require technical review or design analysis; and

17 (2) is capable of being evaluated in the field by the director's
18 designated delegate for compliance with the requirements of
19 section 7(d) of this chapter.

20 (b) A minor field revision may be approved by a field inspector
21 in an inspection report or on a form signed in the field.

22 (c) A minor field revision approved under this section:

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

24 (2) may include the following:

25 (A) Soil stockpile location and configurations.

26 (B) As-built pond certifications.

27 (C) Minor transportation facilities changes.

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

29 (i) Depth.

30 (ii) Shape.

31 (iii) Orientation.

32 (E) An area for temporary drainage control or
33 temporary water storage.

34 (F) Equipment changes.

35 (G) Explosive storage areas.

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

38 (I) Adding United States Natural Resources

1 **Conservation Service conservation practices.**

2 **(J) Methods of erosion protection on diversions.**

3 **(K) Temporary cessation of mining.**

4 **(L) Minor diversion location changes.**

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

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

16 (1) **The extension may not constitute a significant revision to**
17 **the method of conduct of mining or reclamation operations**
18 **contemplated by the original permit.**

19 (2) **The extension must be required for the orderly and**
20 **continuous mining and reclamation operation.**

21 (3) **The extension must adjoin the permit or shadow area**
22 **acreage.**

23 (4) **The extended area must be mined and reclaimed in**
24 **conformity with the approved permit plans.**

25 (5) **The area of the extension may not exceed the lesser of:**

26 (A) **ten percent (10%) of the area originally covered by**
27 **the permit; or**

28 (B) **twenty (20) acres.**

29 (b) **The aggregate of all incidental boundary revisions of a**
30 **permit under this section may not exceed the area originally**
31 **covered by the permit by more than fifteen percent (15%).**
32 **However, the director may waive the limitation under this**
33 **subsection if the director finds that:**

34 (1) **all other provisions of this section are met; and**

35 (2) **the interests of the public are not adversely affected.**

36 (c) **The aggregate of all incidental boundary revisions of a**
37 **permit under this section that involve coal removal may not exceed**
38 **the area originally covered by the permit by more than ten percent**

1 (10%).

2 (d) To obtain an incidental boundary revision under this
3 section, a permittee must submit to the director an application
4 containing the following:

5 (1) A statement of the size of:

6 (A) the original permit area; and

7 (B) the additional area that would be added by the
8 boundary revision.

9 (2) A statement of the uses that:

10 (A) were made of the land before mining; and

11 (B) will be made of the land after mining.

12 (3) A showing that the requirements of subsection (a) are
13 met.

14 (4) A map showing the additional area to be added by the
15 boundary revision.

16 (5) Proof of the permittee's legal right to enter and conduct
17 surface coal mining and reclamation operations on the
18 additional area to be added by the boundary revision.

19 (6) Any necessary plans that are not contained in the permit
20 already approved.

21 (7) A statement indicating whether any areas unsuitable for
22 mining are contained in the permit already approved.

23 (e) An application for an incidental boundary revision may not
24 be approved unless the applicant demonstrates and the director
25 finds the following:

26 (1) That reclamation of the area as required by this article
27 can be accomplished.

28 (2) That the application complies with all requirements of
29 this article.

30 (f) The director shall approve or deny an incidental boundary
31 revision of a permit under this section within thirty (30) days after
32 the application for the proposed boundary revision is submitted to
33 the director, unless the director finds that more than thirty (30)
34 days are needed to adequately review the application and make the
35 findings required by subsection (e).

36 (g) This section does not alter the general requirements of this
37 article for the submission of fees and bonds.

38 SECTION 11. IC 14-34-5-6 IS REPEALED [EFFECTIVE JULY

1 1, 1998].

(Reference is to SB 272 as reprinted February 2, 1998.)

and when so amended that said bill do pass.

Representative Lytle