



April 15, 2011

**ENGROSSED
SENATE BILL No. 71**

DIGEST OF SB 71 (Updated April 14, 2011 1:21 pm - DI 118)

Citations Affected: IC 14-8; IC 14-10; IC 14-37; IC 32-23.

Synopsis: Coal bed methane and other oil and gas issues. Allows the department of natural resources to adopt emergency rules for most aspects of oil and gas and other petroleum regulation. Provides that oil and gas statutes do not apply to methane ventilation governed under an approved federal Mine Safety and Health Administration coal mine ventilation plan. Requires the natural resources commission to regulate various aspects of coal bed methane wells. Provides for regulation of coal bed methane wells and other gas wells in a similar manner. Requires coal bed methane well permit applicants to disclose products to be used in the stimulation process of coal seams. Terminates the restriction on the extraction of coal bed methane from a well for oil and gas purposes. Requires the division of oil and gas to give written notice of permit applications to each person who files an affidavit under IC 14-37-7-8. Requires the division of oil and gas (division) to give notice to interested persons of applications for coal bed methane
(Continued next page)

Effective: July 1, 2011.

Gard, Steele, Hume

(HOUSE SPONSORS — EBERHART, BATTLES, KOCH)

January 5, 2011, read first time and referred to Committee on Energy and Environmental Affairs.

January 20, 2011, amended, reported favorably — Do Pass.

February 7, 2011, read second time, amended, ordered engrossed.

February 8, 2011, engrossed. Read third time, passed. Yeas 39, nays 10.

HOUSE ACTION

March 28, 2011, read first time and referred to Committee on Natural Resources.

April 14, 2011, amended, reported — Do Pass.

C
o
p
y

ES 71—LS 6335/DI 52+



permits, prohibits issuance of a permit less than 30 days after the posting, and establishes other permit issuance criteria. Requires a permit applicant to submit documentation of: (1) receipt of the permit application notice to the coal owner or lessee, and (2) the notice provided to the owner of surface property before the division issues a permit. Requires the division of oil and gas to act on a permit application within fifteen (15) days after the elapse of the notice period to parties interested in developing commercially minable coal resources. Requires the director of the division of oil and gas to hold, within 30 days after a request, an informal hearing when there is a dispute regarding well locations. Modifies definition of "waste" to include a manner that unreasonably reduces the quantity of commercially minable resources. Allows the division to require an owner or operator to modify the location for the drilling of a well for oil and gas purposes, and requires an owner or operator to provide notice of the intent to drill under certain circumstances. Establishes coal seam protection requirements with respect to producing vertical oil and gas wells. Requires the coal owner to acknowledge that the recovery of coal bed methane may result in waste of the commercially minable resource in the written consent authorizing the drilling. Requires: (1) provide thirty (30) days from receipt of the permit application notice to object to the issuance of a permit; and (2) include endangerment of the health and safety of miners as basis for objection. Modifies certain requirements for an affidavit and map used to determine if a commercially minable coal resource is present in an area for which a permit application has been filed. Allows the division to release information regarding the presence of commercially minable coal seams to a person with an interest only in oil and gas explorations in addition for a well applicant. Adjusts the requirements for plugging wells. Allows the director to review certain activities that may result in waste or endangerment of the health and safety of miners. Allows the director of the division of oil and gas to approve alternative plugging methods. Allows an owner or operator of a coal mine to burn by flares coal bed methane under certain circumstances. Limits the exercise of rights in certain circumstances under a coal bed methane estate if the exercise affects miner safety or coal resources. Repeals provisions concerning requirements for coal seam protection and for plugging of wells. Provides that actual damages are damages to marketable timber, crops, drainage systems, or erosion control systems, or quantifiable and verifiable damage to crops from compaction, abnormal flooding, or abnormal soil erosion caused by oil and gas operations. Requires an owner or holder of mineral interests, unless otherwise agreed by the surface owner, to provide written notice of intent to enter the surface owner's property at least five (5) days before an entry for purposes of surveying for drilling for oil, gas, or coal bed methane.

**C
O
P
Y**



April 15, 2011

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

C
o
p
y

**ENGROSSED
SENATE BILL No. 71**



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 14-8-2-42.2, AS ADDED BY P.L.78-2010,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 42.2. "Coal bed methane", for purposes of
4 ~~IC 14-37-4-1~~, **section 317 of this chapter and IC 14-37**, means
5 gaseous substances of whatever character lying within or emanating
6 from:

- 7 (1) unmined coal seams, either naturally or as a result of
- 8 stimulation of the coal seam;
- 9 (2) the void created by mining out coal seams; or
- 10 (3) the gob created by longwall or other extraction methods of
- 11 coal mining.

12 SECTION 2. IC 14-10-2-5, AS AMENDED BY P.L.123-2006,
13 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2011]: Sec. 5. (a) The department may adopt emergency rules
15 under IC 4-22-2-37.1 to carry out the duties of the department under
16 the following:

- 17 (1) IC 14-9.

ES 71—LS 6335/DI 52+



- 1 (2) This article.
- 2 (3) IC 14-11.
- 3 (4) IC 14-12-2.
- 4 (5) IC 14-14.
- 5 (6) IC 14-17-3.
- 6 (7) IC 14-18, except IC 14-18-6 and IC 14-18-8.
- 7 (8) IC 14-19-1 and IC 14-19-8.
- 8 (9) IC 14-20-1.
- 9 (10) IC 14-21.
- 10 (11) IC 14-22-3, IC 14-22-4, and IC 14-22-5.
- 11 (12) IC 14-23-1.
- 12 (13) IC 14-25, except IC 14-25-8-3, IC 14-25-11, and
- 13 IC 14-25-13.
- 14 (14) IC 14-26.
- 15 (15) IC 14-27.
- 16 (16) IC 14-28.
- 17 (17) IC 14-29.
- 18 (18) IC 14-35-1, IC 14-35-2, and IC 14-35-3.
- 19 **(19) IC 14-37.**
- 20 **(20) IC 14-38, except IC 14-38-3.**

21 (b) A rule adopted under subsection (a) expires not later than one
 22 (1) year after the rule is accepted for filing by the publisher of the
 23 Indiana Register.

24 SECTION 3. IC 14-37-1-5 IS ADDED TO THE INDIANA CODE
 25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 26 1, 2011]: **Sec. 5. This article does not apply to methane ventilation
 27 governed under an approved federal Mine Safety and Health
 28 Administration coal mine ventilation plan.**

29 SECTION 4. IC 14-37-3-14.5 IS ADDED TO THE INDIANA
 30 CODE AS A NEW SECTION TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2011]: **Sec. 14.5. The commission shall:**

- 32 **(1) regulate coal bed methane wells and compliance with**
- 33 **IC 14-37-4-8 and IC 14-37-4-8.5;**
- 34 **(2) establish alternative spacing, survey, unit, and bonding**
- 35 **requirements for coal bed methane wells; and**
- 36 **(3) require that all coal bed methane well permit applications**
- 37 **include detailed plans for:**
 - 38 **(A) stimulation, including disclosure of the types and**
 - 39 **amounts to be used of all fluids and products, and any**
 - 40 **information necessary to assess the potential impact of**
 - 41 **stimulation on commercially minable coal resources and**
 - 42 **underground sources of drinking water;**

C
o
p
y



(B) horizontal drilling; and

(C) plugging of wells drilled by horizontal drilling.

SECTION 5. IC 14-37-4-1, AS AMENDED BY P.L.78-2010, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) Subject to subsection (b); A person may not drill, deepen, operate, or convert a well for oil and gas purposes without a permit issued by the department.

(b) Except as provided in subsection (c) and (d):

(1) the extraction of coal bed methane from a well for oil and gas purposes on or after the effective date of this subsection and before July 1, 2012; is prohibited; and

(2) the department may not issue a permit under this chapter for the extraction of coal bed methane from a well for oil and gas purposes before July 1, 2012; regardless of whether the application for the permit was made to the department before the effective date of this subsection:

(c) Subsection (b) does not apply if the owner of the right to the coal from which the coal bed methane for which a permit is sought under this chapter is derived consents in an instrument binding on that owner to the extraction of the coal bed methane and to the issuance of the permit.

(d) Subsection (b)(1) does not apply to a coal bed methane well that is operated under a permit issued by the department.

SECTION 6. IC 14-37-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) Except as provided in section 9 of this chapter **and subject to subsections (b) and (c)**, if an applicant for a permit complies with:

- (1) this article; and
- (2) the rules adopted under this article;

the ~~commission~~ **director** shall issue a permit.

(b) The division shall:

(1) maintain a list of parties with experience and interest in mining commercially minable coal resources who request in writing to be given notice of the filing of complete permit applications under this chapter with respect to coal bed methane; and

(2) give written notice of each complete permit application filed under this chapter with respect to coal bed methane not later than fifteen (15) days after the filing date to each party on the list maintained under subdivision (1), and to each party that files an affidavit under IC 14-37-7-8.

(c) The notice given under subsection (b)(2) must include at least

**C
O
P
Y**



1 the following with respect to each proposed coal bed methane well:
 2 (1) The location, type, and depth.
 3 (2) The coal seam affected.
 4 (d) The division may not issue a permit under this chapter until
 5 all of the following requirements are satisfied:
 6 (1) At least thirty (30) days have elapsed after giving notice
 7 under subsection (b)(2).
 8 (2) Proof of both of the following has been submitted to the
 9 division:
 10 (A) Receipt of the permit application's written notice as
 11 provided under section 8.5(e) of this chapter.
 12 (B) That the applicant complied with the notification to the
 13 surface owner provisions required under IC 32-23-7-6.5.
 14 The applicant may submit as proof a certified mail receipt,
 15 the surface owner's written acknowledgment of receipt of
 16 the notification, or copy of an agreement with the surface
 17 owner establishing different notification terms.
 18 (3) The division has taken into consideration:
 19 (A) comments received during the period referred to in
 20 subdivision (1) from a person interested in the future
 21 minability of a commercially minable coal resource; and
 22 (B) objections made under section 8.5(h) of this chapter.
 23 (4) The applicant has submitted to the director documentation
 24 demonstrating that the commercially minable coal seam
 25 outside the coal bed methane production area is protected
 26 adequately for future underground mining.
 27 (5) The director has issued a finding that the requirements of
 28 subdivisions (1) through (4) and section 8.5 of this chapter
 29 have been met.
 30 (e) Unless waived by the applicant, the director shall issue or
 31 deny a permit under this chapter within fifteen (15) days after the
 32 elapse of the thirty (30) day notice period under subsection (d)(1).
 33 SECTION 7. IC 14-37-4-8.5 IS ADDED TO THE INDIANA CODE
 34 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 35 1, 2011]: Sec. 8.5. (a) For purposes of this section, "waste" means
 36 locating, spacing, drilling, equipping, operating, or producing a
 37 well for coal bed methane purposes in a manner that unreasonably
 38 reduces or tends to unreasonably reduce the quantity of
 39 commercially minable coal resources ultimately to be recovered
 40 from a mine.
 41 (b) If ownership of coal bed methane is separate from ownership
 42 of coal, no surface right or any other right pertaining to coal bed

C
O
P
Y



1 methane and naturally flowing from the character of any
2 instrument in law may be exercised without the consent of the coal
3 owner under subsection (d)(2), unless the director makes a finding
4 that the exercise of the right will not:

- 5 (1) result in; or
 - 6 (2) have the potential to result in;
- 7 any waste of a commercially minable coal resource or
8 endangerment of the health and safety of miners.

9 (c) In making a finding under subsection (b), the director shall
10 consider whether the use of one (1) or more of the following may
11 result in waste of a commercially minable coal resource or
12 endangerment of the health and safety of miners:

- 13 (1) Hydrofracturing the coal seam.
- 14 (2) Horizontal drilling in the coal seam.
- 15 (3) Any other technology that disturbs the integrity of either
16 or both of the following:
- 17 (A) The coal seam.
- 18 (B) The strata surrounding the coal seam.

19 (d) An application for a permit to drill into or through one (1)
20 or more coal seams for the purpose of testing or producing coal
21 bed methane must be accompanied by:

- 22 (1) subject to subsection (e), certification by affidavit of the
23 applicant that upon diligent inquiry, including reference to:
- 24 (A) the record of filings maintained by the department and
25 made by coal owners and lessees under IC 14-8-2-47; and
- 26 (B) publicly available records pertaining to thickness and
27 depth of coal;
- 28 the activities of the applicant do not and will not result in
29 waste of a commercially minable coal resource or
30 endangerment of the health and safety of miners; or
- 31 (2) subject to subsections (f) and (g), written consent of the
32 coal owner or coal lessee authorizing the drilling.

33 (e) An applicant that submits a permit application accompanied
34 with a certification under subsection (d)(1) shall submit proof that
35 written notice of the permit application has been received by the
36 owner and, if applicable, the lessee of the coal through which
37 drilling is proposed.

38 (f) If there is a coal lease, the coal owner and the coal lessee
39 must include in the written consent under subsection (d)(2) a
40 statement acknowledging that the recovery of coal bed methane
41 might result in waste of the commercially minable coal resource.

42 (g) If there is no coal lease, the coal owner must include in the

C
o
p
y



1 written consent under subsection (d)(2) a statement that the coal
2 owner has not leased the coal for coal mining purposes and
3 acknowledging that the recovery of coal bed methane may result
4 in waste of the commercially minable resource.

5 (h) A person with the following interests in the coal through
6 which drilling for purposes of testing for or producing coal bed
7 methane is proposed has thirty (30) days, after receipt of the
8 permit application notice, to object to the issuance of the permit on
9 the basis of waste of a commercially minable coal resource or
10 endangerment of the health and safety of miners:

- 11 (1) The owner.
- 12 (2) If applicable, the lessee.
- 13 (3) Another person with an interest to develop a coal resource
14 who files an affidavit under IC 14-37-7-8.

15 (i) A person that files an affidavit under IC 14-37-7-8 may not
16 object to the issuance of the permit if the application includes the
17 written consent of the coal owner under subsection (d)(2).

18 (j) The commission shall prescribe by rule the procedure for
19 objection under subsection (h), including a reasonable deadline for
20 initiating the objection.

21 (k) An owner or holder of mineral interests must comply with
22 the requirements under IC 32-23-7-6.5.

23 SECTION 8. IC 14-37-7-3.5 IS ADDED TO THE INDIANA CODE
24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
25 1, 2011]: Sec. 3.5. (a) For purposes of this section, "waste" means
26 locating, spacing, drilling, equipping, operating, or producing a
27 well for oil and gas purposes in a manner that unreasonably
28 reduces or tends to unreasonably reduce the quantity of
29 commercially minable coal resources ultimately to be recovered
30 from a mine.

31 (b) Except as provided in subsection (c), the division may
32 require an owner or operator to make reasonable modifications to
33 the specific location for the drilling of a well for oil and gas
34 purposes as required by this section if the modifications:

- 35 (1) are necessary to protect commercially minable coal
36 resources from waste;
- 37 (2) do not violate the drilling unit, well spacing, or other
38 requirements of this article; and
- 39 (3) are necessary to protect the health and safety of miners.

40 (c) Subsection (b) does not apply if the coal owner or coal lessee
41 authorizes the drilling under IC 14-37-4-8.5(d)(2).

42 (d) If an owner or operator proposes to drill a well for oil and

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

gas purposes:

- (1) on land within the permit boundaries of an active underground mine permitted under IC 14-34;**
- (2) on land underlaid by an inactive underground mine permitted under IC 14-34; or**
- (3) on land:**
 - (A) associated with a mine referred to in subdivision (1) or**
 - (2) that is projected by the owner or operator to be mined;**
 - and**
 - (B) on which a commercially minable coal resource is located;**

the owner or operator shall provide notice of the intent to drill the well to the permittee of the mine under IC 14-34 or, in the case of an inactive underground mine, to the person that has the right to develop the coal resource.

(e) Except as provided in subsection (f), not more than fifteen (15) days after receipt of the notice required by subsection (d), the permittee of the mine under IC 14-34 or other person with the right to develop the coal resources shall state in writing whether the specific location selected for the drilling of the well is likely to result in either or both of the following:

- (1) A significant waste of the volume of coal ultimately to be recovered from the underground mine.**
- (2) Endangerment of the health and safety of miners.**

(f) Subsection (e) does not apply if the permittee of the mine under IC 14-34 consents in writing to the placement of the well.

(g) A person that makes an affirmative determination under subsection (e) shall:

- (1) promptly provide a copy of the determination to the owner or operator and the director; and**
- (2) identify alternative well locations that would:**
 - (A) reduce or avoid waste of the volume of coal ultimately to be recovered from the underground mine;**
 - (B) eliminate the likelihood of endangerment of the health and safety of miners;**
 - (C) not violate the drilling unit, well spacing, or other requirements of this article; and**
 - (D) not result in waste.**

(h) If:

- (1) the permittee of a mine under IC 14-34 or other person with the right to develop the coal resources; and**
- (2) the owner or operator;**

**C
O
P
Y**



1 are unable to agree on a suitable location for the well that is not
2 likely to result in endangerment of the health and safety of miners,
3 the parties may request an informal hearing. Subject to subsection
4 (i), the director shall conduct, within thirty (30) days after a
5 request is made, an informal hearing under IC 14-37-3-16 to gather
6 information to identify an alternative well location as described in
7 subsection (g)(2).

8 (i) The information that the director gathers under subsection
9 (h) may include the following:

10 (1) Whether the location is in an active, inactive, abandoned,
11 or projected underground coal mine.

12 (2) Whether the location is in an unsealed inactive area or a
13 sealed area of a coal mine with the potential for introducing
14 oxygen into the area from drilling or the well.

15 (3) The proximity and size of coal pillars in an alternative
16 location that might be drilled through, including whether in
17 a panel or support for a submain or main entries.

18 (4) The equipment technology and operating or drilling
19 experience history of the operator.

20 (j) If:

21 (1) after the informal hearing under subsection (h), the
22 director does not identify a suitable location for the well that
23 is not likely to result in endangerment of the health and safety
24 of miners; and

25 (2) the location for the well for which notice was provided
26 under subsection (d) is not likely to result in endangerment of
27 the health and safety of miners;

28 the owner or operator is not required to modify the location of the
29 proposed well and may proceed with the submittal of the permit
30 application to the department under this article.

31 (k) An owner or holder of mineral interests shall comply with
32 the requirements under IC 32-23-7-6.5.

33 SECTION 9. IC 14-37-7-4 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) If a **vertical or**
35 **vertical part of a horizontal** well is drilled and completed as a
36 producing well:

37 (1) through a commercially minable coal resource; and

38 (2) within an area **permitted under IC 14-34** or for which ~~a mine~~
39 ~~plan is an affidavit and map has been~~ filed with the commission
40 but for which an intermediate string is not required under section
41 ~~3 8~~ of this chapter;

42 an owner or operator shall set a production string of casing properly

C
O
P
Y



1 centralized and cemented and documented by a sonic cement
 2 bond-variable density log:
 3 (b) An owner or operator must provide at least forty-eight (48) hours
 4 notice to the:
 5 (1) department; and
 6 (2) person who filed the mine plan;
 7 before commencing logging operations under this section:
 8 (c) The person who filed the mine plan is entitled to:
 9 (1) be present during the logging operations; and
 10 (2) examine the log.
 11 to ensure that adequate cement is placed behind the casing in the
 12 area between fifty (50) feet below and one hundred (100) feet above
 13 the commercially minable coal seam.
 14 (b) On completion of the coal seam protection requirements of
 15 subsection (a), the owner or operator shall prepare and submit to
 16 the director an affidavit on a form provided by the division that
 17 includes the following:
 18 (1) Verification that the commercially minable coal resource
 19 was protected as required by subsection (a).
 20 (2) A cross-section drawing of the well showing the location of
 21 each centralizer in the completed well.
 22 (3) Evidence that adequate cement was circulated behind the
 23 casing as required by subsection (a).
 24 (c) The director may require the owner or operator to run a
 25 cement bond-variable density log or other similar logging
 26 procedure to determine the adequacy of cement bonding if the
 27 director believes either or both of the following:
 28 (1) That adequate cement has not been circulated to protect
 29 the commercially minable coal resource.
 30 (2) That centralizers were not placed at locations necessary to
 31 properly centralize the casing through the coal seam.
 32 (d) The commission shall determine the adequacy of cement
 33 bonding. If there is a bonding failure the logging procedure under
 34 subsection (c) indicates that adequate cement bonding has not
 35 occurred between fifty (50) feet below and one hundred (100) feet
 36 above the commercially minable coal resource, the owner or operator
 37 shall perform remedial action, as ordered by the ~~commission~~, director,
 38 that results in adequate bonding.
 39 (e) The owner or operator shall:
 40 (1) submit:
 41 (A) to the division the original affidavit required by
 42 subsection (b) and a copy of any logs required by

C
O
P
Y



1 subsection (c); and
 2 (B) to the owner or operator of the commercially minable
 3 coal resource, if known, a copy of the affidavit required by
 4 subsection (b) and of any logs required by subsection (c);
 5 and
 6 (2) complete the submission under subdivision (1) not later
 7 than thirty (30) days after ~~commencing~~ the later of the
 8 following:
 9 (A) The date of completion of the well.
 10 (B) The date of completion of any logging operations; the
 11 owner or operator shall provide the department and the person
 12 who filed the mine plan with a copy of the sonic cement
 13 bond-variable density log; procedure under subsection (c).
 14 (f) If the director finds that coal seam protection measures taken
 15 by an owner or operator did not adequately protect the coal seam
 16 during coal mining operations in close proximity to a well that has
 17 not been plugged under IC 14-37-8-2 for which an affidavit is
 18 submitted under subsection (b), the owner or operator shall
 19 perform additional remedial action to ensure protection of the coal
 20 resource and the health and safety of miners. Significant water,
 21 gas, or other fluid movement into the underground mine that is
 22 transmitted through the annular space outside the protective
 23 casing string is evidence of a failure to adequately protect the coal
 24 seam.
 25 (†)(g) Preparation of the log and any remedial action required under
 26 this section are at the expense of the owner or operator.
 27 SECTION 10. IC 14-37-7-8 IS ADDED TO THE INDIANA CODE
 28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 29 1, 2011]: Sec. 8. (a) The owner or lessee of coal or another person
 30 with an interest to develop a coal resource may file with the
 31 division an affidavit that:
 32 (1) identifies by a map prepared by an engineer licensed
 33 under IC 25-31 or a geologist licensed under IC 25-17.6:
 34 (A) the location of coal that the owner or lessee controls by
 35 deed, lease, or other instrument for later commercial
 36 production;
 37 (B) the location of coal that is in an area targeted for later
 38 commercial production;
 39 (C) the location of the coal seam or seams of interest; and
 40 (D) the approximate depth of the coal seam or seams of
 41 interest; and
 42 (2) states that the coal:

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
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

(A) can be mined using generally accepted underground mining practices; and
(B) is of sufficient quantity and quality to be commercially saleable.

(b) All coal in an area designated under subsection (a) is considered a commercially minable coal resource.

(c) An affidavit referred to in subsection (a) may be made before applying for permits for the actual mining of the commercially minable coal resource. The division shall:

- (1) subject to subsection (e), keep the affidavit and map confidential; and
- (2) use the affidavit and map solely for determining if a commercially minable coal resource is present in an area for which a permit application has been filed under IC 14-37.

(d) The division shall determine if the proposed well location is in an area underlain by coal identified in subsection (a) upon receipt of:

- (1) a permit application referred to in subsection (c)(2); or
- (2) an inquiry from a person interested in oil and gas explorations or drilling a well for oil and gas purposes.

(e) The name of the person who filed the map referred to in subsection (c) is not confidential.

SECTION 11. IC 14-37-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) Plugging methods must be approved by the commission and must permanently confine all oil, natural gas, and water in their original strata. Mud-laden fluid, cement, or mechanical plugs, or other methods or materials approved by the director shall must be used singly or in combination.

(b) Subject to subsection (c), the commission shall adopt rules under IC 4-22-2 to prescribe plugging methods for wells that impact commercially minable coal resources.

(c) The plugging methods under subsection (b) do not apply to a well if the consent of the coal owner or coal lessee is granted under IC 14-37-4-8.5(d)(2).

SECTION 12. IC 14-37-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) This section applies to a well that is being plugged as a dry hole immediately following the completion of drilling or redrilling operations.

(b) Subject to subsection (c), an owner or operator shall notify must give verbal or written notice of intent to plug a well to an oil and gas inspector at least ~~forty-eight (48)~~ twelve (12) hours before beginning the plugging and abandoning a of the well under this

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

chapter.

(c) Except as provided in subsection (d), an oil and gas inspector must be present during the plugging of a well.

(d) Subsection (c) does not apply if:

- (1) the owner or operator notifies an oil and gas inspector under subsection (b);
- (2) as part of the notice the owner or operator informs the oil and gas inspector of the plan for plugging the well; and
- (3) the oil and gas inspector gives the owner or operator verbal or written approval of the plan.

SECTION 13. IC 14-37-8-4.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 4.2. (a) This section applies to the plugging of a well other than a well that is plugged under section 4 or 4.3 of this chapter.**

(b) An owner or operator must give written notice of intent to plug a well to the department on a form provided by the department at least ten (10) days before beginning the plugging of the well under this chapter.

(c) The notice under subsection (b) must include a plan for plugging a well:

- (1) that describes the specific methods that will be used; and
- (2) that is sufficient to demonstrate compliance with the requirements of this chapter.

(d) The owner or operator may not begin the plugging of any well under this section until after receipt of written approval from the department of the plan referred to in subsection (c).

(e) The owner or operator shall give an oil and gas inspector verbal or written notice at least forty-eight (48) hours before the scheduled time to begin plugging operations on a well.

SECTION 14. IC 14-37-8-4.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 4.3. (a) This section applies to the plugging of a well other than a well referred to in section 4 of this chapter if an emergency or other urgent condition requires the immediate plugging of the well.**

(b) An emergency condition exists if a well is found to be leaking or discharging oil, gas, or other fluids in quantities that are capable of:

- (1) causing substantial harm to the environment; or
- (2) posing an immediate threat to public health or safety.

(c) An urgent condition exists if delay in the plugging of a well

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

will result in a substantial increase in the cost to plug the well due to impending weather or other conditions that are beyond the control of the owner or operator.

(d) An owner or operator may begin plugging a well under this chapter upon verbal approval from the division director or a designated representative of the division director.

(e) An oil and gas inspector must be present during the plugging of a well only if the presence of the inspector is required in the approval given under subsection (d).

SECTION 15. IC 14-37-8-4.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 4.4. Not later than thirty (30) days after the completion of well plugging operations under this chapter, the operator shall submit a report of well plugging to the department describing in detail the specific methods used to plug the well. The report must:**

- (1) be on a form provided by the department; and
- (2) include an affidavit that:
 - (A) certifies that the well was plugged in accordance with this chapter; and
 - (B) is signed by the person who performed the well plugging operations and the well owner or operator.

SECTION 16. IC 14-37-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 7.** The director of the division of oil and gas may require an owner or operator to redrill and replug a hole if the operator does not comply with section ~~5~~ **4, 4.2, or 4.3** of this chapter.

SECTION 17. IC 14-37-11-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 3. The owner or operator of a coal mine may burn in flares the coal bed methane produced from a coal bed methane well if either or both of the following apply:**

- (1) The burning is necessary to protect coal miners' safety.
- (2) It is not economical to market the coal bed methane.

SECTION 18. IC 32-23-7-0.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 0.3. As used in this chapter, "coal bed methane" has the meaning set forth in IC 14-8-2-42.2.**

SECTION 19. IC 32-23-7-0.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 0.4. (a) As used in this chapter, "coal bed methane estate in land" means the aggregate of all rights**

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

in land that affect the coal bed methane:

- (1) in the land;**
- (2) on the land;**
- (3) under the land; or**
- (4) that may be taken from beneath the surface of the land.**

(b) The term includes the following:

- (1) The right to produce coal bed methane for commercial use or sale.**
- (2) The appurtenant right to use the surface overlying the coal bed methane for coal bed methane operations.**

SECTION 20. IC 32-23-7-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 0.5. (a) As used in this chapter, "coal bed methane production area" means the area of land determined by the operator in which multiple wells are drilled for a common production purpose.**

(b) A coal bed methane production area need not be part of a unit or other area in which production is pooled.

SECTION 21. IC 32-23-7-0.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 0.8. As used in this chapter, "commercially minable coal resource" has the meaning set forth in IC 14-8-2-47.**

SECTION 22. IC 32-23-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 1. (a) As used in this chapter, "oil and gas" means petroleum and mineral oils and gaseous substances of whatever character naturally lying or found beneath the surface of land.**

(b) The term does not include coal bed methane.

SECTION 23. IC 32-23-7-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 2.5. As used in this chapter, "operations for coal bed methane", unless otherwise indicated by the context of this chapter, means:**

- (1) the exploration, surveying, or testing of land for coal bed methane;**
- (2) other investigation of the potential of land for coal bed methane production;**
- (3) the actual drilling or preparation for drilling of wells for coal bed methane;**
- (4) the stimulation of coal bed methane production by hydrofracturing or otherwise;**

**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

(5) the collection and transportation by pipeline of coal bed methane from:

(A) the land; or

(B) nearby land that is a part of a coal bed methane production area that includes the land; or

(6) any other actions directed toward the eventual production or attempted production of coal bed methane from the land.

SECTION 24. IC 32-23-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) As used in this chapter, "person in interest" means:

(1) if used in reference to an oil and gas estate in land, the owner of a beneficial interest in the oil and gas estate in land; or

(2) if used in reference to a coal bed methane estate in land, the owner of a beneficial interest in the coal bed methane estate in land;

whether the interest is held for life, for a term of years, or in fee.

(b) The term includes a lessee, licensee, or duly qualified agent of the owner.

(c) The term does not include a mortgagee or security assignee of the owner if the mortgagee or security assignee does not have a right to the control or operation of the premises for:

(1) if used in reference to an oil and gas estate in land, oil and gas; or

(2) if used in reference to a coal bed methane estate in land, coal bed methane.

SECTION 25. IC 32-23-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. A grant or reservation contained in an instrument that affects land in Indiana and that purports to convey or transfer an interest in the oil and gas in, on, under, or that may be produced from beneath the surface of the land transfers the following expressed rights and privileges in addition to any other rights naturally flowing from the character of the instrument in law to the named recipient:

(1) A person in interest in the oil and gas estate in land may enter the land for the purpose of:

(A) exploring, prospecting, testing, surveying, or otherwise investigating the land to determine the potential of the land for oil or gas production; or

(B) otherwise conducting operations for oil and gas on the land;

whether or not the person is also the owner, lessee, or licensee of an owner of an interest in the surface rights in the land.

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

(2) A person in interest in the oil and gas estate in land in Indiana may enter the land to drill a well or test well on the land for the production or attempted production of oil and gas regardless of whether the:

(A) person is also the owner, lessee, or licensee of an owner of an interest in the surface rights in the land; and

(B) owner of the remaining rights in the land consents to the entrance and drilling.

A person that drills a well under this subdivision shall provide an accounting to the remaining or nonparticipating persons in interest in the oil and gas estate in the land, for their respective proportionate shares of the net profits arising from the operations conducted upon the land for oil or gas. In calculating the profits, a reduction may not be made from the gross proceeds of the production of oil and gas, except for expenses that are reasonably or necessarily incurred in connection with the drilling, completion, equipping, and operation of the wells drilled upon the premises during the period in which the relationship of cotenancy existed between the person drilling the well and the person whose interest is sought to be charged with the respective proportionate part of the cost of the drilling.

(3) A person who may enter and enters land in Indiana for the purpose of exploring, prospecting, testing, surveying, or otherwise investigating the potential of the land for oil and gas, or for the purpose of conducting operations on the land for the production of oil and gas, is accountable to the owner of the surface of the land for the actual damage resulting from the person's activities on the land to:

(A) the surface of the land;

(B) improvements to the land; or

(C) growing crops on the land.

However, a person who enters land under this subdivision is not liable for punitive damages. **Actual damage for which a person is accountable under this subdivision includes actual damage to marketable timber, crops, drainage systems, or erosion control systems, or quantifiable and verifiable damage to crops from compaction, abnormal flooding, or abnormal soil erosion caused by oil and gas operations.** This subdivision does not increase damages between a lessor and a lessee in a valid and subsisting oil and gas lease that specifies damages if damages are not due other than damages that are expressly provided by contract between cotenants or the lessees of cotenants of a like

C
o
p
y



1 estate in the land. This section does not authorize the location of
2 a well for oil and gas nearer than two hundred (200) feet to an
3 existing house, barn, or other structure (except fences) without the
4 express consent of the owner of the structure.

5 (4) The right to conduct operations for oil and gas upon land
6 located in Indiana includes the right to:

7 (A) install and maintain physical equipment on the land; and

8 (B) use the portion of the surface of the land that is reasonably
9 necessary for the operations;

10 subject to the payment of damages resulting from the installation
11 only of the equipment specified in this subdivision.

12 SECTION 26. IC 32-23-7-6.5 IS ADDED TO THE INDIANA
13 CODE AS A NEW SECTION TO READ AS FOLLOWS
14 [EFFECTIVE JULY 1, 2011]: **Sec. 6.5. (a) This section does not**
15 **apply in the event of an emergency entry.**

16 **(b) Unless otherwise agreed by the surface owner, an owner or**
17 **holder of oil, gas, or coal bed methane mineral interest who wants**
18 **to enter land for the purpose of surveying a drilling location must**
19 **provide to the surface owner a written notice of the intent to enter**
20 **the property at least five (5) days before the entry.**

21 **(c) The written notice under subsection (b) may be given by**
22 **personal delivery or by certified mail to the last known address of**
23 **each person liable for any property taxes as shown on the tax**
24 **duplicate, or to the last known address of the most recent owner**
25 **shown in the transfer book.**

26 SECTION 27. IC 32-23-7-7 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 7. (a) This section**
28 **applies to the following:**

29 **(1) Interests in oil and gas.**

30 **(2) Interests in coal bed methane.**

31 ~~(a)~~ **(b) An interest referred to in**
32 **subsection (a) in, on, under, or that may be taken from beneath the**
33 **surface of land located in Indiana may be created:**

34 (1) for life;

35 (2) for a term of years; or

36 (3) in fee;

37 in the manner and to the extent that other interests in real estate and
38 title are created.

39 ~~(b)~~ **(c) Title to the estates specified under subsection ~~(a)~~ (b) may be**
40 **vested in one (1) or more persons by:**

41 (1) sole ownership;

42 (2) tenancy in common;

C
o
p
y



1 (3) joint tenancy;
 2 (4) tenancy by the entireties; or
 3 (5) another manner recognized under Indiana law.
 4 (c) (d) Interests or estates specified in this section are freely
 5 alienable, in whole or in part, in the same manner as are other interests
 6 in real estate.
 7 SECTION 28. IC 32-23-7-8 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) This chapter does
 9 not limit the rights of parties to contract with regard to ~~the~~ **an** oil and
 10 gas estate **or a coal bed methane estate in land** affecting lands in
 11 Indiana:
 12 (1) to the extent permitted by; and
 13 (2) in a manner consistent with;
 14 the nature of the estate in law as specified under this chapter.
 15 (b) ~~This chapter is intended to declare the law of this state with~~
 16 ~~regard to the subject matter treated in this chapter as the law existed~~
 17 ~~before March 5, 1951.~~
 18 (c) (b) This chapter does not affect the rights or powers of any
 19 commission, board, or authority duly constituted for the regulation of
 20 the oil and gas industry **or the coal bed methane industry** in Indiana.
 21 SECTION 29. THE FOLLOWING ARE REPEALED [EFFECTIVE
 22 JULY 1, 2011]: IC 14-37-7-3; IC 14-37-7-5; IC 14-37-8-5;
 23 IC 14-37-8-6; IC 14-37-8-9.

C
o
p
y



COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill No. 71, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 37, after "Stimulation" delete "." and insert ", **including disclosure of the types and amounts to be used of all fluids and chemicals, and any information necessary to assess the potential impact of stimulation on commercially minable coal resources and underground sources of drinking water.**".

Page 3, line 25, strike "commission" and insert "**director**".

Page 4, between lines 10 and 11, begin a new paragraph and insert: "**(e) The division shall issue or deny a permit under this chapter within fifteen (15) days after the elapse of the thirty (30) day notice period under subsection (d)(1).**".

Page 5, line 9, delete "(e)" and insert "**(d)**".

Page 5, line 25, after "," insert "**the parties may request an informal hearing.**".

Page 5, line 26, delete "the" and insert "**The**".

Page 5, line 26, after "conduct" insert ", **within thirty (30) days after a request is made,**".

Page 5, line 41, after "vertical" insert "**or vertical part of a horizontal**".

Page 6, line 2, after "area" insert "**permitted under IC 14-34 or**".

Page 7, delete lines 32 through 34.

Page 8, line 26, after "in" insert "**oil and gas explorations or**".

Page 8, line 34, after "cement," strike "or".

Page 8, line 34, after "plugs" insert ", **or other methods or materials approved by the director**".

Page 8, line 37, delete "special".

Page 8, line 39, delete "Special" and insert "**The**".

Page 8, line 39, after "methods" insert "**under subsection (b)**".

Page 15, line 14, delete "department of natural resources" and insert "**natural resources commission**".

and when so amended that said bill do pass.

(Reference is to SB 71 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 9, Nays 1.

ES 71—LS 6335/DI 52+



C
O
P
Y

SENATE MOTION

Madam President: I move that Senate Bill 71 be amended to read as follows:

Page 1, between lines 11 and 12, begin a new paragraph and insert: "SECTION 2. IC 14-8-2-302 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 302. "Waste" or "wasted" has the following meaning:

(1) For purposes of IC 14-25-3, the meaning set forth in IC 14-25-3-2.

(2) For purposes of IC 14-37, the term includes the following:

(A) Locating, spacing, drilling, equipping, operating, or producing a well for oil and gas purposes drilled after March 13, 1947, in any manner that:

(i) reduces or tends to reduce the quantity of oil or gas ultimately to be recovered from any well in Indiana; or

(ii) violates the spacing provisions adopted by the commission under IC 14-37.

(B) Locating, spacing, drilling, equipping, operating, or producing a well for coal bed methane purposes in a manner that reduces or tends to reduce the quantity of commercially minable coal resources ultimately to be recovered from a mine in Indiana.

~~(B)~~ (C) Storing oil in earthen reservoirs except in an emergency to prevent the total loss of that oil.

~~(C)~~ (D) Producing oil or gas in a manner that will cause water channeling or zoning.

~~(D)~~ (E) Injecting fluids into a stratum or part of a stratum capable of producing oil or gas, except in accordance with the terms of a Class II well for which a permit is issued under IC 14-37.

~~(E)~~ (F) Allowing water other than fresh water to flow from any producing horizon located in a producing pool, except in accordance with the terms of a permit issued under IC 14-37.

~~(F)~~ (G) Allowing gas from a well that produces only gas to escape into the atmosphere, except as is necessary while making or changing connections, completing the well, or reconditioning the well."

Page 2, line 32, delete "IC 32-23-7-11;" and insert "IC 14-37-4-8.5;"

Page 2, line 38, delete "chemicals," and insert "products,"

Page 3, line 31, delete "an interest in developing" and insert "experience and interest in mining".

ES 71—LS 6335/DI 52+

C
O
P
Y



Page 4, line 24, after "coal" insert "**resources from waste;**".

Page 4, delete line 25.

Page 4, line 28, delete "do not result in waste." and insert "**may result in the endangerment of the health and safety of miners.**".

Page 5, line 10, delete "diminution" and insert "**waste**".

Page 5, line 20, delete "diminution" and insert "**waste**".

Page 5, line 33, delete "The" and insert "**Subject to subsection (h), the**".

Page 5, between lines 37 and 38, begin a new paragraph and insert:
"(h) The information that the director gathers under subsection (g) may include the following:

(1) Whether the location is in an active, abandoned, or projected underground coal mine.

(2) Whether the location is in an unsealed inactive area or a sealed area of a coal mine with the potential for introducing oxygen into the area from drilling or the well.

(3) The proximity and size of coal pillars in an alternative location that might be drilled through, including whether in a panel or support for a submain or main entries.

(4) The equipment technology and operating or drilling experience history of the operator."

Page 5, line 38, delete "(h)" and insert "**(i)**".

Page 8, line 8, delete "holds" and insert "**controls by deed, lease, or other instrument**".

Page 13, line 30, strike "(b) This chapter".

Page 13, line 30, delete "declares".

Page 13, line 30, strike "the law of".

Page 13, line 30, delete "the".

Page 13, strike line 31.

Page 13, line 32, strike "existed before".

Page 13, line 32, delete "July 1, 2011."

Page 13, line 33, strike "(c)" and insert "**(b)**".

Page 13 delete lines 36 through 42.

Page 14, delete lines 1 through 3.

Page 14, line 4, delete "IC 32-23-7-11" and insert "IC 14-37-4-8.5".

Page 14, line 6, delete "11." and insert "**8.5**".

Page 14, line 10, delete "and the coal mine" and insert "**under subsection (c)(2), unless the director makes a finding that the exercise of the right will not:**".

Page 14, delete line 11.

Page 14, line 12, delete "results" and insert "**result**".

Page 14, line 14, delete "diminution" and insert "**waste**".

**C
O
P
Y**



Page 14, line 14 delete "in" and insert "**or endangerment of the health and safety of miners.**".

Page 14, delete line 15.

Page 14, line 16, after "the" insert "**director shall consider whether**".

Page 14, line 16, after "any" insert "**one (1)**".

Page 14, line 17, delete "presumed to be".

Page 14, line 18, delete "has the potential to" and insert "**may**".

Page 14, line 18, delete "the future in diminution" and insert "**waste**".

Page 14, line 19, delete "resource:" and insert "**resource or endangerment of the health and safety of miners.**".

Page 14, line 36, delete "diminution" and insert "**waste**".

Page 14, line 36, delete "resource;" and insert "**resource or endangerment of the health and safety of miners;**".

Page 15, line 6, delete "the diminution" and insert "**waste**".

Page 15, line 13, delete "diminution" and insert "**waste**".

Renumber all SECTIONS consecutively.

(Reference is to SB 71 as printed January 21, 2011.)

GARD

C
o
p
y

COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred Senate Bill 71, 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 12 through 17.

Page 2, delete lines 1 through 27.

Page 3, delete line 10, begin a new line block indented and insert:

"(19) IC 14-37.

(20) IC 14-38, except IC 14-38-3."

Page 3, line 23, delete "IC 32-23-7-10 and IC 14-37-4-8.5;" and insert "**IC 14-37-4-8 and IC 14-37-4-8.5;**".

Page 3, line 27, delete "the following:" and insert ":".

Page 3, line 28, delete "Stimulation," and insert "**stimulation,**".

Page 3, line 32, delete "water." and insert "**water;**".

Page 3, line 33, delete "Horizontal" and insert "**horizontal**".

Page 3, line 33, delete "drilling." and insert "**drilling; and**".



Page 3, line 34, delete "Plugging" and insert "**plugging**".

Page 4, line 30, delete "subdivision (1)." and insert "**subdivision (1), and to each party that files an affidavit under IC 14-37-7-8.**".

Page 4, between lines 38 and 39, begin a new line block indented and insert:

"(2) Proof of both of the following has been submitted to the division:

(A) Receipt of the permit application's written notice as provided under section 8.5(e) of this chapter.

(B) That the applicant complied with the notification to the surface owner provisions required under IC 32-23-7-6.5.

The applicant may submit as proof a certified mail receipt, the surface owner's written acknowledgment of receipt of the notification, or copy of an agreement with the surface owner establishing different notification terms.

(3) The division has taken into consideration:

(A) comments received during the period referred to in subdivision (1) from a person interested in the future minability of a commercially minable coal resource; and

(B) objections made under section 8.5(h) of this chapter."

Page 4, delete lines 39 through 42.

Page 5, line 1, delete "(3)" and insert "(4)".

Page 5, line 5, delete "(4)" and insert "(5)".

Page 5, line 6, delete "(3)" and insert "**(4) and section 8.5 of this chapter**".

Page 5, line 7, delete "The division" and insert "**Unless waived by the applicant, the director**".

Page 5, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 8. IC 14-37-4-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8.5. (a) For purposes of this section, "waste" means locating, spacing, drilling, equipping, operating, or producing a well for coal bed methane purposes in a manner that unreasonably reduces or tends to unreasonably reduce the quantity of commercially minable coal resources ultimately to be recovered from a mine.

(b) If ownership of coal bed methane is separate from ownership of coal, no surface right or any other right pertaining to coal bed methane and naturally flowing from the character of any instrument in law may be exercised without the consent of the coal owner under subsection (d)(2), unless the director makes a finding that the exercise of the right will not:

**C
O
P
Y**



(1) result in; or
(2) have the potential to result in;
any waste of a commercially minable coal resource or
endangerment of the health and safety of miners.

(c) In making a finding under subsection (b), the director shall consider whether the use of one (1) or more of the following may result in waste of a commercially minable coal resource or endangerment of the health and safety of miners:

- (1) Hydrofracturing the coal seam.
- (2) Horizontal drilling in the coal seam.
- (3) Any other technology that disturbs the integrity of either or both of the following:
 - (A) The coal seam.
 - (B) The strata surrounding the coal seam.

(d) An application for a permit to drill into or through one (1) or more coal seams for the purpose of testing or producing coal bed methane must be accompanied by:

- (1) subject to subsection (e), certification by affidavit of the applicant that upon diligent inquiry, including reference to:
 - (A) the record of filings maintained by the department and made by coal owners and lessees under IC 14-8-2-47; and
 - (B) publicly available records pertaining to thickness and depth of coal;

the activities of the applicant do not and will not result in waste of a commercially minable coal resource or endangerment of the health and safety of miners; or

- (2) subject to subsections (f) and (g), written consent of the coal owner or coal lessee authorizing the drilling.

(e) An applicant that submits a permit application accompanied with a certification under subsection (d)(1) shall submit proof that written notice of the permit application has been received by the owner and, if applicable, the lessee of the coal through which drilling is proposed.

(f) If there is a coal lease, the coal owner and the coal lessee must include in the written consent under subsection (d)(2) a statement acknowledging that the recovery of coal bed methane might result in waste of the commercially minable coal resource.

(g) If there is no coal lease, the coal owner must include in the written consent under subsection (d)(2) a statement that the coal owner has not leased the coal for coal mining purposes and acknowledging that the recovery of coal bed methane may result in waste of the commercially minable resource.

C
O
P
Y



(h) A person with the following interests in the coal through which drilling for purposes of testing for or producing coal bed methane is proposed has thirty (30) days, after receipt of the permit application notice, to object to the issuance of the permit on the basis of waste of a commercially minable coal resource or endangerment of the health and safety of miners:

(1) The owner.

(2) If applicable, the lessee.

(3) Another person with an interest to develop a coal resource who files an affidavit under IC 14-37-7-8.

(i) A person that files an affidavit under IC 14-37-7-8 may not object to the issuance of the permit if the application includes the written consent of the coal owner under subsection (d)(2).

(j) The commission shall prescribe by rule the procedure for objection under subsection (h), including a reasonable deadline for initiating the objection.

(k) An owner or holder of mineral interests must comply with the requirements under IC 32-23-7-6.5."

Page 5, line 12, delete "Except as provided in subsection (b), the" and insert "For purposes of this section, "waste" means locating, spacing, drilling, equipping, operating, or producing a well for oil and gas purposes in a manner that unreasonably reduces or tends to unreasonably reduce the quantity of commercially minable coal resources ultimately to be recovered from a mine.

(b) Except as provided in subsection (c), the".

Page 5, line 20, delete "may result in the endangerment of" and insert "are necessary to protect".

Page 5, line 22, delete "(b)" and insert "(c)".

Page 5, line 22, delete "(a)" and insert "(b)".

Page 5, line 23, delete "IC 32-23-7-11(c)(2)." and insert "IC 14-37-4-8.5(d)(2)".

Page 5, line 24, delete "(c)" and insert "(d)".

Page 5, line 28, delete "mine;" and insert "mine permitted under IC 14-34;".

Page 5, line 39, delete "(d)" and insert "(e)".

Page 5, line 39, delete "(e)" and insert "(f)".

Page 5, line 40, delete "(c)" and insert "(d)".

Page 5, line 42, delete "determine" and insert "state".

Page 6, line 6, delete "(e)" and insert "(f)".

Page 6, line 6, delete "(d)" and insert "(e)".

Page 6, line 8, delete "(f)" and insert "(g)".

Page 6, line 9, delete "(d)" and insert "(e)".

C
O
P
Y



Page 6, line 20, delete "(g)" and insert "**(h)**".

Page 6, line 27, delete "(h)" and insert "**(i)**".

Page 6, line 30, delete "(f)(2)" and insert "**(g)(2)**".

Page 6, line 31, delete "(h)" and insert "**(i)**".

Page 6, line 32, delete "(g)" and insert "**(h)**".

Page 6, line 33, after "active," insert "**inactive,**".

Page 7, line 1, delete "(i)" and insert "**(j)**".

Page 7, line 2, delete "the director does not".

Page 7, line 3, delete "(g)" and insert "**(h), the director does not**".

Page 7, line 7, delete "(c)" and insert "**(d)**".

Page 7, between lines 11 and 12, begin a new paragraph and insert:
"**(k) An owner or holder of mineral interests shall comply with the requirements under IC 32-23-7-6.5.**".

Page 7, line 36, after "submit" insert "**to the director**".

Page 7, line 37, delete "to the director".

Page 8, line 20, delete "of the".

Page 10, line 13, delete "IC 32-23-7-11(c)(2)." and insert "**IC 14-37-4-8.5(d)(2).**".

Page 14, between lines 4 and 5, begin a new paragraph and insert:
"SECTION 25. IC 32-23-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. A grant or reservation contained in an instrument that affects land in Indiana and that purports to convey or transfer an interest in the oil and gas in, on, under, or that may be produced from beneath the surface of the land transfers the following expressed rights and privileges in addition to any other rights naturally flowing from the character of the instrument in law to the named recipient:

(1) A person in interest in the oil and gas estate in land may enter the land for the purpose of:

(A) exploring, prospecting, testing, surveying, or otherwise investigating the land to determine the potential of the land for oil or gas production; or

(B) otherwise conducting operations for oil and gas on the land;

whether or not the person is also the owner, lessee, or licensee of an owner of an interest in the surface rights in the land.

(2) A person in interest in the oil and gas estate in land in Indiana may enter the land to drill a well or test well on the land for the production or attempted production of oil and gas regardless of whether the:

(A) person is also the owner, lessee, or licensee of an owner of an interest in the surface rights in the land; and

C
O
P
Y



(B) owner of the remaining rights in the land consents to the entrance and drilling.

A person that drills a well under this subdivision shall provide an accounting to the remaining or nonparticipating persons in interest in the oil and gas estate in the land, for their respective proportionate shares of the net profits arising from the operations conducted upon the land for oil or gas. In calculating the profits, a reduction may not be made from the gross proceeds of the production of oil and gas, except for expenses that are reasonably or necessarily incurred in connection with the drilling, completion, equipping, and operation of the wells drilled upon the premises during the period in which the relationship of cotenancy existed between the person drilling the well and the person whose interest is sought to be charged with the respective proportionate part of the cost of the drilling.

(3) A person who may enter and enters land in Indiana for the purpose of exploring, prospecting, testing, surveying, or otherwise investigating the potential of the land for oil and gas, or for the purpose of conducting operations on the land for the production of oil and gas, is accountable to the owner of the surface of the land for the actual damage resulting from the person's activities on the land to:

- (A) the surface of the land;
- (B) improvements to the land; or
- (C) growing crops on the land.

However, a person who enters land under this subdivision is not liable for punitive damages. **Actual damage for which a person is accountable under this subdivision includes actual damage to marketable timber, crops, drainage systems, or erosion control systems, or quantifiable and verifiable damage to crops from compaction, abnormal flooding, or abnormal soil erosion caused by oil and gas operations.** This subdivision does not increase damages between a lessor and a lessee in a valid and subsisting oil and gas lease that specifies damages if damages are not due other than damages that are expressly provided by contract between cotenants or the lessees of cotenants of a like estate in the land. This section does not authorize the location of a well for oil and gas nearer than two hundred (200) feet to an existing house, barn, or other structure (except fences) without the express consent of the owner of the structure.

(4) The right to conduct operations for oil and gas upon land located in Indiana includes the right to:

C
O
P
Y



- (A) install and maintain physical equipment on the land; and
- (B) use the portion of the surface of the land that is reasonably necessary for the operations;

subject to the payment of damages resulting from the installation only of the equipment specified in this subdivision.

SECTION 26. IC 32-23-7-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 6.5. (a) This section does not apply in the event of an emergency entry.**

(b) Unless otherwise agreed by the surface owner, an owner or holder of oil, gas, or coal bed methane mineral interest who wants to enter land for the purpose of surveying a drilling location must provide to the surface owner a written notice of the intent to enter the property at least five (5) days before the entry.

(c) The written notice under subsection (b) may be given by personal delivery or by certified mail to the last known address of each person liable for any property taxes as shown on the tax duplicate, or to the last known address of the most recent owner shown in the transfer book."

Page 14, delete line 42.

Delete page 15.

Page 16, delete lines 1 through 21.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 71 as reprinted February 8, 2011.)

EBERHART, Chair

Committee Vote: yeas 11, nays 1.

C
O
P
Y

