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## **TITLE 312 NATURAL RESOURCES COMMISSION**

### **Proposed Rule** LSA Document #02-73

#### **DIGEST**

Amends 312 IAC 16 that governs the drilling, production, and reclamation of wells for oil and gas purposes to address several subjects. Modifications would be made to definitions, bonding, enforcement, standards for determining operator compliance history, evidencing patterns of violations, identifying responsible officers, permitting, and other matters concerning fee exemption, calculation, and collection. Included would be amendments to help implement statutory authorities embodied in House Enrolled Act 1227 of the 112th Indiana General Assembly. Effective 30 days after filing with the secretary of state.

**312 IAC 16-3-2**                      **312 IAC 16-4-2**  
**312 IAC 16-3.5**                   **312 IAC 16-4-5**  
**312 IAC 16-4-1**

SECTION 1. 312 IAC 16-3-2 IS AMENDED TO READ AS FOLLOWS:

#### **312 IAC 16-3-2 Permit applications**

**Authority:** IC 14-37-3

**Affected:** IC 4-21.5; IC 14-34; IC 14-37; IC 25-39-1.5

Sec. 2. (a) This section establishes general application requirements for a permit to drill, deepen, operate, or convert a well for oil and gas purposes.

(b) An application for a permit to drill, deepen, operate, or convert a well for oil and gas purposes shall be made on a division form.

(c) A permit application must be signed by:

- (1) the person designated as the owner or operator on the application; or
- (2) an authorized agent.

Upon a request by the division, a person who signs as an agent for an owner or operator must furnish satisfactory evidence of authority.

(d) ~~Except as provided in subsection (e);~~ An applicant shall remit with the application a permit fee of one hundred dollars (\$100) in cash, by check, or by draft, payable to the department of natural resources. ~~for the:~~

- ~~(1) drilling of a new well for oil and gas purposes;~~
- ~~(2) deepening of a well to a new horizon;~~
- ~~(3) opening of a previously plugged well; or~~
- ~~(4) repermitting of a well whose permit was revoked under section 9(a) of this rule.~~

~~(e) There is no fee for:~~

- ~~(1) a permit converting one (1) kind of well to another unless previously plugged; or~~
- ~~(2) a change of location under section 4(b) of this rule.~~

~~(f)~~ (e) This subsection describes the surveying requirements for a permit application as follows:

- (1) Except as otherwise provided in this subsection, an application must be accompanied by a survey showing the location

of the proposed well for oil and gas purposes, giving the:

- (A) quarter, quarter, quarter section, township, range, county, lot number;
- (B) block of the recorded plat if the land is platted;
- (C) three (3) nearest boundary lines of the tract; and
- (D) distance in two (2) directions from a corner of the tract of land upon which the well is to be drilled and from the nearest quarter post or lot corner.

A registered Indiana land surveyor must certify the survey with respect to the information required under this subdivision.

(2) With respect to a Class II well, or a noncommercial gas well, in addition to the requirements set forth in subdivision (1), the survey must include the permit number, location, and state the depth of the following:

- (A) Each well for oil and gas purposes located within one-fourth (1/4) mile of the proposed well (including abandoned and nonoperational wells) that intersect the injection or production zone.
- (B) Each water well recorded with the department under IC 25-39-1.5 located within one-fourth (1/4) mile of the proposed Class II well location.

(3) Information of public record and information that should have been known to the applicant must be included under this subsection. This subsection does not apply to an existing injection well unless otherwise ordered by the department.

~~(g)~~ (f) In addition to the general requirements for a permit application provided in this section, an application for a permit for a Class II well must be accompanied by the following:

(1) A schematic diagram of the well showing the following:

- (A) The total depth of the plugback of the well.
- (B) The depth of the injection or disposal interval.
- (C) The geological name of the injection or disposal zone.
- (D) The geological name, thickness, and description of the confining zone.
- (E) The vertical distance separating the uppermost extremity of the injection zone from the base of the lowest underground source of drinking water.
- (F) The depths of the tops and the bottoms of the casing and the cement to be used in a well.
- (G) The size of the casing and tubing, and the depth of the packer.
- (H) The depth to the base of the lowermost underground source of drinking water.

(2) If the well has been drilled, a copy of the completion report and any available geophysical log of the well.

(3) Proposed operating data as follows:

- (A) The geological name, depth, and location of the injection fluid source.
- (B) A standard laboratory analysis of a representative sample of water to be injected under the proposed Class II permit.
- (C) The location and description of each underground source of drinking water through which the well would pass.
- (D) A description of the current or proposed casing program, including the following:
  - (i) Casing size, weight, and type.
  - (ii) Cement volume and type.
  - (iii) Packer type.
  - (iv) Type of completion for the well and the proposed method for testing casing.
- (E) The proposed maximum injection rate and pressure. The owner or operator shall limit injection pressure to either:
  - (i) a value that does not exceed a maximum injection pressure at the wellhead calculated to assure that the pressure during injection does not initiate new fractures or propagate existing fractures in the confining zone adjacent to an underground source of drinking water and will not cause the movement or injection of fluids into an underground source of drinking water; or
  - (ii) a value for wellhead pressure calculated by using the following formula:

$$P_{\max} = (0.8 \text{ psi/ft} - (.433 \text{ psi/ft} (S_g)))d$$

Where:

- $P_{\max}$  = Maximum injection pressure (psia).
- $S_g$  = Specific gravity of the injected fluid.
- $d$  = Depth to the top of the injection zone in feet.

~~(h)~~ (g) A bond as set forth in 312 IAC 16-4-2 must accompany a permit application.

~~(h)~~ **(h)** If a drilling unit, lease, or tract of land is communitized for exploration or development, the original or a certified copy of the communitization agreement or declaration of pooling must accompany the initial permit application made under that agreement or declaration. An application for a subsequent permit must identify the agreement or declaration and the permit number of the initial permit.

~~(i)~~ **(i)** With respect to an application for a Class II well, or a noncommercial gas well, an applicant must serve a written notification describing the proposed well personally or by certified mail on each of the following persons, if the described property is located within one-fourth (¼) mile of the proposed well:

- (1) The owner or operator of each well for oil and gas purposes, including a well having temporary abandonment status under 312 IAC 16-5-20 or not yet in production.
- (2) The permittee of an underground mine permitted under IC 14-34.
- (3) The person who files a mine plan under 312 IAC 16-5-4(b) through 312 IAC 16-5-4(g) showing the workable limits for a proposed underground mine.
- (4) Each owner of rights to surface or subsurface property that the well penetrates.

~~(j)~~ **(j)** The notification required under subsection ~~(j)~~ **(i)** shall specify that a person who wishes to object to issuance of the permit may, within fifteen (15) days of receipt of the notification, submit written comments or request an informal hearing before the commission under 312 IAC 16-2-3. The notification shall include the address to which written comments or the hearing request must be forwarded and where additional information may be obtained.

~~(k)~~ **(k)** In addition to the notification required under subsection ~~(j)~~ **(i)**, the division shall cause a notice of a permit application to be placed in a newspaper of general circulation in the county where the proposed well is located. The notice must include the following:

- (1) The name and address of the applicant.
- (2) The location of the proposed well.
- (3) The geological name and depth of the injection zone.
- (4) The maximum injection pressure.
- (5) The maximum rate of barrels each day.

The notice shall specify that a person who wishes to object to issuance of the permit may, within fifteen (15) days of publication of the notification, submit written comments or request an informal hearing before the department. The notification shall include the address to which the written comments or hearing requests must be forwarded, how a person may receive written notice of the proceedings, and where additional information concerning the proposed permit can be obtained.

~~(l)~~ **(l)** Proof of service of the notification required in subsection ~~(j)~~ **(i)** must be delivered to the division before a permit for a Class II well can be issued.

~~(m)~~ **(m)** A person may file a written request for an informal hearing under 312 IAC 16-2-3 within fifteen (15) days after the notification required under subsections ~~(j)~~ **(i)** through ~~(k)~~ **(k)** to consider an objection to a permit.

~~(n)~~ **(n)** No permit shall be issued for a Class II well or a noncommercial gas well:

- (1) until eighteen (18) days after service of any notification required under subsections ~~(j)~~ **(i)** through ~~(k)~~ **(k)**; or
- (2) if a hearing is requested under subsection ~~(m)~~ **(m)**, until the division director makes a determination with respect to the objection.

Upon issuance of the permit, IC 4-21.5 and 312 IAC 3-1 apply.

~~(o)~~ **(o)** Upon notification by the division that the requirements of this section are satisfied, an owner or operator may act upon a permit. *(Natural Resources Commission; 312 IAC 16-3-2; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2332)*

SECTION 2. 312 IAC 16-3.5 IS ADDED TO READ AS FOLLOWS:

### **Rule 3.5. Annual Well Fee**

#### **312 IAC 16-3.5-1      Annual well fee and reporting requirements**

Authority: IC 14-37-5

Affected: IC 4-21.5; IC 14-37-6-2; IC 14-37-6-4

**Sec. 1. (a) Each oil and gas well owner or operator must pay an annual well fee based on the number of wells for oil and gas purposes for which the person has permits as of November 1 of each year. The annual well fee does not apply to a noncommercial gas well.**

**(b) The division shall, by December 1 of each year, mail a notice to each owner or operator indicating the number of wells that division records show were under a permit on November 1. Each owner or operator must verify the annual fee due under section 2 of this rule and must cause the fee to be actually received by the division no later than February 1 of the following year. Failure of an owner or operator to comply with this subsection is a violation of this article and is cause for revocation of any permit in violation.**

**(c) A well for oil and gas purposes is included in the number of wells that the division assesses for the annual well fee on November 1 until the earlier of the following:**

- (1) The well is plugged and the well site is restored under 312 IAC 16-5-19.**
- (2) The well is transferred to a new permittee under 312 IAC 16-3-8.**

**(d) Each owner or operator of a well for oil and gas purposes must also report to the division by February 1 of each year, on a form prescribed by the division, any change in:**

- (1) mailing address; or**
- (2) organizational status.**

*(Natural Resources Commission; 312 IAC 16-3.5-1)*

### **312 IAC 16-3.5-2 Amount of assessment**

Authority: IC 14-37-5

Affected: IC 4-21.5; IC 14-37-6-2; IC 14-37-6-4

**Sec. 2. The division shall assess the annual well fee as follows:**

- (1) For one (1) permit, one hundred fifty dollars (\$150).**
- (2) For two (2) through five (5) permits, three hundred dollars (\$300).**
- (3) For six (6) through twenty-five (25) permits, seven hundred fifty dollars (\$750).**
- (4) For twenty-six (26) through one hundred (100) permits, one thousand five hundred dollars (\$1,500).**
- (5) For more than one hundred (100) permits, one thousand five hundred dollars (\$1,500) plus fifteen dollars (\$15) for each permit over one hundred (100).**

*(Natural Resources Commission; 312 IAC 16-3.5-2)*

**SECTION 3. 312 IAC 16-4-1 IS AMENDED TO READ AS FOLLOWS:**

### **Rule 4. Bonding in Addition to Annual Well Fee**

### **312 IAC 16-4-1 Bond required in addition to the annual well fee**

Authority: IC 14-37-3

Affected: IC 4-21.5; IC 14-37-5; IC 14-37-6-2; IC 14-37-6-4; IC 14-37-13

**Sec. 1. (a) In addition to the annual well fee required by 312 IAC 16-3.5, no person shall drill, deepen, operate, or convert a well for oil and gas purposes until the person has filed and the department has accepted a bond as provided in section 2 of this rule, ~~A if the person: who has created or acquired a well for oil and gas purposes is required to file~~ a bond with the department within ten (10) days after creating or acquiring the well.**

- (1) is an applicant for a permit under this article who has never been granted a permit for a well for oil and gas purposes under this article;**
- (2) has demonstrated a pattern of violation under IC 14-37 and this article within the previous two (2) years;**
- (3) has failed to pay a civil penalty imposed under IC 14-37-13; or**
- (4) has failed to pay an annual fee required under IC 14-37-5.**

(b) The purpose of a bond is to provide for compliance with IC 14-37 and this article.

(c) A bond shall be renewed until there has been compliance with the conditions imposed by ~~law~~ **IC 14-37** and by the permit **for two (2) consecutive years**.

(d) Requirements and procedures applicable to bonds also apply to the substitute securities described in IC 14-37-6-2 and IC 14-37-6-4.

(e) Any person in whose name the permit is issued shall execute and be named as principal on the bond. The name of the owner or operator on the permit and the principal on the bond shall be the same. (*Natural Resources Commission; 312 IAC 16-4-1; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2336*)

SECTION 4. 312 IAC 16-4-2 IS AMENDED TO READ AS FOLLOWS:

### **312 IAC 16-4-2 Bond types**

Authority: IC 14-37-3

Affected: IC 14-37

Sec. 2. (a) The bond required in section 1 of this rule shall consist of any one (1) of the following:

(1) A surety bond in the amount of two thousand **five hundred** dollars ~~(\$2,000)~~ **(\$2,500)** for each well drilled or produced.

(2) A cash bond in the amount of two thousand **five hundred** dollars ~~(\$2,000)~~ **(\$2,500)** for each well drilled or produced.

(3) A certificate of deposit in the principal amount of two thousand **five hundred** dollars ~~(\$2,000)~~ **(\$2,500)** for each well drilled or produced, according to terms and specifications provided by the division.

~~(4) A blanket surety bond in the sum of five thousand dollars (\$5,000) for all wells if the blanket surety bond was filed and accepted by the commission before March 11, 1971.~~

~~(5)~~ **(4)** A surety bond in any amount for wells drilled, deepened, or converted; however, the maximum number of wells under the bond may not exceed that number determined by dividing the principal sum of the bond by two thousand **five hundred** dollars ~~(\$2,000)~~ **(\$2,500)**.

~~(6)~~ **(5)** A blanket bond of ~~thirty~~ **forty-five** thousand dollars ~~(\$30,000)~~ **(\$45,000)** for any number of wells drilled, deepened, or converted.

(b) No surety bond shall be approved unless issued by a company holding an applicable certificate of authority from the department of insurance, state of Indiana. A surety bond shall be executed by the owner or operator as principal and by the surety or for either of them by an attorney-in-fact with certified power of attorney attached.

(c) With respect to a noncommercial gas well drilled on real estate owned by a bona fide resident of Indiana, the deputy director may waive the bond described in subsection (a), provided the person does the following:

(1) Submits written proof of financial responsibility.

(2) Enters on a division form an agreement to maintain and abandon the well in accordance with IC 14-37 and this article. The deputy director may require the agreement provided under this subsection to be recorded.

(d) The division shall obtain possession and custody of all collateral deposited by an applicant until released or replaced under this rule. A certificate of deposit must be assigned in writing to the state and the assignment noted upon the books of the bank issuing the certificate. (*Natural Resources Commission; 312 IAC 16-4-2; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2336*)

SECTION 5. 312 IAC 16-4-5 IS AMENDED TO READ AS FOLLOWS:

### **312 IAC 16-4-5 Bond release**

Authority: IC 14-37-3

Affected: IC 14-37-5; IC 14-37-6-1; IC 14-37-13

Sec. 5. (a) ~~No bond shall be released until the commission determines each permit secured by a bond has been:~~ **The**

**division shall release a bond submitted pursuant to this rule after:**

- (1) **each well secured by the bond has been plugged and abandoned and the well site restored** under IC 14-37, this article, the terms of the permit, and orders of the department;
- (2) **each well secured by the bond has been** converted under 312 IAC 16-5-19(e) to a fresh water well; ~~or~~
- (3) ~~until~~ a substitute bond is filed by the owner or operator and accepted by the department;
- (4) each well secured by the bond is transferred under 312 IAC 16-3-8; or
- (5) the owner or operator is not required to post a bond under IC 14-37-6-1(a) due to not having:
  - (A) demonstrated a pattern of violation within the previous two (2) years;
  - (B) failed to pay a civil penalty imposed under IC 14-37-13; or
  - (C) failed to pay an annual fee required under IC 14-37-5.

(b) The department may execute a partial release for a bond issued to secure more than one (1) permit where an individual well is abandoned or converted to a fresh water well. A partial release under this subsection shall not relieve a surety from responsibility with respect to a well other than the individual well identified in the partial release. (*Natural Resources Commission; 312 IAC 16-4-5; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2337*)

### ***Notice of Public Hearing***

*Under IC 4-22-2-24, notice is hereby given that on September 30, 2002 at 11:00 a.m., at the Department of Natural Resources Field Office, 3101 North Green River Road, Suite 510, Evansville, Indiana the Natural Resources Commission will hold a public hearing on proposed amendments that govern the drilling, production, and reclamation of wells for oil and gas purposes to address several subjects. Modifications would be made to definitions, bonding, enforcement, standards for determining operator compliance history, evidencing patterns of violations, identifying responsible officers, permitting, and other matters concerning fee exemption, calculation, and collection. Included would be amendments to help implement statutory authorities embodied in House Enrolled Act 1227 of the 112th Indiana General Assembly. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W272 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Michael Kiley  
Chairman  
Natural Resources Commission