

Document: Proposed Rule, **Register Page Number:** 27 IR 4097

Source: September 1, 2004, Indiana Register, Volume 27, Number 12

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TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule

LSA Document #04-121

DIGEST

Amends 312 IAC 16-3-2 and 312 IAC 16-3-8 to bring rules into compliance with IC 14-37-4-6 regarding the fees associated with the permitting of wells and transfer of permits and to include a requirement that the UTM coordinate location of a proposed well be provided in the application for a well permit. Effective 30 days after filing with the secretary of state.

312 IAC 16-3-2

312 IAC 16-3-8

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:

- (1) drill;
- (2) deepen;
- (3) operate; or
- (4) convert;

a well for oil and gas purposes **or conduct a geophysical survey.**

(b) An application for a permit to:

- (1) drill;
- (2) deepen;
- (3) operate; or
- (4) convert;

a well for oil and gas purposes **or conduct a geophysical survey** 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) An applicant shall remit with the application a permit fee of ~~one two hundred fifty dollars (\$100)~~ **(\$250)** in cash, by check, or by draft, payable to the department of natural resources. **However, a person may apply for an expedited review of the application for a permit except for a Class II or noncommercial gas well by submitting a permit fee of seven hundred fifty dollars (\$750).**

(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; **and**
- (E) UTM coordinates accurate to within four (4) meters of the actual location on the ground.**

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.

(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 **a value:**

- (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.

(g) A bond ~~as set forth required~~ in ~~312 IAC 16-4-2~~ **312 IAC 16-4-1** must accompany a permit application.

(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:

- (1) agreement or declaration; and ~~the~~
- (2) permit number of the initial permit.

(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 ($\frac{1}{4}$) 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) The notification required under subsection (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) In addition to the notification required under subsection (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) Proof of service of the notification required in subsection (i) must be delivered to the division before a permit for a Class II well can be issued.

(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 (i) through (k) to consider an objection to a permit.

(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 (i) through (k); or
- (2) if a hearing is requested under subsection (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) 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; filed Jan 16, 2003, 10:52 a.m.: 26 IR 1896*)

SECTION 2. 312 IAC 16-3-8 IS AMENDED TO READ AS FOLLOWS:

312 IAC 16-3-8 Permit transfer

Authority: IC 14-37-3-1

Affected: IC 4-21.5; IC 14-37

Sec. 8. (a) This section establishes the requirements for the transfer of a permit issued by the department for a well for oil and gas purposes.

(b) An owner or operator must provide notice, in advance, to the division of the intention to transfer a permit to another person. The notification shall be completed on a division form.

(c) A person must submit the following with an application for a permit transfer:

(1) A bond required in 312 IAC 16-4-1.

(2) A fee of fifteen dollars (\$15) payable to the department for each well. However, if an applicant submits more than fifty (50) applications simultaneously, the transfer for each application in excess of fifty (50) is ten dollars (\$10).

~~(d)~~ (d) The department shall grant approval of a permit transfer except upon a written finding that sets forth at least one (1) of the following factors with respect to the person who seeks to receive transfer of the permit (or an officer, partner, or director of the person, if other than an individual):

(1) The fee required by this section was not submitted.

~~(2)~~ (2) A bond has not been submitted by the person as required in 312 IAC 16-4-1.

~~(3)~~ (3) The person is the owner or operator of a well for oil and gas purposes at which the person has demonstrated a pattern of willful violations of IC 14-37 or this article that has resulted in substantial damage to the environment indicating an intention not to comply with IC 14-37 or this article.

~~(4)~~ (4) The person is the owner or operator of a well for oil and gas purposes against which there is a pending notice of violation under 312 IAC 16-5-21. If this finding is made, however, the person is not disqualified from receiving the transfer if the person establishes either of the following:

(A) The violation has been or is in the process of being corrected to the satisfaction of the deputy director.

(B) The person has filed and is presently pursuing, in good faith, a direct administrative review or judicial review to contest the validity of the violation. A request for review under this clause must conform with IC 4-21.5 and 312 IAC 3-1.

~~(e)~~ (e) If an application is filed to transfer a well on which there is a pending notice of violation, the owner or operator against which the violation was issued, and its surety, continue to be liable for performing the abatement and for satisfying any resulting penalty. A person who receives transfer of a permit is also liable for abatement and for any penalty attributable to the period following transfer. However, the division director may, in writing, waive any penalty that would otherwise apply during a period of not more than ninety (90) days following the transfer if the division director determines that the new permit holder is acting in good faith to correct the violation.

~~(f)~~ (f) No transfer of a permit issued for oil and gas purposes is effective until the transfer is approved in writing by the division director. *(Natural Resources Commission; 312 IAC 16-3-8; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2335)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on September 29, 2004 at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W272, Indianapolis, Indiana the Natural Resources Commission will hold a public hearing on proposed amendments concerning compliance with IC 14-37-4-6 regarding the fees associated with the permitting of wells and transfer of permits and requirements that the UTM coordinate location of a proposed well be provided in the application for a well permit. 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