

## IC 14-37-4

### Chapter 4. Permits

#### IC 14-37-4-1 Version a

##### Permit required for oil and gas activities; coal bed methane extraction prohibition

*Note: This version of section effective until 7-1-2011. See also following version of this section, effective 7-1-2011.*

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 subsections (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.

*As added by P.L.1-1995, SEC.30. Amended by P.L.80-2005, SEC.2; P.L.78-2010, SEC.4; P.L.42-2011, SEC.32.*

#### IC 14-37-4-1 Version b

##### Permit required for oil and gas activities

*Note: This version of section effective 7-1-2011. See also preceding version of this section, effective until 7-1-2011.*

Sec. 1. A person may not drill, deepen, operate, or convert a well for oil and gas purposes without a permit issued by the department.

*As added by P.L.1-1995, SEC.30. Amended by P.L.80-2005, SEC.2; P.L.78-2010, SEC.4; P.L.42-2011, SEC.32; P.L.140-2011, SEC.5.*

#### IC 14-37-4-2

##### Duties of owner or operator

Sec. 2. (a) An owner or operator:

(1) shall comply with the conditions of a permit as determined by the department;

(2) may not raise as a defense to an enforcement action by the department that compliance with the conditions of the permit constitutes an economic hardship;

(3) shall correct adverse environmental impact that results from noncompliance with a permit; and

(4) shall provide proper operation and maintenance for

facilities, systems of treatment, and control and related appurtenances that are installed or used by the owner or operator to comply with the permit conditions.

(b) Proper operation and maintenance under subsection (a)(4) includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. Subsection (a)(4) requires the operation of backup or auxiliary facilities or similar systems only if necessary to comply with permit conditions.

*As added by P.L.1-1995, SEC.30.*

### **IC 14-37-4-3**

#### **Permit not property right or exclusive privilege**

Sec. 3. A permit does not convey to the owner or operator a property right or an exclusive privilege.

*As added by P.L.1-1995, SEC.30.*

### **IC 14-37-4-4**

#### **Permit form**

Sec. 4. A person must apply for a permit under this chapter on a form prescribed by the commission.

*As added by P.L.1-1995, SEC.30.*

### **IC 14-37-4-5**

#### **Document accompanying permit application**

Sec. 5. An application for a permit must include the following:

(1) A plat of the land or lease upon which the well is to be located, together with all property and lease lines and the acreage within the tract.

(2) The location of the proposed well as certified by a land surveyor registered under IC 25-21.5.

(3) The surface elevation of the proposed well and the method used for determining that elevation.

(4) The depth of the proposed well.

(5) The number and location of all other dry, abandoned, or producing wells located within one-fourth (1/4) mile of the proposed well.

(6) The distance from the proposed well to the three (3) nearest boundary lines of the tract.

(7) With respect to an application to drill within a city or town, a certified copy of the official consent by ordinance of the municipal legislative body.

(8) Other information determined by the commission that is necessary to administer this article.

*As added by P.L.1-1995, SEC.30.*

### **IC 14-37-4-6**

#### **Bond and permit fee; expedited review**

Sec. 6. (a) A person must submit the following with an application for a permit:

(1) A bond under IC 14-37-6.

(2) A permit fee of two hundred fifty dollars (\$250) payable to the department. However, a person may apply for an expedited review of the application for a permit, except for a Class II or noncommercial well, by submitting a permit fee of seven hundred fifty dollars (\$750).

(b) Permit fees collected under this section must be deposited in the oil and gas fund established by IC 6-8-1-27.

*As added by P.L.1-1995, SEC.30. Amended by P.L.48-2002, SEC.1; P.L.186-2003, SEC.77.*

#### **IC 14-37-4-7**

##### **Operator's signature on permit**

Sec. 7. An application must be signed by:

(1) the person; or

(2) an authorized agent of the person;

who is the operator named in the proposed permit.

*As added by P.L.1-1995, SEC.30.*

#### **IC 14-37-4-8**

##### **Permit issuance upon compliance with article and rules**

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 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 the following with respect to each proposed coal bed methane well:

(1) The location, type, and depth.

(2) The coal seam affected.

(d) The division may not issue a permit under this chapter until all of the following requirements are satisfied:

(1) At least thirty (30) days have elapsed after giving notice under subsection (b)(2).

(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.

(4) The applicant has submitted to the director documentation demonstrating that the commercially minable coal seam outside the coal bed methane production area is protected adequately for future underground mining.

(5) The director has issued a finding that the requirements of subdivisions (1) through (4) and section 8.5 of this chapter have been met.

(e) Unless waived by the applicant, the director 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).

*As added by P.L.1-1995, SEC.30. Amended by P.L.140-2011, SEC.6.*

#### **IC 14-37-4-8.5**

##### **Ownership rights of coal bed methane; permit application for coal bed methane testing or production**

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:

(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.

(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.

*As added by P.L.140-2011, SEC.7.*

**IC 14-37-4-9**

**Denial of permit**

Sec. 9. The department may refuse to issue a permit if an applicant or an officer, a partner, or a director of the applicant:

- (1) is in violation of this article or would be in violation if the permit were issued; or
- (2) controls or has controlled a well for oil and gas purposes and has demonstrated a pattern of willful violations of:
  - (A) this article; or
  - (B) IC 13-8 (before its repeal);that have resulted in substantial damage to the environment indicating an intention not to comply with this article or IC 13-8 (before its repeal).

*As added by P.L.1-1995, SEC.30.*

**IC 14-37-4-10****Permit continuance for non-Class II wells**

Sec. 10. A permit for a well for oil and gas purposes, other than a permit for a Class II well, continues until:

- (1) the well is plugged and abandoned;
- (2) the well is converted to another type of well for oil and gas purposes; or
- (3) the permit is revoked.

*As added by P.L.1-1995, SEC.30. Amended by P.L.80-2005, SEC.3.*

**IC 14-37-4-11****Expiration of permit**

Sec. 11. A permit for a well for oil and gas purposes expires one (1) year from the date of issuance unless the drilling of the well has commenced.

*As added by P.L.1-1995, SEC.30. Amended by P.L.80-2005, SEC.4.*

**IC 14-37-4-12****Permit continuance for Class II wells**

Sec. 12. A permit for a Class II well continues until the well is plugged and abandoned, unless the permit is revoked, expired, or otherwise terminated.

*As added by P.L.1-1995, SEC.30.*

**IC 14-37-4-13****Emergency permits**

Sec. 13. (a) The director may issue an emergency permit for a well for oil and gas purposes if an imminent and substantial danger to the health of persons will result unless an emergency permit is granted. An emergency permit under this subsection is effective no longer than necessary to remove the danger.

(b) If a substantial and irretrievable loss of oil or natural gas resources will occur unless an emergency permit is granted, the director may issue an emergency permit for a well for oil and gas purposes if the following conditions exist:

- (1) Timely application for a permit could not practicably have

been made.

(2) Issuance of the permit does not violate a term of primary enforcement authority for Class II wells.

(c) An emergency permit under subsection (b) is effective not longer than ninety (90) days from issuance. However, if a permit application is submitted before expiration of the ninety (90) day period, the director may, subject to IC 4-21.5, extend the emergency permit until final agency action on the application.

(d) The director may issue an emergency permit for a well for oil and gas purposes if:

(1) a substantial delay in the production of oil or natural gas resources will occur unless an emergency permit is issued for a new injection well; and

(2) the permit will not violate a term of primary enforcement authority for Class II wells.

An emergency permit under this subsection may be issued only after a completed permit application has been submitted and is effective only until a final determination is made by the department on that application.

*As added by P.L.1-1995, SEC.30.*

#### **IC 14-37-4-14**

##### **Transfer permits**

Sec. 14. To transfer the ownership of a permit for a well for oil or gas purposes, a person must submit the following:

(1) A transfer 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 fee for each application in excess of fifty (50) is ten dollars (\$10).

(2) The name and mailing address of the seller and buyer on a form prescribed by the commission.

*As added by P.L.186-2003, SEC.78.*