

IC 14-38

ARTICLE 38. OTHER PETROLEUM REGULATION

IC 14-38-1

Chapter 1. Petroleum Exploration on State Property

IC 14-38-1-1

"Commence to drill a well" defined

Sec. 1. As used in this chapter, "commence to drill a well" means the institution of work in good faith with drilling equipment adequate for the drilling of a well to a depth that will reasonably test the oil and gas productiveness of the public land where the well is commenced.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-2

"Person" defined

Sec. 2. As used in this chapter, "person" means the following:

- (1) A citizen of the United States.
- (2) An individual who has, in good faith, declared the intention of becoming a citizen of the United States.
- (3) An association of individuals described in subdivision (1) or (2).
- (4) A corporation organized and existing under and by virtue of the laws of any state or territory of the United States and authorized to do business in Indiana.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-3

"Petroleum" defined

Sec. 3. As used in this chapter, "petroleum" means any liquid or gaseous hydrocarbon occurring in nature beneath the surface of the earth.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-4

"Proven territory" defined

Sec. 4. As used in this chapter, "proven territory" means territory so situated with reference to known producing wells as to establish the general opinion that, because of the territory's relation to the producing wells, petroleum is contained in the territory.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-5

"Public land" defined

Sec. 5. As used in this chapter, "public land" means land and area belonging to or subsequently acquired by the state or any of the state's institutions. The term includes land of every kind and nature.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-6

Permit issuance

Sec. 6. (a) The commission may enter into written contracts designating a person as the permittee of the state with the exclusive right to prospect and explore not to exceed three (3) sections, or an equivalent area, of the public land for the occurrence of petroleum. A contract must contain the conditions prescribed by the rules adopted by the commission under this chapter. A permit must be for a period of not more than one (1) year in the discretion of the commission. A permit shall be granted without cost, except:

- (1) as provided in section 16 of this chapter; and
 - (2) that, if more than one (1) application for a permit is received with respect to the same public land, the commission shall grant the permit to the person offering the highest cash bonus.
- (b) A permittee may, under a contract:
- (1) enter in and upon the land; and
 - (2) prospect and explore the land to determine the occurrence of petroleum.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-7

No permits issued for proven territory

Sec. 7. A permit may not be issued upon public land classified by the commission as proven territory.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-8

Compensation of landowners and state

Sec. 8. A permittee may not commence an operation upon land covered by a permit until the permittee has compensated the following:

- (1) The owners of private rights in the land according to law.
- (2) The state for damage to the surface rights of the state in accordance with the rules adopted by the commission.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-9

Prosecution of operations with reasonable diligence

Sec. 9. A permit requires the immediate commencement of geological, geophysical, or core drilling operations. All operations shall be prosecuted with reasonable diligence in accordance with good oil field practice and must be continuous except when causes beyond the control of the permittee intervene and make continuous operations not feasible. Geological, geophysical, or core drilling operations may not include the actual operation of drilling for gas, oil, or other mineral deposits.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-10

Surrender of permit

Sec. 10. Every permittee has the option of surrendering a permit at any time and is relieved of all liability under the permit except for physical damage to the premises embraced by the permit that has been caused by the permittee's operations.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-11

Permittee's lease for petroleum extraction

Sec. 11. (a) A permittee is, at any time during the life of the permit or upon the termination of the permit, entitled to a lease for the extraction of petroleum from not to exceed one (1) section, or an equivalent area, of land to be selected by the permittee.

(b) A lease under subsection (a) must be at a royalty of:

(1) not more than twelve and one-half percent (12 1/2%) of all petroleum produced and saved from the lease; or

(2) the market value of the petroleum;

at the option of the commission.

(c) A lease must provide for an annual rental, payable in advance, of from one dollar (\$1) to ten dollars (\$10) per acre, as the commission determines. Rentals shall be credited against future royalties.

(d) A lease must be for a primary term of ten (10) years and as long thereafter as oil in commercial quality and commercial quantity can be produced from the land embraced in the lease.

(e) The form and terms of a lease must be the same as the standard commercial petroleum lease generally in use in the territory in which the oil, gas, or other petroleum deposits are located, with the additional terms provided in this chapter and the rules of the commission. If the conditions contained in a standard commercial lease conflict with this chapter, this chapter controls.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-12

Other leases for petroleum extraction

Sec. 12. (a) A petroleum lease other than a lease provided for in section 11 of this chapter may be granted in parcels as determined by the commission.

(b) A lease granted under this section must be at a royalty of:

(1) not less than twelve and one-half percent (12 1/2%) of all petroleum produced and saved from the land covered by the lease; or

(2) the market value of the petroleum;

at the option of the commission.

(c) A lease must provide for an annual rental, payable in advance, of from one dollar (\$1) to ten dollars (\$10) per acre, as the commission determines. Rentals shall be credited against future royalties.

(d) A lease must be for a primary term of ten (10) years.

(e) The forms and terms of a lease must be the same as the standard commercial petroleum lease generally in use in the territory

in which the oil, gas, or other petroleum products are located, with the additional terms provided in this chapter and the rules of the commission. If the conditions contained in a standard commercial lease conflict with this chapter, this chapter controls.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-13

Proceeds

Sec. 13. (a) All proceeds derived:

(1) from or by virtue or by reason of a permit or lease executed or issued under this chapter; or

(2) from or by reason of any operations under this chapter;

shall, after deducting all costs incurred by the department, be paid to the treasurer of state for the use of the division of the department having the custody, control, possession, or authority of or over the real property involved.

(b) Except as provided in subsection (c), the proceeds shall be deposited in the proper fund of the appropriate division of the department.

(c) Except as provided in subsection (d), the proceeds from royalties or other compensation paid for minerals taken from beneath the navigable waters of the state shall be deposited in the state general fund.

(d) The proceeds from royalties or other compensation paid for minerals taken from beneath the navigable waters of the Wabash River (as defined in IC 14-13-6-4) shall be deposited in the Wabash River heritage corridor fund established by IC 14-13-6-23.

As added by P.L.1-1995, SEC.31. Amended by P.L.118-2009, SEC.4.

IC 14-38-1-14

Consideration for leases

Sec. 14. (a) A petroleum lease may not be issued on land that has not been classified by the commission as proven territory. With regard to proven territory to which no permit holder is entitled to a lease, the commission shall, in areas to be determined by the commission, lease any of the land in the proven territory to the responsible person offering the greatest consideration for the lease if the person files with the commission five (5) days before:

(1) the opening of the sealed bids; or

(2) the auction;

as provided in this chapter, a bid bond in an amount fixed by the commission to guarantee the posting of a performance bond if the person is the successful bidder.

(b) To obtain the best possible consideration for a lease the commission may offer leases under the following conditions:

(1) The commission may call for competitive offers by prospective lessees as to the royalty rate to be included as a term of the lease. The commission may call for sealed bids as to the leases, but may temporarily reject all sealed bids and immediately offer the property for competitive bidding at public

auction. If none of the bids received at public auction exceed the highest sealed bid received by the commission, the lease shall immediately be granted to the responsible person making the highest sealed bid.

(2) The commission may, with regard to any lease the commission offers, set a minimum acceptable royalty rate, which may not be less than twelve and one-half percent (12 1/2%) and call for competitive offers by prospective lessees for cash bonuses in addition to the set royalty provision. This competition may be conducted in the alternative manners provided for in subdivision (1).

(3) A permittee who qualifies for a lease of one (1) section, or an equivalent area, of the land embraced by the permittee's prospecting permit has a preferential right to leases on the remainder of the land embraced by the permittee's prospecting permit upon meeting the highest bid for royalty or bonus that the commission receives. The commission may reject any bid if the rejection of the bid of a permittee, if the permittee would otherwise be the successful bidder, is accompanied by a statement to the permittee of the reasons for the rejection.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-15

Cancellation of permit or lease

Sec. 15. (a) The commission may cancel any permit or lease issued under this chapter for:

- (1) nonpayment of royalties; or
- (2) nonperformance by the permittee or lessee of any provision or requirement of the permit or lease;

if before the cancellation the commission mails to the permittee or lessee by registered mail, addressed to the post office address of the permittee or lessee shown by the records of the office of the commission, a notice of intention to cancel the permit or lease specifying the default for which the permit or lease is subject to cancellation.

(b) If not later than thirty (30) days after the mailing of the notice to the permittee or lessee the permittee or lessee remedies the default specified in the notice, the commission may not cancel the permit or lease.

(c) If a cancellation occurs, all rights of the permittee or lessee under the permit or lease automatically terminate.

(d) Failure to pay fees required under a permit within the time prescribed automatically and without notice works a forfeiture of the permit and of all rights under the permit.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-16

Issuance of new permit following expiration or forfeiture

Sec. 16. Upon the expiration or forfeiture of a permit, a new permit covering the banks or any of the banks embraced by the

expired or forfeited permit may not be issued for thirty (30) days following the date of expiration or forfeiture. If more than one (1) application for a permit covering any of the land is made during the thirty (30) day period, the commission shall issue a permit to the land to the person offering the greatest cash bonus for a permit at a public auction to be held at the time and place and in the manner that the commission prescribes by rule. The auction shall be held at any time after the expiration of the thirty (30) day period and the only notice is the entering in a book kept at the office of the commission for the purpose, date, place, and hour of the holding of the auction. The book is a public record.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-17

Agreement for production from same petroleum field

Sec. 17. (a) If the commission finds it is in the best interest of the state for the production of petroleum, the state, a permittee, a lessee, an operator, or any person owning or controlling royalty or other interest in separate properties of the same producing or prospective petroleum field may enter into agreement among each other, subject to the approval of the commission, for the following purposes:

- (1) Cooperative exploration, development, and operation of all or a part of the field or exploration, development, or operation of all or part of the field as a pool or unit.
- (2) Fixing the time, location, and manner of drilling.
- (3) Regulating the location, sequence, and number of exploratory wells required for permits under unit operations and leases.
- (4) Operating wells for the exploration of petroleum on state and private land.
- (5) The apportionment of the petroleum between the state and the owners of land embraced within the field placed in the pool, taking into consideration the following:
 - (A) The relative character and geological nature of the tracts of land as far as the character and nature is reasonably ascertainable.
 - (B) The apparent probability of producing petroleum from all or any part of the land.
- (6) All other apparent factors that tend to aid in arriving at a fair, just, and equitable participation by the state and the owners in the apportionment and distribution of the petroleum that is recovered and saved.

(b) The purpose of this section is to encourage the development and exploration of petroleum upon state land by and through the unit plan of development. If it is in the best interests of the state, the commission shall compel the adoption of unit plans of operation if state land is included in a productive pool. If the permittee or lessee of the land fails to agree upon a plan of unit operation acceptable to the commission, the commission may fix the terms of the unit plan. A permittee or lessee affected who fails to abide by the plan forfeits

the permit or lease upon notice as provided in this chapter.
As added by P.L.1-1995, SEC.31.

IC 14-38-1-18

Terms for protection of rights

Sec. 18. The commission may insert in a permit or lease issued under this chapter the terms that are customary and proper for the protection of the rights of:

- (1) the state;
- (2) the permittee or lessee; and
- (3) the owner of the surface of the leased land;

not in conflict with this chapter.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-19

Adoption of rules

Sec. 19. The commission may adopt rules under IC 4-22-2 to carry out this chapter.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-20

Well not to be drilled within 330 feet of property boundaries

Sec. 20. (a) This section does not apply to the following:

- (1) Shore lands.
- (2) River beds.
- (3) Lake beds.
- (4) Submerged land.

(b) A lease of land containing petroleum made or issued under this chapter must contain a condition that a well may not be drilled within three hundred thirty (330) feet of any of the outer boundaries of the land held under permit or lease unless the right to petroleum in adjoining land is vested in private ownership.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-21

Right-of-way grants

Sec. 21. A person granted a permit or lease under this chapter has a right-of-way over public land, as provided by law, when necessary for the drilling, recovering, saving, and marketing of petroleum. Before a right-of-way grant becomes effective, the following must occur:

- (1) A written application for and a plat showing the location of the right-of-way and the land necessary for the well site and drilling operations, with reference to adjoining land, must be filed with the commission.
- (2) The commission shall appraise the timber on the right-of-way and the land necessary for the drilling operation and the person to whom the permit or lease is granted must pay for the timber.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-22

Development considerations

Sec. 22. (a) After the issuance of a petroleum lease the lessee shall proceed to develop the petroleum in the land through the drilling of the wells that will efficiently extract the petroleum. The development must take into account the following:

- (1) The productiveness of the producing horizon.
- (2) The depth at which the producing horizon occurs.
- (3) The average cost of wells.
- (4) The market requirements obtaining at any given time.
- (5) The maintenance of proper oil and gas ratios.

(b) The commission shall determine, either by rule or by inclusion in the terms of a lease, the rapidity and extent of development of the oil, gas, or other petroleum field covered by the lease.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-23

Offset well

Sec. 23. (a) A lease must provide that the lessee shall drill an offset well to a well on adjoining land that:

- (1) is within three hundred thirty (330) feet of an outer boundary of the land covered by the lease; and
- (2) is producing petroleum in paying quantities and draining the land covered by the lease.

(b) The offset must be:

- (1) started within ninety (90) days from the completion of the adjoining well; and
- (2) drilled with due diligence to completion.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-24

Prospecting permits or leases

Sec. 24. (a) This section applies to an application for prospecting permits or leases for the following:

- (1) Shore lands.
- (2) River beds.
- (3) Lake beds.

(b) The owner of the right to prospect for and develop and produce petroleum from the abutting land has a preferential right for thirty (30) days after the owner has received notice from the commission of the application for:

- (1) a prospecting permit; or
- (2) if petroleum has been discovered in commercial quantities in a structure underlying the abutting land, a lease;

for the part of the shore land, river bed, and lake bed that adjoins the abutting land upon the terms and conditions provided in this chapter, notwithstanding any acreage limitations provided in this chapter for permits and leases.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-25**Withholding land for prospecting or lease**

Sec. 25. This chapter does not require the commission to offer a tract of land for prospecting or lease. The commission may withhold a tract from prospecting or leasing for petroleum purposes if in the commission's judgment the best interest of the state will be served by so doing.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-26**Royalties**

Sec. 26. (a) This section applies when a royalty is required to be paid under this chapter:

- (1) for oil, at the option of the commission:
 - (A) at the mouth of the wells into tanks provided by the commission; or
 - (B) into the pipeline with which the wells are connected, to the commission's credit; and
- (2) for gas, including casinghead gas or other gaseous substance.

(b) The lessee shall account to the commission for the market value of the oil or gas at the well for all that is sold by the lessee or used by the lessee in the manufacture of gasoline or other products. At the election of the commission, instead of delivering the royalty, when oil in kind, the lessee shall purchase the oil at the oil's market value at the well when produced.

As added by P.L.1-1995, SEC.31.

IC 14-38-1-27**Delegation of powers**

Sec. 27. The commission may delegate any powers granted in this chapter to any officers or employees of the commission.

As added by P.L.1-1995, SEC.31.