

IC 14-36

ARTICLE 36. RECLAMATION

IC 14-36-1

Chapter 1. Surface Mining Reclamation

IC 14-36-1-1

Purpose of reclamation

Sec. 1. This chapter provides for the proper reclamation of areas of land subjected to surface mining of minerals in accordance with modern standards to do the following:

- (1) Provide improved land use practice of these areas.
- (2) Prevent or minimize injurious effects to the people and the natural resources of Indiana, including the need to do the following:
 - (A) Protect lakes and streams from pollution.
 - (B) Decrease soil erosion.
 - (C) Decrease the hazards of fire.
 - (D) Improve the aesthetic value of the landscape.
 - (E) Enhance the development of wildlife resources.
 - (F) Increase the economic contributions of the affected areas to the welfare of the people of Indiana.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-2

Exemptions

Sec. 2. Notwithstanding any other provision of this chapter, except section 3 of this chapter, this chapter does not apply to coal mining operations if IC 14-34 is applicable to those operations under IC 14-34-1-4(a) or IC 14-34-1-4(b).

As added by P.L.1-1995, SEC.29.

IC 14-36-1-3

Operations subject to certain statutes

Sec. 3. All surface mining operations that operate or have operated under a permit issued under this chapter subject to:

- (1) Acts 1978, P.L.159;
- (2) Acts 1979, P.L.314;
- (3) Acts 1980, P.L.101, SECTION 5; or
- (4) Acts 1981, P.L.331;

are subject to IC 14-34-15, IC 14-34-16, IC 14-34-17, 30 U.S.C. 1252, 30 U.S.C. 1260(d), 30 U.S.C. 1272(e), and 30 CFR 710 through 716.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-4

"Affected area" defined

Sec. 4. As used in this chapter, "affected area" means the area of land:

- (1) from which overburden has been removed;

(2) upon which cast overburden, mining refuse, or a mineral has been deposited; and

(3) that is disturbed incidental to an operation.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-5

"Cast overburden" defined

Sec. 5. As used in this chapter, "cast overburden" means a bank or deposit of overburden after removal from the overburden's natural state.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-6

"Mineral" defined

Sec. 6. As used in this chapter, "mineral" means coal, clay, or shale, including oil shale.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-7

"Mining refuse" defined

Sec. 7. As used in this chapter, "mining refuse" means all waste material directly connected with the cleaning and preparation of substances mined by surface mining.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-8

"Operation" defined

Sec. 8. As used in this chapter, "operation" means the premises, facilities, nonpublic roads, and equipment used in the process of producing minerals from a surface mine.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-9

"Operator" defined

Sec. 9. As used in this chapter, "operator" means a person engaged in carrying on surface mining operations.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-10

"Overburden" defined

Sec. 10. As used in this chapter, "overburden" means the soil and other materials that lie above a mineral deposit.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-11

"Reclamation" defined

Sec. 11. As used in this chapter, "reclamation" means the rehabilitation of the area of land affected by surface mining under an approved reclamation plan.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-12

"Reclamation plan" defined

Sec. 12. As used in this chapter, "reclamation plan" means the operator's written proposal approved by the commission for reclamation of the affected area. The term includes the following:

- (1) Land use objectives.
- (2) Specifications for grading.
- (3) Manner and type of revegetation.
- (4) The maps and other supporting documents that are required by this chapter.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-13

Commission's powers regarding permits

Sec. 13. (a) The commission may:

- (1) grant;
- (2) suspend;
- (3) revoke;
- (4) modify; or
- (5) release;

permits for surface mining under this chapter.

(b) The commission shall do the following:

- (1) Approve or disapprove the applications for permits consistent with the purposes of this chapter.
- (2) Adopt rules under IC 4-22-2 to carry out this chapter.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-14

Duties of director

Sec. 14. (a) The director shall do the following:

- (1) Supervise the administration and enforcement of this chapter and the rules adopted under this chapter.
- (2) Conduct the necessary investigations and inspections for the proper administration of this chapter.
- (3) Order the ceasing of surface mining operations by a person who does not possess a valid permit as required by statute.
- (4) Order compliance with the terms of a permit issued under this chapter.
- (5) Have access to all parts of the areas under application or under permit for surface mining without liability to the operator.
- (6) Accept, release, or retain parts of cash or surety bonds required by this chapter.
- (7) Conduct research related to surface mining.
- (8) Collect and disseminate information relating to surface mining.
- (9) Accept and use money from any source to aid in carrying out the purposes of this chapter.

(b) The director may delegate any duty prescribed by subsection (a) to other employees of the department.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-15

Permit exemptions

Sec. 15. (a) As used in this section, "pit" means a tract of land:

- (1) from which the overburden has been removed or is being removed; and
- (2) where mine run mineral is being produced in the raw state.

(b) A person who engages in surface mining must have a permit from the commission designating the area of land affected by the operation unless at least one (1) of the following conditions exists:

- (1) Minerals regulated under this chapter constitute not more than twenty-five percent (25%) of the total tonnage of materials being extracted from the pit and the materials are extracted for purposes of bona fide sale or commercial use.
- (2) The overburden above the mineral seam is insufficient for reclamation under section 26 of this chapter.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-16

Permit powers; effective date

Sec. 16. A permit:

- (1) authorizes the operator to engage in surface mining upon the area of land described in the permit; and
- (2) is effective for one (1) year from the date of issuance unless revoked or suspended as provided in this chapter.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-17

Contents of application

Sec. 17. An application for a permit must include the following:

- (1) The description and acreage of affected area under the requested permit.
- (2) The name of each owner of the surface of the area of land to be affected by the permit.
- (3) The name of each owner of all surface area within five hundred (500) feet of any part of the affected area.
- (4) The name of the owner of the mineral to be mined.
- (5) The permanent and temporary post office addresses of the applicant.
- (6) The written consent of the applicant and other persons, if any, necessary to grant access to the director or the director's designee to the area under application from the date of application until the expiration of a permit granted under the application and thereafter for the time that is necessary to assure compliance with this chapter and the rules adopted under this chapter.
- (7) The proposed method of operation, grading work, and drainage control and a reclamation plan for the affected area, which must meet the requirements of this chapter and the rules adopted under this chapter.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-18**Maps accompanying application**

Sec. 18. An application for a permit must be accompanied by maps on which are indicated the following:

- (1) The location of the operation.
- (2) The name of the applicant and date.
- (3) The boundaries of the area of land affected.
- (4) The drainage plan on and away from the area of land affected.
- (5) All utility and other easements on the area of land affected and any other information appropriate to the administration of this chapter as required by the rules adopted under this chapter.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-19**Amendment of information or consent**

Sec. 19. The operator may amend any of the information or consent required by section 17 or 18 of this chapter with the approval of the commission at any time upon filing with the commission an amended application.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-20**Fees**

Sec. 20. Each operator shall pay the following fees, which shall be deposited in the division of reclamation fund:

- (1) One hundred dollars (\$100) for the first application filed each year.
- (2) One hundred dollars (\$100) for each additional application filed in the same year.
- (3) Fifty dollars (\$50) for each acre or fraction of an acre described in the application.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-21**Performance bond**

Sec. 21. Contemporaneously with and as a condition precedent to the issuance of a permit, each operator must file with the director a bond payable to the department, conditioned that the operator will faithfully perform all requirements of the commission in accordance with this chapter. A bond must be signed by the operator as principal and by a corporate or individual surety approved by the director.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-22**Penalty bond**

Sec. 22. The commission shall determine the amount of a penalty bond subject to the following:

- (1) A bond may not be less than:
 - (A) five thousand dollars (\$5,000); or

(B) one thousand dollars (\$1,000) per acre;
whichever is larger.

(2) The total bond may not be greater than five thousand dollars (\$5,000) per acre.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-23

Amount of bond

Sec. 23. The commission shall determine the bond amount after evaluation of the following:

- (1) Previous compliance.
- (2) Business structure.
- (3) Previous mining experience.
- (4) Mining method.
- (5) Size of operation.
- (6) Depth of overburden.
- (7) Geological formation.
- (8) Attachable real property or other assets within Indiana.
- (9) Other factors relative to the operator's ability to accomplish the intent of this chapter.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-24

Bond without surety

Sec. 24. An operator may execute a bond without surety if the operator deposits with the director cash or securities that meet the approval of the commission in an amount equal to the surety bond prescribed by section 22 of this chapter.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-25

Increasing acres for permit

Sec. 25. The commission may increase the number of acres for which a permit is issued after the permit is issued on receipt of the prescribed fee and additional bond for the additional number of acres.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-26

Reclamation procedures

Sec. 26. Reclamation of an area for which a permit is granted under this chapter shall be conducted as follows:

- (1) The operator shall grade the affected area to a topography consistent with the land use objectives stated in the plan of reclamation submitted by the operator and approved by the commission. The grading shall be done in a manner that does the following:
 - (A) Minimizes erosion.
 - (B) Breaks up long, uninterrupted slopes.
 - (C) Leaves the surface free from large rocks and other obstructions, wherever practicable, so as to permit the

operation of suitable machinery over the surface.

(2) The operator shall construct earth dams in final cuts of all operations to create lakes for water impoundment if the lakes will not interfere with other mining operations or damage adjoining property. The dams shall be constructed in a manner satisfactory to the director and must receive department approval before bond release. Where acid forming materials are present and are not covered by impounded water, the operator shall cover the materials to a depth of not less than two (2) feet with earth or nontoxic overburden.

(3) Access roads shall be located and constructed to the width, base, and grade specifications that will minimize erosion and deterioration and permit use for the purposes set forth in the reclamation plan. Mining refuse may not be used in the construction or maintenance of access roads.

(4) The operator shall remove or bury all metal, lumber, or other debris or refuse resulting from the mining operation. All materials used in the mining operation shall be disposed of as required before the termination of the operation in the affected area.

(5) The operator shall revegetate the affected area described in the application with seed, plants, or cuttings of trees, shrubs, or grasses as recommended or approved in writing by the director. The revegetation must conform to the approved land use objectives stated in the approved plan of reclamation. The seeding or planting required by this section shall be carried out in accordance with a revegetation plan filed with the director before November 30 of the year preceding planting. The revegetation plan must include information on the approximate numbers and kinds of plants or seed to be used together with the seed or plant specifications set forth in rules adopted by the commission.

(6) The operator shall begin the reclamation of the affected area as soon as practicable after initiation of mining operations and consistent with the approved plan of reclamation. The operator shall carry out the grading requirements set forth in the reclamation plan and described in subdivision (1) as soon as practicable after deposit of the overburden and before removal of reclamation equipment from the mining operation. The operator shall begin the revegetation set forth in the revegetation plan as soon as practicable following the mining operation. Approval of the revegetation plan by the director is contingent upon the physical and chemical condition of the cast overburden.

(7) The operator shall treat effluent from the permit area using the best technology available to prevent additional contributions not in excess of requirements set by applicable state or federal law of suspended solids or acid or toxic mine drainage to stream flow outside the permit area.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-27

Report of operation

Sec. 27. (a) Within sixty (60) days after the earlier of:

- (1) the expiration of a permit; or
- (2) the completion or abandonment of the operation for which a permit was issued;

the operator shall file with the director a report of the operation licensed on a form prescribed by the director.

(b) The report must do the following:

- (1) Identify the operator and the permit under which operations were conducted.
- (2) State the county and township in which the area affected by the operations is located.
- (3) Describe the area of land affected by the operation within the time covered by the report with sufficient certainty so that the land may be located and distinguished from other land. A map shall be attached to the report certified by a professional surveyor registered under Indiana law showing the boundary lines of the area of land affected by the operation within the time covered by the report.

As added by P.L.1-1995, SEC.29. Amended by P.L.57-2013, SEC.19.

IC 14-36-1-28

Charge against bond; release of bond; refund of fees

Sec. 28. (a) Upon receipt of the operator's affected area report the director shall charge against the surety bonds or other securities on deposit in connection with the operation covered by the report the amount required by section 22 of this chapter for each acre of land in the area of land affected by the operation within the time covered by the report. The director shall issue to the operator and the director's surety a release of any parts of the surety bonds or other security on deposit in connection with the operation against which a charge has not been made.

(b) If the report shows that the number of acres of land comprising the area of land affected is smaller than the number of acres of land for which the operator has paid to the director a permit fee in connection with the permit authorizing the operation covered by the report, the operator is entitled to a refund in the amount of the fees paid for acres not affected.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-29

Retention of bond for revegetation

Sec. 29. (a) Upon the completion of the grading requirements, the commission shall grant a partial release of the bond. The amount of bond retained for revegetation must be adequate to cover the satisfactory reclamation of the area. The remainder of the bond shall continue to be posted until satisfactory vegetative cover has been established but not for more than fifteen (15) years.

(b) If the bond is forfeited, the director shall expend the bond in

a reclamation program for the area of land for which the bond was posted.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-30

Noncompliance

Sec. 30. (a) If the director finds that any of the requirements of:

- (1) this chapter;
- (2) the rules adopted under this chapter; or
- (3) an order of the director or the commission;

have not been complied with within the time limits set by the director, the commission, or this chapter, the director shall cause a notice of noncompliance to be served upon the operator.

(b) A notice of noncompliance:

- (1) shall be served by registered or certified mail addressed to the permanent address shown on the application for a permit; and

(2) must specify in what respects the operator has failed to comply with:

- (A) this chapter; or
- (B) the rules or orders of the director or the commission.

(c) If the operator has not reached an agreement with the director or otherwise complied with the requirements set forth in the notice of noncompliance within time limits set in the notice:

- (1) the director shall advise the commission; and
- (2) a hearing shall be held to determine whether the permit of the operator should be modified, suspended, or revoked.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-31

Modification, suspension, or revocation of permit

Sec. 31. (a) The commission may modify, suspend, or revoke a permit under IC 4-21.5 if the commission finds that the operator holding the permit has failed to comply with any of the following:

- (1) The terms of this chapter.
- (2) A rule of the commission.
- (3) An order of the director.

(b) Upon revocation, the bond insuring compliance with the revoked permit is forfeited.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-32

Applicability of IC 4-21.5

Sec. 32. IC 4-21.5 applies to this chapter.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-33

Operator with revoked permit

Sec. 33. An operator whose permit has been revoked under this chapter is not eligible to:

(1) receive another permit; or
(2) have a suspended permit reinstated;
until the operator has complied with all the requirements of this chapter with respect to all revoked permits issued to the operator.
As added by P.L.1-1995, SEC.29.

IC 14-36-1-34

Operator with forfeited bond

Sec. 34. An operator who has forfeited a bond may not receive a permit unless:

- (1) the land for which the bond was forfeited has been reclaimed without cost to the state; or
- (2) the operator has paid to the department the amount that the commission finds is adequate to reclaim the land.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-35

Commission refusing to issue permit

Sec. 35. The commission:

- (1) may refuse to issue a permit to an operator whose permit the commission has repeatedly suspended for noncompliance or violation of:
 - (A) this chapter; or
 - (B) IC 13-4-6 (before its repeal); and
- (2) shall refuse to issue a permit to an operator whose permit has been revoked more than three (3) times.

As added by P.L.1-1995, SEC.29.

IC 14-36-1-36

Repealed

(Repealed by P.L.66-2006, SEC.30.)

IC 14-36-1-37

Violations

Sec. 37. (a) A person who violates or fails to comply with section 14, 15, 26, or 27 of this chapter (including a person who fails to comply with a rule of the commission or order of the director adopted or issued in connection with these sections) commits a Class A infraction.

(b) Each day that a violation continues constitutes a separate violation.

(c) Notwithstanding IC 34-28-5-4, a judgment for a Class A infraction imposed under this section may not exceed five thousand dollars (\$5,000).

As added by P.L.1-1995, SEC.29. Amended by P.L.195-2014, SEC.37.