

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #04-23(F)

DIGEST

Amends 312 IAC 16-5-14 to clarify that an owner or operator must obtain written authorization from the division of oil and gas, department of natural resources, before acting upon a permit change. Amends 312 IAC 17-3, governing geophysical survey operations, to provide that a geophysical survey operation is considered a well for oil and gas purposes for purposes of issuing an emergency permit, to exclude open or cased hole geophysical logs from regulation as a geophysical survey operation, to eliminate the requirement that an operator notify each owner of an occupied dwelling that is located within one mile of a geophysical survey operation, to establish minimum distances from structures for the conduct of a geophysical survey operation with separate standards for those activities that do or do not use an explosive energy source, to clarify that the department of natural resources, division of oil and gas, performs a permit revocation or transfer, and to modify bonding and shothole plugging requirements. Makes other clerical and technical changes. Effective 30 days after filing with the secretary of state.

312 IAC 16-5-14	312 IAC 17-3-4
312 IAC 17-3-1	312 IAC 17-3-6
312 IAC 17-3-2	312 IAC 17-3-8
312 IAC 17-3-3	312 IAC 17-3-9

SECTION 1. 312 IAC 16-5-14 IS AMENDED TO READ AS FOLLOWS:

312 IAC 16-5-14 Operating requirements for a Class II well

Authority: IC 14-37-3

Affected: IC 14-37

Sec. 14. Operating requirements for a Class II well are as follows:

(1) A Class II well must be completed, equipped, operated, and maintained so the Class II well will do the following:

- (A) Not cause the pollution of, endanger, or threaten any underground source of drinking water.
- (B) Not damage a source of oil or gas.
- (C) Confine injected fluids to the approved interval or intervals.

(2) The injection of a permitted fluid must be through tubing separated from the innermost casing with a corrosion inhibiting annular fluid. The tubing shall be installed with a packer. The packer ~~shall~~ **must** be set inside cemented casing within two hundred (200) feet above the permitted injection zone.

(3) Before operating an injection well, mechanical integrity must be demonstrated for the well under section 15 of this rule, **and the owner or operator must obtain a written authorization to inject from the division.**

(4) The division must be notified in advance of a permit change that may require the alteration of an approved condition. ~~A permit change cannot be effected by~~ The owner or operator **must not implement a permit change** until the change is approved by the division.

(5) Injection piping, valves, and facilities must be used that meet or exceed design standards for the maximum allowable injection pressure and that safely maintain equipment without leakage.

(6) The division director may require additional testing or special equipment if appropriate to the protection of an underground source of drinking water.

(Natural Resources Commission; 312 IAC 16-5-14; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2342; filed Oct 1, 1999, 1:12 p.m.: 23 IR 294; filed Sep 16, 2004, 9:15 a.m.: 28 IR 556)

SECTION 2. 312 IAC 17-3-1 IS AMENDED TO READ AS FOLLOWS:

312 IAC 17-3-1 General provisions and application of definitions

Authority: IC 14-37-3
Affected: IC 14-37-4-13

Sec. 1. (a) This rule governs the conduct of geophysical survey operations.

(b) **Except as provided in IC 14-37-4-13(a) for issuance by the department of an emergency permit to address an imminent and substantial danger to the health of persons**, a hole drilled during a geophysical survey is not a well for oil and gas purposes.

(c) In addition to the definitions included in section 2 of this rule, and the exception in subsection (b), the definitions included in 312 IAC 17-1 apply throughout this rule. *(Natural Resources Commission; 312 IAC 17-3-1; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2352; filed Sep 16, 2004, 9:15 a.m.: 28 IR 557)*

SECTION 3. 312 IAC 17-3-2 IS AMENDED TO READ AS FOLLOWS:

312 IAC 17-3-2 Definitions

Authority: IC 14-37-3
Affected: IC 14-37

Sec. 2. The following definitions apply throughout this rule:

(1) "Geophysical survey" means the **surface-based** use of:

- (A) electric;
- (B) gravity;
- (C) magnetic;
- (D) seismic; or
- (E) thermal;

techniques in the exploration for oil and gas. **The term does not apply to open or cased hole geophysical logs.**

(2) "Seismic ~~shooting~~²² **surveying**" means a geophysical survey method that involves the **firing use** of explosives or other means to produce seismic waves.

(3) "Shothole" means a borehole into which an explosive charge or other energy source is placed for generating seismic waves.

(4) "Shotpoint" means the location of a shothole.

(Natural Resources Commission; 312 IAC 17-3-2; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2352; filed Sep 16, 2004, 9:15 a.m.: 28 IR 557)

SECTION 4. 312 IAC 17-3-3 IS AMENDED TO READ AS FOLLOWS:

312 IAC 17-3-3 Applications

Authority: IC 14-37-3
Affected: IC 14-37

Sec. 3. (a) This section establishes the general application requirements for geophysical survey operations.

(b) An application to conduct a geophysical survey shall be made on a departmental form.

(c) A bond as set forth in section 6 of this rule must accompany the permit application.

(d) ~~A person who wishes to conduct seismic shooting must provide proof of service of the notification required in subsection (e) and must deliver the proof to the division before a permit can be issued.~~

(e) ~~An applicant must serve written notification, describing the nature and approximate time period of the seismic shooting activity, personally or by certified mail, to an occupant of each inhabited dwelling located within one (1) mile of each shotpoint.~~

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

(d) A seismic surveying operation must not generate a peak particle velocity of more than one (1) inch per second at the point of contact with a pipeline, telephone line, railroad track, main paved road, electric power line, domestic water well, underground cistern, building, or oil or gas related well. The applicant must obtain written permission from the owners of private property and the units of government that own or have jurisdiction over public property on which seismic geophysical surveying operations are conducted and must provide a copy of the written permission to the division upon request. *(Natural Resources Commission; 312 IAC 17-3-3; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2352; filed Sep 16, 2004, 9:15 a.m.: 28 IR 557)*

SECTION 5. 312 IAC 17-3-4 IS AMENDED TO READ AS FOLLOWS:

312 IAC 17-3-4 Permit issuance, expiration, revocation, denial, and review

Authority: IC 14-37-3

Affected: IC 4-21.5; IC 14-37

Sec. 4. (a) A person must not conduct a geophysical survey without a permit issued by the department.

~~(b) No permit shall be issued for a geophysical survey until eighteen (18) days after the service of the notification required under section 3 of this rule. Upon issuance of the permit, IC 4-21.5 and 312 IAC 3 apply.~~

~~(c) (b) The original or a copy of the permit must be available for inspection by a commission representative at each location where geophysical survey activities are conducted.~~

~~(d) (c) A permit for a geophysical survey expires one (1) year from the date of issuance.~~

(d) The division shall condition or deny a permit application as needed to conform a geophysical survey operation to IC 14-37 and this rule.

~~(e) The **commission division** may revoke ~~deny~~, or ~~transfer~~ a geophysical survey permit under 312 IAC 16-3-9.~~

(f) An affected person may, under IC 4-21.5 and 312 IAC 3-1, seek administrative review of an order issued under IC 14-37 or this rule. *(Natural Resources Commission; 312 IAC 17-3-4; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2353; filed Sep 16, 2004, 9:15 a.m.: 28 IR 558)*

SECTION 6. 312 IAC 17-3-6 IS AMENDED TO READ AS FOLLOWS:

312 IAC 17-3-6 Bond type

Authority: IC 14-37-3

Affected: IC 14-37

Sec. 6. (a) A person who applies for a geophysical survey permit must execute and file with the department

~~(1) a surety bond, a certified or cashier's check, or a certificate of deposit in the principal amount of: five thousand dollars (\$5,000);~~

~~(2) a certified or cashier's check in the amount of five thousand dollars (\$5,000); or~~

~~(3) a certificate of deposit in the principal amount of~~

(1) Five thousand dollars (\$5,000) for a permit using a seismic surveying method.

(2) One hundred dollars (\$100) for a permit not described in subdivision (1).

~~(b) **No To qualify under subsection (a),** a surety bond shall **must** 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 operator as principal and by the surety (or for either of them by an attorney-in-fact with certified power of attorney attached).~~

~~(c) 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 17-3-6; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2353; filed Sep 16, 2004, 9:15 a.m.: 28 IR 558)*

SECTION 7. 312 IAC 17-3-8 IS AMENDED TO READ AS FOLLOWS:

312 IAC 17-3-8 Shothole plugging; surface reclamation

Authority: IC 14-37-3

Affected: IC 14-37

Sec. 8. (a) An **owner or** operator must plug any hole drilled during a geophysical survey in a manner that prevents the pollution of any underground source of drinking water.

~~(b) The method and materials used to plug a shothole must be approved in advance by the division.~~

~~(c)~~ (b) Within thirty (30) days after a ~~seismic shooting operation~~, **completion of operations**, an **owner or** operator must satisfy each of the following:

(1) Plug any shothole as required by subsection ~~(b)~~: (a).

(2) Clear the vicinity ~~of the shooting operation~~ of any refuse **and equipment related to the operation.**

(3) Restore the surface as nearly as practicable to its conditions before the operation.

(Natural Resources Commission; 312 IAC 17-3-8; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2353; filed Sep 16, 2004, 9:15 a.m.: 28 IR 558)

SECTION 8. 312 IAC 17-3-9 IS AMENDED TO READ AS FOLLOWS:

312 IAC 17-3-9 Reports

Authority: IC 14-37-3

Affected: IC 4-21.5; IC 5-14-3; IC 14-37-7-1

Sec. 9. (a) Immediately upon the completion of a geophysical survey, an **owner or** operator must file with the division

~~(1) a geophysical survey surveying completion final report or on a form approved by the division.~~

~~(2) a geophysical operations progress report.~~

(b) A report filed under subsection (a) is provided ~~pursuant to~~ **under** IC 14-37-7-1(a)(4). The report is confidential for one (1) year from the date of filing.

(c) An **owner or** operator may request that, beyond the period described in subsection (b), any portion of the report be maintained by the division as a trade secret. A request under this subsection applies for a period of five (5) years from filing and may be extended by the operator for the same period upon a written request filed within sixty (60) days of the expiration of the original five (5) year period.

(d) If a person files a request under IC 5-14-3 for information claimed as a trade secret under subsection (c), the division shall make a reasonable attempt to contact the **owner or** operator to determine if consent to disclosure can be obtained.

(e) If consent to disclose cannot be obtained under subsection (d), the division shall inform the person making the request. That person may obtain administrative review under IC 4-21.5 and 312 IAC 3 of the claimed status of the document as a trade secret. The **owner or** operator shall be named as a respondent in a request for administrative review. *(Natural Resources Commission; 312 IAC 17-3-9; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2354; filed Sep 16, 2004, 9:15 a.m.: 28 IR 558)*

LSA Document #04-23(F)

Notice of Intent Published: March 1, 2004; 27 IR 1938

Proposed Rule Published: May 1, 2004; 27 IR 2531

Hearing Held: May 24, 2004

Approved by Attorney General: August 30, 2004

Approved by Governor: September 14, 2004

Filed with Secretary of State: September 16, 2004, 9:15 a.m.

IC 4-22-7-5(c) notice from Secretary of State regarding documents incorporated by reference: None received by Publisher