

HOUSE BILL No. 1045

DIGEST OF INTRODUCED BILL

Citations Affected: IC 14-34.

Synopsis: Regulation of mining. Provides that rules adopted by the natural resources commission shall require that all blasting operations involving surface coal mining operations must be monitored with the use of at least three seismic monitors. Provides that a surface coal mining operation may not be located within 1,000 feet of any of the following: (1) An occupied dwelling, unless waived by the owner. (2) A public building. (3) A school. (4) A church. (5) A community or an institutional building. (6) A public park. Specifies that the 1,000 foot requirement shall be measured as follows: (1) From the nearest exterior wall of an occupied dwelling to the surface coal mining operation. (2) From the nearest property boundary to the surface coal mining operation for a public building, school, church, community or institutional building, or public park. Makes a conforming change.

Effective: July 1, 2019.

Bacon

January 3, 2019, read first time and referred to Committee on Natural Resources.



First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1045

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 14-34-1-4 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) **Except as**
3 **provided in IC 14-34-12-2 and IC 14-34-18-3**, it is the purpose of this
4 article to establish requirements that are not more stringent than the
5 requirements required to meet the Federal Surface Mining Control and
6 Reclamation Act of 1977 (30 U.S.C. 1201 through 1328).

7 (b) **Except as provided in IC 14-34-12-2 and IC 14-34-18-3**, the
8 director and the commission may not adopt a rule under this article that
9 is more stringent than corresponding provisions under the Federal
10 Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201
11 through 1328).

12 SECTION 2. IC 14-34-12-2 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. The commission
14 shall adopt rules to do the following:

15 (1) Require the permittee to provide reasonable advance written
16 notice to local governments and residents who might be affected
17 by the use of the explosives by:



- 1 (A) publication of the planned blasting schedule in a
2 newspaper of general circulation in the county in which the
3 blasting will occur;
- 4 (B) mailing a copy of the proposed blasting schedule to every
5 resident living within one-half (1/2) mile of the proposed
6 blasting site; and
- 7 (C) providing daily notice to persons living in the areas before
8 any blasting.
- 9 (2) Require the permittee to maintain for at least three (3) years
10 and make available for public inspection upon request a log
11 detailing the following:
- 12 (A) The location of the blasts.
- 13 (B) The pattern and depth of the drill holes.
- 14 (C) The amount of explosives used per hole.
- 15 (D) The order of and length of delay in the blasts.
- 16 (3) Limit the type of explosives and detonating equipment and the
17 size, timing, and frequency of the blasts based upon the physical
18 conditions of the site to prevent the following:
- 19 (A) Injury to persons.
- 20 (B) Damage to public and private property outside the permit
21 area.
- 22 (C) Adverse impacts on an underground mine.
- 23 (D) Change in the course, channel, or availability of ground or
24 surface water outside the permit area.
- 25 (4) Require that all blasting operations, **including seismic**
26 **monitoring**, are conducted by trained and competent persons
27 certified by the director. **All blasting operations must be**
28 **monitored with the use of at least three (3) seismic monitors.**
- 29 (5) Provide that upon the request of a resident or an owner of a
30 manmade dwelling or structure within one (1) mile of any part of
31 the permitted area, the applicant for the surface coal mining and
32 reclamation permit or the permittee shall conduct a preblasting
33 survey of those structures and submit the survey to the director
34 and a copy to the resident or owner making the request. The
35 director shall determine the area of the survey. The applicant or
36 the permittee shall do the following:
- 37 (A) Notify the public, by publication at least one (1) time a
38 week for four (4) consecutive weeks in a local newspaper of
39 general circulation in the county in which the blasting will
40 occur, that the applicant or permittee will conduct a
41 preblasting survey upon request by a resident or an owner of
42 a manmade dwelling or structure within one (1) mile of any



1 part of the permitted area.

2 (B) Send written notice to each resident or owner of a
3 manmade dwelling or structure within one-half (1/2) mile of
4 any part of the permitted area that the resident or owner is
5 entitled to a preblasting survey upon request.

6 SECTION 3. IC 14-34-18-3 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) Subject to valid
8 existing rights that existed before August 3, 1977, and except for those
9 operations that existed on August 3, 1977, and as provided in
10 subsection (c), a surface coal mining operation may not exist under any
11 of the following conditions:

12 (1) On land within the boundaries of units of the following:

13 (A) The National Park System.

14 (B) The National Wildlife Refuge Systems.

15 (C) The National System of Trails.

16 (D) The National Wilderness Preservation System.

17 (E) The Wild and Scenic Rivers System, including study rivers
18 designated under the federal Wild and Scenic Rivers Act, as
19 amended (16 U.S.C. 1271 et seq.).

20 (F) National Recreation Areas designated by an act of the
21 United States Congress.

22 (2) On federal land within the boundaries of a national forest.
23 However, surface coal mining operations are allowed on the
24 national forest land if the United States Secretary of the Interior
25 finds that:

26 (A) there are no significant recreational, timber, economic, or
27 other values that are incompatible with surface mining
28 operations; and

29 (B) surface operations and effects are incident to an
30 underground coal mine.

31 (3) That will adversely affect:

32 (A) a publicly owned park or a place included in:

33 (i) the National Register of Historic Places; or

34 (ii) the Indiana state register of historic sites and structures;

35 or

36 (B) a natural landmark included in the National Register of
37 Historic Places;

38 unless approved jointly by the director and the federal, state, or
39 local agency with jurisdiction over the park or the historic site.

40 (4) Within one hundred (100) feet of the outside right-of-way line
41 of a public road, except where mine access roads or haulage roads
42 join the right-of-way line. However, the director may permit:



- 1 (A) a road to be relocated; or
 2 (B) the area affected to lie within one hundred (100) feet of the
 3 road if, after public notice and an opportunity for a public
 4 hearing in the locality, a written finding is made that the
 5 interests of the public and the landowners affected will be
 6 protected.
- 7 (5) Within ~~three hundred (300)~~ **one thousand (1,000)** feet
 8 **measured from the nearest property boundary** from any of the
 9 following:
- 10 ~~(A) An occupied dwelling, unless waived by the owner.~~
 11 ~~(B)~~ (A) A public building.
 12 ~~(C)~~ (B) A school.
 13 ~~(D)~~ (C) A church.
 14 ~~(E)~~ (D) A community or an institutional building.
 15 ~~(F)~~ (E) A public park.
- 16 **(6) Within one thousand (1,000) feet of an occupied dwelling,**
 17 **unless waived by the owner. The measurement required under**
 18 **this subdivision shall be measured from the nearest exterior**
 19 **wall of the dwelling to the surface coal mining operation.**
- 20 ~~(7)~~ (7) Within one hundred (100) feet of a cemetery.
 21 ~~(8)~~ (8) That will violate a local zoning ordinance.
- 22 (b) If:
- 23 (1) valid rights exist; or
 24 (2) joint agency approval is to be obtained under subsection
 25 (a)(3);
 26 adverse effects of mining shall be minimized.
- 27 (c) If the director determines that the public health or safety will be
 28 endangered, the extraction of coal by strip mining methods within the
 29 distances for:
- 30 (1) occupied dwellings set forth in subsection ~~(a)(5)~~; **(a)(6)**; and
 31 (2) public roads set forth in subsection (a)(4), except where a
 32 public road is vacated or closed in accordance with law;
 33 is not subject to valid existing rights.
- 34 (d) The commission shall adopt rules to establish a planning process
 35 enabling objective decisions based upon competent and scientifically
 36 sound data and information to determine the land areas of Indiana, if
 37 any, that are unsuitable for all or certain types of surface coal mining
 38 operations under the standards set forth in this section. However, the
 39 designation does not prevent the mineral exploration under this article
 40 of an area so designated.

