

# WEST VIRGINIA CODE: §22-10-8

## **§22-10-8. Arbitration; fees and costs.**

(a) If the interested person who plugs a well and the surface owner are unable to agree as to the adequacy of the repairs performed or the amount of compensation to which the surface owner may be entitled, either party upon written notice to the other may elect to have such issue finally determined by binding arbitration pursuant to article ten, chapter fifty-five of this code.

(b) The adequacy of the repairs or compensation to which the surface owner may be entitled shall, if such election is made, be determined by a panel of three disinterested arbitrators. The first arbitrator shall be chosen by the party electing to arbitrate in such person's notice of election; the second arbitrator shall be chosen by the other party within ten days after receipt of the notice of election; and the third arbitrator shall be chosen jointly by the first two arbitrators within twenty days thereafter. If they are unable to agree upon the third arbitrator within twenty days, then the two arbitrators are hereby empowered to and shall forthwith submit the matter to the court under the provisions of section one, article ten, chapter fifty-five of this code, so that, among other things, the third arbitrator can be chosen by the judge of the circuit court of the county wherein the surface estate lies.

(c) The following persons shall be deemed interested and not be appointed as arbitrators: Any person who is personally interested in the land on which the plugging is being performed or has been performed, or in any interest or right therein, or in the compensation and any damages to be awarded therefor, or who is related by blood or marriage to any person having such personal interest, or who stands in the relation of guardian and ward, master and servant, principal and agent, or partner, real estate broker, or surety to any person having such personal interest, or who has enmity against or bias in favor of any person who has such personal interest or who is the owner of, or interested in, such land or the oil and gas development thereof. No person shall be deemed interested or incompetent to act as arbitrator by reason of being an inhabitant of the county, district or municipal corporation wherein the land is located, or holding an interest in any other land therein.

(d) The panel of arbitrators shall hold hearings and take such testimony and receive such exhibits as shall be necessary to determine the required repairs or the amount of compensation to be paid to the surface owner. However, no award requiring repairs or compensation shall be made to the surface owner unless the panel of arbitrators has first viewed the surface estate in question. A transcript of the evidence may be made but shall not be required.

(e) Each party shall pay the compensation of such party's own arbitrator and one half of the compensation of the third arbitrator, and such party's own costs.