

WEST VIRGINIA CODE: §22-21-7

§22-21-7. Consent and agreement of coal owner or operator.

(a) No permit shall be issued for a coalbed methane well unless and until the applicant has obtained and filed with the chief a consent and agreement from each owner and each operator of any workable coal seam in West Virginia twenty-eight inches or more in thickness which is within seven hundred fifty horizontal feet of the proposed well bore and: (i) Which coal seam the applicant proposes to stimulate; or (ii) which coal seam is within one hundred vertical feet above or below a coal seam which the applicant proposes to stimulate. The requirement for consent and agreement contained in this section shall not be considered to impair, abridge or affect any contractual rights or objections arising out of a contract or lease which provides for the development of coalbed methane and stimulation of wells between the applicant and any coal owner or operator and the existence of any such contract or lease shall constitute a waiver of the requirement to file an additional signed consent and agreement. Such consent and agreement must provide: (i) That such coal owner or operator has been provided with a copy of the application for permit as required by section six of this article and with a copy of all plats and documents which must accompany the application; and (ii) that such coal owner or operator consents and agrees to the stimulation of the coal seam as described in such application.

(b) In the absence of the applicant submitting the consent described in subsection (a) above, the applicant may submit a request for hearing before the board accompanied by an affidavit which shall include the following:

- (1) A statement that a coal owner or operator as described in subsection (a) of this section has refused to provide written authorization to stimulate the well;
- (2) A statement detailing the efforts undertaken to obtain such authorization;
- (3) A statement setting out any known reasons for the authorization not being provided; and
- (4) A statement or other information in addition to that provided pursuant to subdivision (5), subsection (b), section six of this article necessary to provide prima facie evidence that the proposed method of stimulation will not render the coal seam unworkable, or considering all factors, impair mine safety.

(c) Upon receipt of a request and affidavit as set forth in subsection (b) of this section, the chief shall forward the application to the board to consider the proposed stimulation, or if other objections or notices are filed requiring a hearing before the board, the request hereunder may be included for consideration by the board along with other matters related to the application.

(d) If the authorization of a coal owner or operator has been withheld based upon reasons

related to safety, the chief shall, concurrent with submission of the request and affidavit to the board, submit a copy of the application to the director of the office of miners' health, safety and training who shall review the application as to issues of mine safety and within thirty days submit recommendations to the board.