

WEST VIRGINIA CODE: §22-6-16

§22-6-16. Objections to proposed drilling or converting for introducing liquids or waste into wells; notices and hearings; agreed location or conditions; indication of changes on plats, etc.; issuance of permits; docket of proceeding.

(a) When a well is proposed to be drilled or converted for the purposes provided for in section fourteen of this article, and is above a seam or seams of coal, then the coal operator operating said coal seams beneath the tract of land, or the coal seam owner or lessee, if any, if said owner or lessee is not yet operating said coal seams, may within fifteen days from the receipt by the director of the plat and notice required by section fourteen of this article, file objections in writing (forms for which will be furnished by the director on request) to such proposed drilling or conversion.

(b) In any case wherein a well proposed to be drilled or converted for the purposes provided for in section fourteen of this article shall, in the opinion of the chief of the office of water resources, affect detrimentally the reasonable standards of purity and quality of the waters of the state, such chief shall, within the time period established by the director for the receipt of public comment on such proposed drilling conversion, file with the director such objections in writing to such proposed drilling or conversion, setting out therein as definitely as is reasonably possible the ground or grounds upon which such objections are based and indicating the conditions, consistent with the provisions of this article and the rules promulgated thereunder, as may be necessary for the protection of the reasonable standards of the purity and quality of such waters under which such proposed drilling or conversion may be completed to overcome such objections, if any.

(c) If any objection or objections are so filed, or are made by the director, the director shall notify the well operator of the character of the objections and by whom made and fix a time and place, not less than thirty days from the end of said thirty-day period, at which such objections will be considered, of which time and place the well operator and all objecting coal operators, the owners or lessees, if any, or such chief, shall be given at least ten days' written notice by the director by registered or certified mail, and summoned to appear. At the time and place so fixed the well operator and the objecting coal operators, owners or lessees, if any, or such of them as are present or represented, or such chief, shall proceed to consider the objections. In the case of proposed drilling or converting of a well for the purposes provided for in section fourteen of this article, such parties present or represented may agree upon either the location as made or so moved as to satisfy all objections and meet the approval of the director, and any change in the original location so agreed upon and approved by the director shall be indicated on said plat on file with the director, and the distance and direction of the new location from the original location shall be shown, and, as so altered, the plat shall be filed and become a permanent record. In the case of proposed conversion, such parties present or represented may agree upon conditions under which the conversion is to take place for the protection of life and property or for protection of

reasonable standards of purity and quality of the waters of the state. At which time the plat and notice required by section fourteen shall be filed and become a permanent record. Whereupon the director may issue to the well operator a permit to drill or convert, as the case may be, reciting the filing of the plat and notice required by said section fourteen that at a hearing duly held a location as shown on the plat or the conditions under which the conversion is to take place for the protection of life and property and reasonable standards of purity and quality of the waters of the state where agreed upon and approved, and that the well operator is authorized to drill at such location or to convert at the site shown on such plat, as the case may be.

(d)(1) In the case the well operator and the objecting coal operators, owners or lessees, if any, and such chief, or such as are present or represented at such hearing are unable to agree upon a drilling location, or upon a drilling location that meets the approval of the director, then the director shall proceed to hear the evidence and testimony in accordance with sections one and two, article five, chapter twenty-nine-a of this code, except where such provisions are inconsistent with this article. The director shall take into consideration upon decision:

(A) Whether the drilling location is above or in close proximity to any mine opening or shaft, entry, traveling, air haulage, drainage or passageway, or to any proposed extension thereof, in any operated or abandoned or operating coal mine, or coal mine already surveyed and platted, but not yet being operated;

(B) Whether the proposed drilling can reasonably be done through an existing or planned pillar of coal, or in close proximity to an existing well or such pillar of coal, taking into consideration the surface topography;

(C) Whether a well can be drilled safely, taking into consideration the dangers from creeps, squeezes or other disturbances, due to the extraction of coal; and

(D) The extent to which the proposed drilling location unreasonably interferes with the safe recovery of coal, oil and gas.

(2) At the close of the hearing or within ten days thereafter the director shall issue an order:

(A) Refusing to issue a permit;

(B) Issuing a permit for the proposed drilling location; or

(C) Issuing a permit for a drilling location different than that requested by the well operator.

The order shall state with particularity the reasons for the director's order and shall be mailed by registered or certified mail to the parties present or represented at such hearing. If the director has ruled that a permit will be issued, the director shall issue a permit effective ten days after such order is mailed: Except that for good cause shown, the director may stay the issuance of a permit for a period not to exceed thirty days.

(3) If a permit is issued, the director shall indicate the new drilling location on the plat on file with the director and shall number and keep an index of and docket each plat and notice mailed to the director as provided in section twelve of this article, and each notice mailed to the director as provided in section thirteen of this article, entering in such docket the name of the well operator, and the names and addresses of all persons notified, the dates of hearings and all actions taken by the director, permits issued or refused, the papers filed and a transcript of the hearing. This shall constitute a record of the proceedings before the director and shall be open to inspection by the public.

(e)(1) In the case, the well operator and the objecting coal operators, owners or lessees, if any, and such chief, or such as are present or represented at such hearing, are unable to agree upon the conditions under which the well is to be converted as to protect life and property, and the reasonable standards of purity and quality of the waters of the state, or upon conditions of converting that meet with the approval of the director, then the director shall proceed to hear the evidence and testimony in accordance with sections one and two, article five, chapter twenty-nine-a of this code, except where such provisions are inconsistent with this article. The director shall take into consideration upon decision:

(A) Whether the well can be converted safely, taking into consideration the dangers from creeps, squeezes or other disturbances;

(B) Whether the well can be converted, taking into consideration the reasonable standards of the purity and quality of the waters of the state.

(2) At the close of the hearing, or within ten days thereafter, the director shall issue an order stating the conditions under which the conversion is to take place, providing the well can be converted safely, taking into consideration the dangers from creeps, squeezes or other disturbances and the reasonable standards of purity and quality of the waters of this state. If such converting cannot be done safely, or if the reasonable standards of purity and quality of such waters will be endangered, the director shall issue an order stating with particularity the reasons for refusing to issue a permit.

(3) The order shall state with particularity the reasons for the director's order and shall be mailed by registered or certified mail to the parties present or represented at such hearing. If the director has ruled that a permit will be issued, such permit shall become effective ten days after the division has mailed such order: Except for good cause shown, the director may stay the issuance of a permit for a period not to exceed thirty days.

(4) If a permit is issued, the director shall indicate the well to be converted on the plat on file with the director, and shall number and keep an index of and docket each plat and notice mailed to the director as provided in section fourteen of this article, entering in such docket the name of the well operator, and the names and addresses of all persons notified, the dates of hearings and all actions taken by the director, permits issued or refused, the papers filed and a transcript of the hearings. This shall constitute a record of the proceedings before the director and shall be open to inspection by the public.