WEST VIRGINIA CODE: §22-6A-10

§22-6A-10. Notice to property owners.

(a) Prior to filing a permit application, the operator shall provide notice of planned entry on to the surface tract to conduct any plat surveys required pursuant to this article. Such notice shall be provided at least seven days but no more than forty-five days prior to such entry to: (1) The surface owner of such tract; (2) to any owner or lessee of coal seams beneath such tract that has filed a declaration pursuant to section thirty-six, article six, chapter twenty-two of this code; and (3) any owner of minerals underlying such tract in the county tax records. The notice shall include a statement that copies of the state Erosion and Sediment Control Manual and the statutes and rules related to oil and gas exploration and production may be obtained from the Secretary, which statement shall include contact information, including the address for a web page on the Secretary's website, to enable the surface owner to obtain copies from the secretary.

(b) No later than the filing date of the application, the applicant for a permit for any well work or for a certificate of approval for the construction of an impoundment or pit as required by this article shall deliver, by personal service or by registered mail or by any method of delivery that requires a receipt or signature confirmation, copies of the application, the erosion and sediment control plan required by section seven of this article, and the well plat to each of the following persons:

(1) The owners of record of the surface of the tract on which the well is or is proposed to be located;

(2) The owners of record of the surface tract or tracts overlying the oil and gas leasehold being developed by the proposed well work, if the surface tract is to be used for roads or other land disturbance as described in the erosion and sediment control plan submitted pursuant to subsection (c), section seven of this article;

(3) The coal owner, operator or lessee, in the event the tract of land on which the well proposed to be drilled is located is known to be underlain by one or more coal seams;

(4) The owners of record of the surface tract or tracts overlying the oil and gas leasehold being developed by the proposed well work, if the surface tract is to be used for the placement, construction, enlargement, alteration, repair, removal or abandonment of any impoundment or pit as described in section nine of this article;

(5) Any surface owner or water purveyor who is known to the applicant to have a water well, spring or water supply source located within one thousand five hundred feet of the center of the well pad which is used to provide water for consumption by humans or domestic animals; and

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(6) The operator of any natural gas storage field within which the proposed well work activity is to take place.

(c)(1) If more than three tenants in common or other co-owners of interests described in subsection (b) of this section hold interests in the lands, the applicant may serve the documents required upon the person described in the records of the sheriff required to be maintained pursuant to section eight, article one, chapter eleven-a of this code.

(2) Notwithstanding any provision of this article to the contrary, notice to a lien holder is not notice to a landowner, unless the lien holder is the landowner.

(d) With respect to surface landowners identified in subsection (b) or water purveyors identified in subdivision (5), subsection (b) of this section, notification shall be made on forms and in a manner prescribed by the secretary sufficient to identify, for those persons, the rights afforded them under sections eleven and twelve of this article, and the opportunity for testing their water well.

(e) Prior to filing an application for a permit for a horizontal well under this article, the applicant shall publish in the county in which the well is located or is proposed to be located a Class II legal advertisement as described in section two, article three, chapter fifty-nine of this code, containing notice of the public website required to be established and maintained pursuant to section twenty-one of this article and language indicating the ability of the public to submit written comments on the proposed permit, with the first publication date being at least ten days prior to the filing of the permit application. The secretary shall consider, in the same manner required by subsection (f), section eight of this article and subdivision one, subsection (c), section eleven of this article, written comments submitted in response to the legal advertisement received by the secretary within thirty days following the last required publication date: Provided, That such parties submitting written comments pursuant to this subsection are not entitled to participate in the processes and proceedings that exist under sections fifteen, seventeen or forty, article six of this chapter, as applicable and incorporated into this article by section five of this article.

(f) Materials served upon persons described in subsection (b) of this section shall contain a statement of the time limits for filing written comments, who may file written comments, the name and address of the secretary for the purpose of filing the comments and obtaining additional information, and a statement that the persons may request, at the time of submitting written comments, notice of the permit decision and a list of persons qualified to test water.

(g) Any person entitled to submit written comments to the secretary pursuant to subsection (a), section eleven of this article, shall also be entitled to receive from the secretary a copy of the permit as issued or a copy of the order modifying or denying the permit if the person requests receipt of them as a part of the written comments submitted concerning the permit application.

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(h) The surface owners described in subdivisions (1), (2) and (4), subsection (b) of this section, and the coal owner, operator or lessee described in subdivision (3) of that subsection is also entitled to receive notice within seven days but no less than two days before commencement that well work or site preparation work that involves any disturbance of land is expected to commence.

(i) Persons entitled to notice pursuant to subsection (b) of this section may contact the department to ascertain the names and locations of water testing laboratories in the subject area capable and qualified to test water supplies in accordance with standard accepted methods. In compiling that list of names the department shall consult with the state Bureau for Public Health and local health departments.

(j)(1) Prior to conducting any seismic activity for seismic exploration for natural gas to be extracted using horizontal drilling methods, the company or person performing the activity shall provide notice to Miss Utility of West Virginia Inc. and to all surface owners, coal owners and lessees, and natural gas storage field operators on whose property blasting, percussion or other seismic-related activities will occur.

(2) The notice shall be provided at least three days prior to commencement of the seismic activity.

(3) The notice shall also include a reclamation plan in accordance with the erosion and sediment control manual that provides for the reclamation of any areas disturbed as a result of the seismic activity, including filling of shotholes used for blasting.

(4) Nothing in this subsection decides questions as to whether seismic activity may be secured by mineral owners, surface owners or other ownership interests.

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