WEST VIRGINIA CODE: §22-6A-15

§22-6A-15. Performance bonds; corporate surety or other security.

(a) No permit may be issued pursuant to this article unless a bond as described in subsection (d) of this section which is required for a particular activity by this article is or has been furnished as provided in this section.

(b) A separate bond as described in subsection (d) of this section may be furnished for each horizontal well drilled. Each of these bonds shall be in the sum of $50,000 payable to the State of West Virginia, conditioned on full compliance with all laws, rules relating to the drilling, redrilling, deepening, casing and stimulating of horizontal wells and to the plugging, abandonment and reclamation of horizontal wells and for furnishing reports and information required by the secretary.

(c) When an operator makes or has made application for permits to drill or stimulate a number of horizontal wells, the operator may, in lieu of furnishing a separate bond, furnish a blanket bond in the sum of $250,000 payable to the State of West Virginia, and conditioned as provided in subsection (b) of this section.

(d) The form of the bond required by this article shall be approved by the secretary and may include, at the option of the operator, surety bonding, collateral bonding, including cash and securities, letters of credit, establishment of an escrow account, self-bonding or a combination of these methods. If collateral bonding is used, the operator may elect to deposit cash, or collateral securities or certificates as follows: Bonds of the United States or its possessions, of the federal land bank, or of the homeowners' loan corporation; full faith and credit general obligation bonds of the State of West Virginia or other states or of any county, district or municipality of the State of West Virginia or other states; or certificates of deposit in a bank in this state, which certificates shall be in favor of the department. The cash deposit or market value of the securities or certificates shall be equal to or greater than the amount of the bond. The secretary shall, upon receipt of any deposit of cash, securities or certificates, promptly place the same with the Treasurer of the State of West Virginia whose duty it is to receive and hold them in the name of the state in trust for the purpose of which the deposit is made when the permit is issued. The operator is entitled to all interest and income earned on the collateral securities filed by the operator. The operator making the deposit is entitled from time to time to receive from the State Treasurer, upon the written approval of the secretary, the whole or any portion of any cash, securities or certificates so deposited, upon depositing with the State Treasurer in lieu thereof, cash or other securities or certificates of the classes herein specified having value equal to or greater than the amount of the bond.

(e) When an operator has furnished a separate bond from a corporate bonding or surety company to drill, fracture or stimulate a horizontal well and the well produces oil or gas or both, its operator may deposit with the secretary cash from the sale of the oil or gas or both

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until the total deposited is $50,000. When the sum of the cash deposited is $50,000, the separate bond for the well shall be released by the secretary. Upon receipt of that cash, the secretary shall immediately deliver that amount to the State Treasurer, who shall hold the cash in the name of the state in trust for the purpose for which the bond was furnished and the deposit was made. The operator is entitled to all interest and income which may be earned on the cash deposited so long as the operator is in full compliance with all laws and rules relating to the drilling, redrilling, deepening, casing, plugging, abandonment and reclamation of the well for which the cash was deposited and so long as the operator has furnished all reports and information required by the secretary. The secretary may establish procedures under which an operator may substitute a new bond for an existing bond or provide a new bond under certain circumstances specified in a legislative rule promulgated in accordance with chapter twenty-nine-a of this code.

(f) Any separate bond furnished for a particular well prior to the effective date of this article continues to be valid for all work on the well permitted prior to the effective date of this article; but no permit may be issued on such a particular well without a bond complying with the provisions of this section. Any blanket bond furnished prior to the effective date of this article shall be replaced with a new blanket bond conforming to the requirements of this section, at which time the prior bond is discharged by operation of law; and if the secretary determines that any operator has not furnished a new blanket bond, the secretary shall notify the operator by registered mail or by any method of delivery that requires a receipt or signature confirmation of the requirement for a new blanket bond, and failure to submit a new blanket bond within sixty days after receipt of the notice from the secretary works a forfeiture under subsection (i) of this section of the blanket bond furnished prior to the effective date of this article.

(g) Any such bond shall remain in force until released by the secretary, and the secretary shall release the same upon satisfaction that the conditions thereof have been fully performed. Upon the release of that bond, any cash or collateral securities deposited shall be returned by the secretary to the operator who deposited it.

(h)(1) Whenever the right to operate a well is assigned or otherwise transferred, the assignor or transferor shall notify the department of the name and address of the assignee or transferee by registered mail or by any method of delivery that requires a receipt or signature confirmation not later than thirty days after the date of the assignment or transfer. No assignment or transfer by the owner relieves the assignor or transferor of the obligations and liabilities unless and until the assignee or transferee files with the department the well name and the permit number of the subject well, the county and district in which the subject well is located, the names and addresses of the assignor or transferor, and assignee or transferee, a copy of the instrument of assignment or transfer accompanied by the applicable bond, cash, collateral security or other forms of security described in this section, and the name and address of the assignee's or transferee's designated agent if the assignee or transferee would be required to designate an agent under this article if the assignee or transferee were an applicant for a permit under this article. Every well operator required to designate an agent under this section shall, within five days after the termination of the

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designation, notify the department of the termination and designate a new agent.

(2) Upon compliance with the requirements of this section by the assignor or transferor and assignee or transferee, the secretary shall release the assignor or transferor from all duties and requirements of this article and shall give written notice of release to the assignor or transferor of any bond and return to the assignor or transferor any cash or collateral securities deposited pursuant to this section.

(i) If any of the requirements of this article or rules promulgated pursuant thereto or the orders of the secretary has not been complied with within the time limit set by any notice of violation issued pursuant to this article, the performance bond shall then be forfeited.

(j) When any bond is forfeited pursuant to the provisions of this article or rules promulgated pursuant thereto, the secretary shall collect the forfeiture without delay.

(k) All forfeitures shall be deposited in the Treasury of the State of West Virginia in the Oil and Gas Reclamation Fund as defined in section twenty-nine, article six of this chapter.

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