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ENROLLED

HOUSE BILL No. 428
(By Mr.

PASSED March 10, 1955

In Effect ninety days from Passage

Filed in the Office of the Secretary of State of West Virginia.

D. Pitt O'Brien
SECRETARY OF STATE
AN ACT to amend chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article seven, relating to the operation of underground gas storage reservoirs.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, to be designated article seven, to read as follows:


Section 1. Definitions.—In this article unless the context otherwise requires:

1. The term "coal mine" means those operations in

2. a coal seam which include the excavated and abandoned
portions as well as the places actually being worked;
also all underground workings and shafts, slopes, tunnels,
and other ways and openings and all such shafts, slopes,
tunnels, and other openings in the course of being sunk
or driven, together with all roads and facilities connected
with them below the surface.

(2) The term "operating coal mine" means (a) a coal
mine which is producing coal or has been in production
of coal at any time during the twelve months immediately
preceding the date its status is put in question under this
article and any worked out or abandoned coal mine con-
ected underground with or contiguous to such operating
coal mine as herein defined and (b) any coal mine to be
established or reestablished as an operating coal mine
in the future pursuant to section four of this article.

(3) The term "outside coal boundaries" when used in
conjunction with the term "operating coal mine" means
the boundaries of the coal acreage assigned to such coal
mine and which can be practicably and reasonably ex-
pected to be mined through such coal mine.

(4) The term "well" means a bore hole drilled or pro-
posed to be drilled within the storage reservoir boundary or reservoir protective area for the purpose of or to be used for producing, extracting or injecting any gas, petroleum or other liquid but excluding bore holes drilled to produce potable water to be used as such.

(5) The term "gas" means any gaseous substance.

(6) The term "storage reservoir" means that portion of any subterranean sand or rock stratum or strata into which gas is or may be injected for the purpose of storage or for the purpose of testing whether said stratum is suitable for storage.

(7) The term "bridge" means an obstruction placed in a well at any specified depth.

(8) The term "linear foot" means a unit of measurement in a straight line on a horizontal plane.

(9) The term "person" means any individual, association, partnership or corporation.

(10) The term "reservoir protective area" means all of that area outside of and surrounding the storage reservoir boundary but within two thousand linear feet thereof.
(11) The term "retreat mining" means the removal of such coal, pillars, ribs and stumps as remain after the development mining has been completed in that section of a coal mine.

(12) The term "pillar" means a solid block of coal surrounded by either active mine workings or a mined out area.

(13) The term "inactivate" means to shut off all flow of gas from a well by means of a temporary plug, or other suitable device or by injecting aquagel or other such equally non-porous material into the well.

(14) The term "storage operator" means any person as herein defined who proposes to or does operate a storage reservoir, either as owner or lessee.

(15) The term "workable coal seam" shall have the same meaning as the term "workable coal bed" as set out in section one of article four of this chapter.

(16) The terms "owner," "coal operator," "well operator," "department," "department of mines," "plat," "casing," "oil," and "cement," shall have the meanings set out in section one of article four of this chapter.
Sec. 2. **Filing of Maps and Data by Persons Operating or Proposing to Operate Gas Storage Reservoirs.**—(a) Any person who, on the effective date of this article, is injecting gas into or storing gas in a storage reservoir which underlies or is within three thousand linear feet of an operating coal mine which is operating in a coal seam that extends over the storage reservoir or the reservoir protective area, shall, within sixty days thereafter, file with the department a copy of a map and certain data in the form and manner provided in this subsection.

Any person who, on the effective date of this article, is injecting gas into or storing gas in a storage reservoir which is not at such date under or within three thousand linear feet, but is less than ten thousand linear feet from an operating coal mine which is operating in a coal seam that extends over the storage reservoir or the reservoir protective area, shall file such map and data within such time in excess of sixty days as the department may fix.

Any person who, after the effective date of this article,
proposes to inject or store gas in a storage reservoir located as above, shall file the required map and data with the department not less than six months prior to the starting of actual injection or storage.

The map provided for herein shall be prepared by a competent engineer or geologist. It shall show the stratum or strata in which the existing or proposed storage reservoir is or is to be located, the geographic location of the outside boundaries of the said storage reservoir and the reservoir protective area, the location of all known oil or gas wells which have been drilled into or through the storage stratum within the reservoir or within three thousand linear feet thereof, indicating which of these wells have been, or are to be cleaned out and plugged or reconditioned for storage and also indicating the proposed location of all additional wells which are to be drilled within the storage reservoir or within three thousand linear feet thereof.

The following information, if available, shall be furnished for all known oil or gas wells which have been drilled into or through the storage stratum within the
storage reservoir or within three thousand linear feet thereof; name of the operator, date drilled, total depth, depth of production if the well was productive of oil or gas, the initial rock pressure and volume, the depths at which all coal seams were encountered and a copy of the driller's log or other similar information. At the time of the filing of the aforesaid maps and data such person shall file a detailed statement of what efforts he has made to determine, (1) that the wells shown on said map are accurately located thereon, and (2) that to the best of his knowledge they are all the oil or gas wells which have ever been drilled into or below the storage stratum within the proposed storage reservoir or within the reservoir protective area. This statement shall also include information as to whether or not the initial injection is for testing purposes, the maximum pressures at which injection and storage of gas is contemplated, and a detailed explanation of the methods to be used or which theretofore have been used in drilling, cleaning out, reconditioning and plugging wells in the storage reservoir or within the reservoir protective area. The map
and data required to be filed hereunder shall be amended
or supplemented semiannually in case any material
changes have occurred: Provided, however, That the de-
partment may require a storage operator to amend or
supplement such map or data at more frequent intervals
if material changes have occurred justifying such earlier
filing.

(b) The requirements of this section shall not apply
to the operator of an underground gas storage reservoir
so long as said reservoir is located more than ten thousand
linear feet from an operating coal mine: Provided, how-
ever, That such storage operator shall give notice to the
department of the name of each political subdivision
and county in which said operator maintains and
operates a gas storage reservoir. In those political sub-
divisions and counties where both gas storage reservoirs
and coal mines are being operated the department may
request the storage operator to furnish maps showing the
geographical location and outside boundaries of such
storage reservoirs. The department shall keep a record
of such information and shall promptly notify both the
coal operator and the storage operator if it is found that
the coal mine and storage reservoir are within ten thou-
sand linear feet of each other.

(c) At the time of the filing of the above maps and
data, and the filing of amended or supplemental maps
or data, the department shall give written notice of said
filing to all persons who may be affected under the pro-
visions of this article by the storage reservoir described
in such maps or data. Such notices shall contain a des-
cription of the boundaries of such storage reservoir. When
a person operating a coal mine or owning an interest in
coal properties which are or may be affected by the
storage reservoir, requests in writing a copy of any map
or data filed with the department such copy shall be
furnished by the storage operator.

(d) For all purposes of this article, the outside bound-
aries of a storage reservoir shall be defined by the loca-
tion of those wells around the periphery of the storage
reservoir which had no gas production when drilled in
said storage stratum: Provided, however, That the bound-
aries as thus defined shall be originally fixed or subse-
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106 quently changed where, based upon the number and
107 nature of such wells, upon the geological and production
108 knowledge of the storage stratum, its character, permea-
109 bility, and distribution, and operating experience, it is
110 determined in a conference or hearing under section ten
111 of this article that modification should be made.

Sec. 3. Filing of Maps and Data by Persons Operating

2 Coal Mines.—(a) Any person owning or operating a coal
3 mine shall, within thirty days from the effective date
4 of this article, file with the department a map, prepared
5 by a competent engineer, showing the outside coal
6 boundaries of the said operating coal mine, the existing
7 workings and exhausted areas and the relationship of
8 said boundaries to identifiable surface properties and
9 landmarks. Any person who is storing or contemplating
10 the storage of gas in the vicinity of such operating coal
11 mines shall, upon written request, be furnished a copy
12 of the aforesaid map by the coal operator and such per-
13 son and the department shall thereafter be informed of
14 any boundary changes at the time such changes occur.
15 The department shall keep a record of such information
and shall promptly notify both the coal operator and the storage operator if it is found that the coal mine and the storage reservoir are within ten thousand linear feet of each other.

(b) Any person owning or operating any coal mine which, on the date of the enactment of this article, is or which thereafter comes within ten thousand linear feet of a storage reservoir, and where the coal seam being operated extends over the storage reservoir or the reservoir protective area, shall within forty-five days after he has notice from the department of such fact, file with the department, and furnish to the person operating such storage reservoir, a map in the form hereinabove provided and showing in addition, the existing and projected excavations and workings of such operating coal mine for the ensuing eighteen month period, and also the location of any oil or gas wells of which said coal operator has knowledge. Such person owning or operating said coal mine shall each six months thereafter file with the department and furnish to the person operating such storage reservoir a revised map showing any additional
excavations and workings, together with the projected excavations and workings for the then ensuing eighteen month period which may be within ten thousand linear feet of said storage reservoir: Provided, however, That the department may require a coal operator to file such revised map at more frequent intervals if material changes have occurred justifying such earlier filing. Such person owning or operating said coal mine shall also file with the department and furnish the person operating said reservoir prompt notice of any wells which have been cut into, together with all available pertinent information.

Sec. 4. Notice by Persons Operating Coal Mines.—

(a) Any person owning or operating a coal mine on the effective date of this article, and having knowledge that it overlies or is within two thousand linear feet of a gas storage reservoir, shall within thirty days notify the department and the storage operator of such fact.

(b) When any person owning or operating a coal mine hereafter expects that within the ensuing nine month period such coal mine will be extended to a point which will be within two thousand linear feet of any storage
reservoir he shall notify the department and the storage operator in writing of such fact.

(c) Any person hereafter intending to establish or reestablish an operating coal mine which when established or reestablished will be over a storage reservoir or within two thousand linear feet of a storage reservoir, or which upon being established or reestablished may within nine months thereafter be expected to be within two thousand linear feet of a storage reservoir, shall notify the department and the storage operator in writing before doing so and such notice shall include the date on which it is intended the operating coal mine will be established or reestablished.

Any person who serves such notice of an intention to establish or reestablish an operating coal mine under this subsection, without intending in good faith to establish or reestablish such mine, shall be liable for continuing damages to any storage operator injured by the serving of such improper notice and shall be guilty of a misdemeanor under this article and subject to the same penalties as set forth in section twelve of this article.
Sec. 5. Obligations to Be Performed by Persons Operating Storage Reservoirs.—(a) Any person who, on the effective date of this article, is operating a storage reservoir which underlies or is within two thousand linear feet of an operating coal mine which is operating in a coal seam that extends over the storage reservoir or the reservoir protective area, shall:

(1) Use every known method which is reasonable under the circumstances for discovering and locating all wells which have or may have been drilled into or through the storage stratum in that acreage which is within the outside coal boundaries of such operating coal mine and which overlies the storage reservoir or the reservoir protective area;

(2) Plug or recondition, in the manner provided by sections nine and ten of article four of this chapter and subsection (e) of this section, all known wells (except to the extent otherwise provided in subsections (e), (f), (g) and (h) of this section) drilled into or through the storage stratum and which are located within that portion of the acreage of the operating coal mine overlying the
storage reservoir or the reservoir protective area: Provided, however, That where objection is raised as to the use of any well as a storage well, and after a conference or hearing in accordance with section ten of this article it is determined, taking into account all the circumstances and conditions, that such well should not be used as a storage well, such well shall be plugged: Provided, however, That if, in the opinion of the storage operator, the well to which such objection has been raised may at some future time be used as a storage well, the storage operator may recondition and inactivate such well instead of plugging it, if such alternative is approved by the department after taking into account all of the circumstances and conditions.

The requirements of clause (2) of this subsection shall be deemed to have been fully complied with if, as the operating coal mine is extended, all wells which, from time to time, come within the acreage described in said clause (2) are reconditioned or plugged as provided in subsections (e) or (f) of this section and in section ten of article four of this chapter so that by the time the coal
mine has reached a point within two thousand linear feet of any such wells, they will have been reconditioned or plugged so as to meet the requirements of said subsections (e) or (f) and of said section ten of article four.

(b) Any person operating a storage reservoir referred to in subsection (a) of this section shall within sixty days after the effective date of this article file with the department and furnish a copy to the person operating the affected operating coal mine, a verified statement setting forth:

(1) That the map and any supplemental maps required by subsection (a) of section two of this article have been prepared and filed in accordance with section two;

(2) A detailed explanation of what the storage operator has done to comply with the requirements of clauses (1) and (2) of subsection (a) of this section and the results thereof;

(3) Such additional efforts, if any, as the storage operator is making and intends to make to locate all oil and gas wells; and
(4) Any additional wells that are to be plugged or re-conditioned to meet the requirements of clause (2) of subsection (a) of this section.

If such statement is not filed by the storage reservoir operator within the time specified herein, the department shall summarily order such operator to file such statement.

(c) Within one hundred twenty days after the receipt of any such statement, the department may, and it shall, if so requested by either the storage operator or the coal operator affected, direct that a conference be held in accordance with section ten of this article to determine whether the information as filed indicates that the requirements of section two of this article and of subsection (a) of this section have been fully complied with. At such conference, if any person shall be of the opinion that such requirements have not been fully complied with, the parties shall attempt to agree on what additional things are to be done and the time within which they are to be completed, subject to the approval of the department, to meet the said requirements.
If such agreement cannot be reached, the department shall direct that a hearing be held in accordance with section ten of this article. At such hearing the department shall determine whether the requirements of said section two of this article and of subsection (a) of this section have been met and shall issue an order setting forth such determination. If the department shall determine that any of the said requirements have not been met, the order shall specify, in detail, both the extent to which such requirements have not been met, and the things which the storage operator must do to meet such requirements. The order shall grant to the storage operator such time as is reasonably necessary to complete each of the things which he is directed to do. If, in carrying out said order, the storage operator encounters conditions which were not known to exist at the time of the hearing and which materially affect the validity of said order or the ability of the storage operator to comply with the order, the storage operator may apply for a rehearing or modification of said order.

(d) Whenever, in compliance with subsection (a) of
this section, a storage operator, after the filing of the statement provided for in subsection (b) of this section, plugs or reconditions a well, he shall so notify the department and the coal operator affected in writing, setting forth such facts as will indicate the manner in which the plugging or reconditioning was done. Upon receipt thereof, the coal operator affected or the department may request a conference or hearing in accordance with section ten of this article.

(e) In order to meet the requirements of subsection (a) of this section, wells which are to be plugged shall be plugged in the manner specified in section ten of article four of this chapter. When a well located within the storage reservoir or the reservoir protective area has been plugged prior to the enactment of this article and on the basis of the data, information and other evidence submitted to the department it is determined that: (1) such plugging was done in the manner required in section ten of article four of this chapter; and (2) said plugging is still sufficiently effective to meet the requirements of this article, the obligations imposed by subsection (a) of
this section as to plugging said well shall be considered fully satisfied.

(f) In order to meet the requirements of subsection (a) of this section wells which are to be reconditioned shall be cleaned out from the surface through the storage horizon and the following casing strings shall be pulled and replaced with new casing, using the same procedure as is applicable to drilling a new well as provided for in sections five, six, seven and eight of article four of this chapter: (1) the producing casing; (2) the largest diameter casing passing through the lowest workable coal seam unless such casing extends at least twenty-five feet below the bottom of such coal seam and is determined to be in good physical condition: Provided, however, That the storage operator may, instead of replacing the largest diameter casing, replace the next largest casing string if such casing string extends at least twenty-five feet below the lowest workable coal seam; and (3) such other casing strings which are determined not to be in good physical condition. In the case of wells to be used for gas storage, the annular space between each string of casing,
and the annular space behind the largest diameter casing to the extent possible, shall be filled to the surface with cement or aquagel or such equally non-porous material as is approved by the department pursuant to section eight of this article. At least fifteen days prior to the time when a well is to be reconditioned the storage operator shall give notice thereof to the coal operator or owner and to the department setting forth in such notice the manner in which it is planned to recondition such well and any pertinent data known to the storage operator which will indicate the then existing condition of such well. In addition the storage operator shall give the coal operator or owner and such representative of the department as the chief of the department shall have designated at least seventy-two hours notice of the time when such reconditioning is to begin. The coal operator or owner shall have the right to file, within ten days after the receipt of the first notice required herein, objections to the plan of reconditioning as submitted by the storage operator. If no such objections are filed or if none is raised by the department within such ten day period, the storage op-
erator may proceed with the reconditioning in accordance
with the plan as submitted. If any such objections are
filed by the coal operator or owner or are made by the
department, the department shall fix a time and place for
a conference in accordance with section ten of this article
at which conference the well operator and the person
who has filed such objections shall endeavor to agree
upon a plan of reconditioning which meets the require-
ments herein and which will satisfy such objections. If
no plan is approved at such conference the department
shall direct that a hearing be held in accordance with
section ten of this article and, after such hearing, shall
by an appropriate order determine whether the plan as
submitted meets the requirements set forth herein, or
what changes, if any, should be made to meet such re-
quirements. If, in reconditioning a well in accordance
with said plan, physical conditions are encountered which
justify or necessitate a change in said plan, the storage
operator or the coal operator may request that the plan
be changed. If the storage operator and the coal operator
cannot agree upon such change, the department shall ar-
range for a conference or hearing in accordance with section ten of this article to determine the matter in the same manner as set forth herein in connection with original objections to said plan. Application may be made to the department in the manner prescribed in section eight of this article for approval of an alternative method of reconditioning a well. When a well located within the storage reservoir or the reservoir protective area has been reconditioned prior to the enactment of this article or was so drilled and equipped previously and on the basis of the data, information and other evidence submitted to the department it is determined that: (1) such reconditioning or previous drilling and equipping was done in the manner required in this subsection, or in a manner approved as an alternative method in accordance with section eight of this article and (2) such reconditioning or previous drilling and equipping is still sufficiently effective to meet the requirements of this article, the obligations imposed by subsection (a) as to reconditioning said well shall be considered fully satisfied. Where a well requires emergency repairs this subsection shall not
be construed to require the storage operator to give the notices specified herein before making such repairs.

(g) When a well located within the reservoir protective area is a producing well in a stratum below the storage stratum the obligations imposed by subsection (a) of this section shall not begin until such well ceases to be a producing well.

(h) When a well within a storage reservoir or the reservoir protective area penetrates the storage stratum but does not penetrate the coal seam being mined by an operating coal mine the department may, upon application of the operator of such storage reservoir, exempt such well from the requirements of this section. Either party affected may request a conference and hearing with respect to the exemption of any such well in accordance with section ten of this article.

(i) In fulfilling the requirements of clause (2) of subsection (a) of this section with respect to a well within the reservoir protective area, the storage operator shall not be required to plug or recondition such well until he has received from the coal operator written notice that
the mine workings will within the period stated in such
notice, be within two thousand linear feet of such well.  

Upon the receipt of such notice the storage operator shall

use due diligence to complete the plugging or recondition-
ing of such well in accordance with the requirements of

this section and of section ten of article four of this chap-
ter. If the said mine workings do not, within a period

of three years after said well has been plugged, come

within two thousand linear feet of said well, the coal

operator shall reimburse the storage operator for the cost

of said plugging, provided such well is still within the

reservoir protective area as of that time.

(j) When retreat mining approaches a point where

within ninety days it is expected that such retreat work

will be at the location of the pillar surrounding an active

storage well the coal operator shall give written notice

of such approach to the storage operator and by agree-
ment said parties shall determine whether it is necessary

or advisable to inactivate effectively said well tempora-

rily. The well shall not be reactivated until a reasonable

period has elapsed, such reasonable period to be deter-
mined by the said parties. In the event that the said
parties cannot agree upon either of the foregoing matters,
such question shall be submitted to the department for
decision in accordance with section ten of this article.
The number of wells required to be temporarily inacti-
vated during the retreat period shall not be such as to
materially affect the efficient operation of such storage
pool. This provision shall not preclude the temporary
inactivation of a particular well where the practical effect
of inactivating such well is to render the pool temporarily
inoperative.
(k) The requirements of subsection (a), (l), and (m)
of this section shall not apply to the injection of gas into
any stratum when the sole purpose of such injection (such
purpose being herein referred to as testing) is to deter-
mine whether the said stratum is suitable for storage pur-
poses: Provided, however, That such testing shall be con-
ducted only in compliance with the following require-
ments:
(1) The person testing or proposing to test shall comply
with all the provisions and requirements of section two
of this article and shall verify the statement required to be filed thereby;

(2) If any part of the proposed storage reservoir is under or within two thousand linear feet of an operating coal mine which is operating in a coal seam that extends over the proposed storage reservoir or the reservoir protective area, the storage operator shall give at least six months' written notice to the department and to the coal operator of the fact that injection of gas for testing purposes is proposed;

(3) The coal operator affected may at any time file objections with the department in accordance with subsection (e) of section nine of this article. If any such objections are filed by the coal operator or if the department shall have any objections, the department shall fix a time and place for a conference in accordance with section ten of this article, not more than ten days from the date of the notice to the storage operator, at which conference the storage operator and the person who has filed such objections shall attempt to agree, subject to the approval of the department, on the questions involved.
If such agreement cannot be reached at such conference, the department shall direct that a hearing be held in accordance with section ten of this article. At such hearing the department shall determine and set forth in an appropriate order the conditions and requirements which it shall deem necessary or advisable in order to prevent gas from such storage reservoir from entering any operating coal mine. The storage operator shall comply with such conditions and requirements throughout the period of the testing operations. In determining such conditions and requirements the department shall take into account the extent to which the matters referred to in subsection (a) of this section have been performed. If, in carrying out said order, either the storage operator or the coal operator encounters or discovers conditions which were not known to exist at the time of the hearing and which materially affect said order or the ability of the storage operator to comply with the order, either operator may apply for a rehearing or modification of said order;

(4) Where, at any time, a proposed storage reservoir being tested comes under or within two thousand linear
feet of an operating coal mine either because of the ex-
tension of the storage reservoir being tested or because
of the extension or establishment or reestablishment of
the operating coal mine, then and at the time of any such
event the requirements of this subsection shall become
applicable to such testing.

(1) Any person who, after the effective date of this
article, proposes to establish a storage reservoir under,
or within two thousand linear feet of an operating coal
mine which is operating in a coal seam that extends over
the storage reservoir or the reservoir protective area,
shall, prior to establishing such reservoir, in addition to
complying with the requirements of section two of this
article and subsection (a) of this section, file the verified
statement required by subsection (b) of this section and
fully comply with such order or orders, if any, as the
department may issue in the manner provided for under
subsections (b) or (c) of this section before beginning
the operation of such storage reservoir. After the person
proposing to operate such storage reservoir shall have
complied with such requirements and shall have there-
337 after begun to operate such reservoir, he shall continue
338 to be subject to all of the provisions of this article.
339 (m) When a gas storage reservoir, (1) is in operation
340 on the effective date of this article, and at any time there-
341 after it is under or within two thousand linear feet of an
342 operating coal mine, or (2) when a gas storage reservoir
343 is put in operation after the effective date of this article
344 and at any time after such storage operations begin it is
345 under or within two thousand linear feet of an operating
346 coal mine, then and in either such event, the storage
347 operator shall comply with all of the provisions of this
348 section except that the time for filing the verified state-
349 ment under subsection (b) shall be sixty days after the
350 date stated in the notice filed by the coal operator under
351 subsections (b) or (c) of section four of this article as
352 to when the operating coal mine will be at a point within
353 two thousand linear feet of such reservoir: Provided,
354 however, That if the extending of the projected workings
355 or the proposed establishment or reestablishment of the
356 operating coal mine is delayed after the giving of the
357 notice provided in subsections (b) and (c) of section four
358 of this article, the coal operator shall give notice of such
delay to the department and the department shall, upon
the request of the storage operator, extend the time for
filing such statement by the additional time which will
be required to extend or establish or reestablish such
operating coal mine to a point within two thousand linear
feet of such reservoir. Such verified statement shall also
indicate that the map referred to in subsection (a) of
section two of this article has been currently amended
as of the time of the filing of such statement. The person
operating any such storage reservoir shall continue to be
subject to all of the provisions of this article.
(n) If, in any proceeding under this article, the depart-
ment shall determine that any operator of a storage reser-
voir has failed to carry out any lawful order of the de-
partment issued under this article, the department shall
have authority to require such storage operator to suspend
the operation of such reservoir and to withdraw the gas
therefrom until such violation is remedied. In such an
event the gas shall be withdrawn under the following
conditions. The storage operator shall remove the maxi-
mum amount of gas which is required by the department
to be removed from the storage reservoir that can be withdrawn in accordance with recognized engineering and operating procedures and shall proceed with due diligence insofar as existing facilities used to remove gas from the reservoir will permit.

(o) In addition to initial compliance with the other provisions of this article and any lawful orders issued thereunder, it shall be the duty at all times of the person owning or operating any storage reservoir which is subject to the provisions of this article to keep all wells drilled into or through the storage stratum in such condition and to operate the same in such manner as to prevent the escape of gas into any coal mine therefrom, and to operate and maintain such storage reservoir and its facilities in such manner and at such pressures as will prevent gas from escaping from such reservoir or its facilities into any coal mine, provided that this duty shall not be construed to include the inability to prevent the escape of gas where such escape results from an act of God or an act of any person not under the control of the storage operator other than in connection with any well
which the storage operator has failed to locate and to
make known to the department: Provided, however, That
if any escape of gas into a coal mine does result from an
act of God or an act of any person not under the control
of the storage operator, the storage operator shall be
under the duty of taking such action thereafter as is rea-
sonably necessary to prevent further escape of gas into
the coal mine.

Sec. 6. Inspection of Facilities and Records; Reliance on
Maps; Burden of Proof.—(a) In determining whether
a particular coal mine or operating coal mine is or will
be within any distance material under this article from
any storage reservoir, the owner or operator of such coal
mine and the storage operator may rely on the most
recent map of the storage reservoir or coal mine filed by
the other with the department.

(b) In any proceeding under this article where the
accuracy of any map or data filed by any person pursuant
to the requirements of this article is in issue, the person
filing the same shall at the request of any party to such
proceeding be required to disclose the information and
method used in compiling such map and data and such
information as is available to such person that might
affect the current validity of such map or data. If any
material question is raised in such proceeding as to the
accuracy of such map or data with respect to any partic-
ular matter or matters contained therein, the person filing
such map or data shall then have the burden of proving
the accuracy of the map or data with respect to such
matter or matters.

(c) The person operating any storage reservoir affected
by the terms of this article shall, at all reasonable times,
be permitted to inspect the applicable records and facil-
ities of any coal mine overlying such storage reservoir
or the reservoir protective area, and the person operating
any such coal mine affected by the terms of this article,
shall similarly, at all reasonable times, be permitted to
inspect the applicable records and facilities of any such
storage reservoir underlying any such coal mine. In the
event that either such storage operator or coal operator
shall refuse to permit any such inspection of records or
facilities, the department shall, on its own motion, or on
application of the party seeking the inspection after
reasonable written notice, and a hearing thereon, if re-
quested by either of the parties affected, make an order
providing for such inspection.

Sec. 7. Exemptions.—(a) The provisions of this article
shall not apply to strip mines and auger mines operating
from the surface.
(b) Injection of gas for storage purposes in any work-
able coal seam, whether or not such seam is being or has
been mined, shall be prohibited. Nothing in this article
shall be construed to prohibit the original extraction of
natural gas, crude oil, or coal. No storage operator shall
have authority to appropriate any coal or coal measure
whether or not being mined, or any interest therein.

Sec. 8. Alternative Method.—(a) Whenever provision
is made in this article by reference to this section for
using an alternative method or material in carrying out
any obligation imposed by the article, the person seeking
the authority to use such alternative method or material
shall file an application with the department describing
such proposed alternative method or material in rea-
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8 sonable detail. Notice of filing of any such application
9 shall be given by registered mail to any coal operator or
10 operators affected. Any such coal operator may within
11 ten days following such notice, file objections to such pro-
12 posed alternative method or material. If no objections are
13 filed within said ten day period or if none is raised by the
14 department, the department shall forthwith issue a permit
15 approving such proposed alternative method or material.
16 (b) If any such objections are filed by any coal operator
17 or are raised by the department, the department shall
18 direct that a conference be held in accordance with sec-
19 tion ten of this article within the ten days following the
20 the filing of such objections. At such conference the per-
21 son seeking approval of the alternative method or mate-
22 rial and the person who has filed such objections shall
23 attempt to agree on such alternative method or material
24 or any modification thereof, and if such agreement is
25 reached and approved by the department, the department
26 shall forthwith issue a permit approving the alternative
27 method or material. If no such agreement is reached and
28 approved, the department shall direct that a hearing be
held in accordance with section ten of this article: Provided, however, That if the alternative method or material involves a new development in technology or technique the department may, before such a hearing is held, grant such affected parties a period not to exceed ninety days to study and evaluate said proposed alternative method or material. Following such hearing, if the department shall find that such proposed alternative method or material will furnish adequate protection to the workable coal seams, the department shall by order approve such alternative method or material; otherwise the department shall deny the said application.

Sec. 9. Powers and Duties of the Department.—(a) The department may review the maps and data filed under sections two and three hereof for the purpose of determining the accuracy thereof. Where any material question is raised by any interested storage operator or coal operator or owner as to the accuracy of any such map or data, the department shall hold hearings thereon and shall by an appropriate order require the person filing
such map or data to correct the same if they are found to be erroneous.

(b) It shall be the duty of the department to receive and keep in a safe place for public inspection any map, data, report, well log, notice or other writing required to be filed with it pursuant to the provisions of this article. The department shall keep such indices of all such information as will enable any person using the same to readily locate such information either by the identity of the person who filed the same or by the person or persons affected by such filing or by the geographic location of the subject matter by political subdivision. The department shall also keep a docket for public inspection of all proceedings, in which shall be entered the dates of any notices, the names of all persons notified and their addresses, the dates of hearings, conferences and all orders, decrees, decisions, determinations, rulings or other actions issued or taken by the department and such docket shall constitute the record of each and every proceeding before the department.

(c) The department shall have authority to make any
inspections and investigations of records and facilities which it shall deem necessary or desirable to perform its functions under this article.

(d) Where in any section of this article provision is made for the filing of objections, such objections shall be filed in writing with the department by the person entitled to file the same or by the department, and shall state as definitely as is reasonably possible the reasons for such objections. The person filing such objections shall send a copy thereof by registered mail to the person or persons affected thereby.

Sec. 10. Conferences, Hearings and Appeals.—(a) The department or any person having a direct interest in the subject matter of this article may at any time request that a conference be held for the purpose of discussing and endeavoring to resolve by mutual agreement any matter arising under the provisions of this article. Prompt notice of any such conference shall be given by the department to all such interested parties. At such conference a representative of the department shall be in attendance, and the department may make such recommendations as it
deems appropriate. Any agreement reached at such con-
fERENCE shall be consistent with the requirements of this
article and, if approved by such representative of the
department, it shall be reduced to writing and shall be
effective unless reviewed and rejected by the department
within ten days after the close of the conference. The
record of any such agreement approved by the depart-
ment shall be kept on file by the department with copies
furnished to the parties. The conference shall be deemed
terminated as of the date any party refuses to confer
thereafter. Such a conference shall be held in all cases
prior to conducting any hearing under this section.

(b) Within ten days after termination of the conference
provided for in this section at which no approved agree-
ment has been reached or within ten days after the rejec-
tion by the department of any agreement approved at any
such conference, any person who has a direct interest in
the subject matter of the conference may submit the mat-
ter or matters, or any part thereof, considered at the
conference, to the department for determination at a
public hearing. The hearing procedure shall be form-
ally commenced by the filing of a petition with the department upon forms prescribed by the department or by specifying in writing the essential elements of the petition, including name and address of the petitioner and of all other persons affected thereby, a clear and concise statement of the facts involved, and a specific statement of the relief sought. The hearing shall thereafter be conducted in accordance with such regulations and such provisions as to reasonable notice as the department may prescribe. Consistent with the requirements for reasonable notice all hearings under this article shall be held by the department promptly. All testimony taken at such hearings shall be under oath and shall be reduced to writing by a reporter appointed by the department, and the parties shall be entitled to appear and be heard in person or by attorney. The department may present at such hearing any evidence which is material to the matter under consideration and which has come to the department's attention in any investigation or inspection made pursuant to provisions of this article.

(c) After the conclusion of hearings, the department
shall make and file its findings and order with its opinion, if any. A copy of such order shall be served by registered mail upon the person against whom it runs, or his attorney of record, and notice thereof shall be given to the other parties to the proceedings, or their attorney of record.

(d) The department may, at any time after notice and after opportunity to be heard as provided in this section, rescind or amend any approved agreement or order made by it. Any order rescinding or amending a prior agreement or order shall, when served upon the person affected, and after notice thereof is given to the other parties to the proceedings, have the same effect as is herein provided for original orders; but no such order shall affect the legality or validity of any acts done by such person in accordance with the prior agreement or order before receipt by such person of the notice of such change.

(e) The chief of the department shall have power, either personally or by any of his authorized representatives, to subpoena witnesses and take testimony, and administer oaths to any witness in any hearing, proceeding or examination instituted before the department or
conducted by it with reference to any matter within the jurisdiction of the department. In all hearings or proceedings before the department the evidence of witnesses and the production of documentary evidence may be required at any designated place of hearing; and in case of disobedience to a subpoena or other process the department or any party to the proceedings before the department may invoke the aid of any circuit court in requiring the evidence and testimony of witnesses and the production of such books, records, maps, plats, papers, documents and other writings as it may deem necessary or proper in and pertinent to any hearing, proceeding or investigation held or had by it. Such court, in case of the refusal of any such person to obey the subpoena, shall issue an order requiring such person to appear before the department and produce the required documentary evidence, if so ordered, and give evidence touching the matter in question. Any failure to obey such order of the court may be punished by such court as contempt thereof. A claim that any such testimony or evidence may tend to criminate the person giving the same shall not excuse such witness from tes-
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tifying, but such witness shall not be prosecuted for any
offense concerning which he is compelled hereunder to
testify.

(f) With the consent of the department, the testimony
of any witness may be taken by deposition at the instance
of a party to any hearing before the department at any
time after hearing has been formally commenced. The
department may, of its own motion, order testimony to be
taken by deposition at any stage in any hearing, proceed-
ing or investigation pending before it. Such deposition
shall be taken in the manner prescribed by the laws of
West Virginia for taking depositions in civil cases in courts
of record.

(g) Whether or not it be so expressly stated, an appeal
from any final order, decision or action by the department
in administering the provisions of this article may be
taken by any aggrieved person within ten days of notice
of such order, decision or action, to the circuit court of the
county in which the subject matter of such order, decision
or action is located, and in all cases of appeals to the
circuit court, that court shall certify its decisions to the
department. The circuit court to which the appeal is taken shall hear the appeal without a jury on the record certified by the department. In any such appeal the findings of the department shall, if supported by substantial evidence, be conclusive. If the order of the department is not affirmed, the court may set aside or modify it, in whole or in part, or may remand the proceedings to the department for further disposition in accordance with the order of the court. From all final decisions of the circuit court an appeal shall lie to the supreme court of appeals as is now provided by law in cases in equity, by the department as well as by any other party of record before the circuit court.

Any party feeling aggrieved by the final order of the circuit court affecting him, may present his petition in writing to the supreme court of appeals, or to a judge thereof in vacation, within twenty days after the entry of such order, praying for the suspension or modification of such final order. The applicant shall deliver a copy of such petition to the department and to all other parties of record before presenting the same to the court or judge.
The court or judge shall fix a time for the hearing on the application, but such hearing shall not be held sooner than seven days after its presentation unless by agreement of the parties, and notice of the time and place of such hearing shall be forthwith given to the department and to all other parties of record. If the court or judge, after such hearing, be of opinion that such final order should be suspended or modified, the court or the judge may require bond, upon such conditions and in such penalty, and impose such terms and conditions upon the petitioner as are just and reasonable. For such hearing the entire record before the circuit court, or a certified copy thereof, shall be filed in the supreme court, and that court, upon such papers, shall promptly decide the matter in controversy as may seem to it to be just and right, and may award costs in each case as to it may seem just and equitable.

Sec. 11. Enforcement.—(a) The department or any person having a direct interest in the subject matter of this article may complain in writing setting forth that any person is violating or is about to violate, any provisions
of this article, or has done, or is about to do, any act, mat-
ter or thing therein prohibited or declared to be unlawful,
or has failed, omitted, neglected or refused, or is about to
fail, omit, neglect or refuse, to perform any duty enjoined
upon him by this article. Upon the filing of a complaint
against any person, the department shall cause a copy
thereof to be served upon such person by registered mail
accompanied by a notice from the department setting such
complaint for hearing at a time and place specified in such
notice. At least five days' notice of such hearing shall be
given to the parties affected and such hearing shall be
held in accordance with the provisions of section ten of
this article. Following such hearing, the department shall,
if it finds that the matter alleged in the complaint is not
in violation of this article, dismiss the complaint, but if
the department shall find that the complaint is justified,
it shall by appropriate order compel compliance with this
article.

(b) Whenever the department shall be of the opinion
that any person is violating, or is about to violate, any
provisions of this article, or has done, or is about to do,
any act, matter or thing therein prohibited or declared
to be unlawful, or has failed, omitted, neglected or refused,
or is about to fail, omit, neglect or refuse, to perform any

duty enjoined upon him by this article, or has failed,
 omitted, neglected or refused, or is about to fail, omit,
neglect or refuse to obey any lawful requirement or order
made by the department, or any final judgment, order or
decree made by any court pursuant to this article, then
and in every such case the department may institute in
the circuit court of the county or counties wherein the
operation is situated, injunction, mandamus or other ap-
propriate legal proceedings to restrain such violations of
the provisions of this article or of orders of the department
to enforce obedience therewith. No injunction bond shall
be required to be filed in any such proceeding. Such
persons or corporations as the court may deem necessary
or proper to be joined as parties in order to make its
judgment, order or writ effective may be joined as parties.
The final judgment in any such action or proceeding shall
either dismiss the action or proceeding or direct that the
writ of mandamus or injunction or other order, issue or be
made permanent as prayed for in the petition or in such modified or other form as will afford appropriate relief.
An appeal may be taken as in other civil actions.

(c) In addition to the other remedies herein provided, any storage operator or coal operator affected by the provisions of this article may proceed by injunction or other appropriate remedy to restrain violations or threatened violations of the provisions of this article or of orders of the department or the judgments, orders or decrees of any court or to enforce obedience therewith.

(d) Each remedy prescribed in this section shall be deemed concurrent or contemporaneous with any other remedy prescribed herein and the existence or exercise of any one such remedy shall not prevent the exercise of any other such remedy.

Sec. 12. Penalties.—Any person who shall wilfully violate any order of the department issued pursuant to the provisions of this article shall be guilty of a misdemeanor or, and, on conviction thereof, shall be punished by a fine not exceeding two thousand dollars, or imprisoned in jail for not exceeding twelve months, or both, in the discretion
of the court, and prosecutions under this section may be
brought in the name of the state of West Virginia in the
court exercising criminal jurisdiction in the county in
which the violation of such provisions of the article or
terms of such order was committed, and at the instance
and upon the relation of any citizen of this state.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House of Delegates

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 16 day of March 1955.

Governor

Filed in the Office of the Secretary of State of West Virginia MAR 17 1955

Secretary of State