

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1963

ENROLLED

SENATE BILL NO. 219

(By Mr. Carson, Mr. President
and Mr. Jackson)

PASSED March 4 1963

In Effect July 1, 1963 Passage



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JOE F. BURDETT
SECRETARY OF STATE

219

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Senate Bill No. 219

(By MR. CARSON, MR. PRESIDENT and MR. JACKSON)

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AN ACT to amend and reenact sections one, two, three, four, nine and fourteen, article four, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article four by adding thereto twelve new sections, designated sections one-a, one-b, one-c, one-d, one-e, one-f, one-g, one-h, one-i, one-j, two-a and eighteen, all relating to oil and gas generally and providing certain definitions of terms; providing that well operators must file plats and give notice; specifying the contents of such plats; requiring permits to drill; requiring permits to fracture oil and/or gas wells originally drilled before the fifth day of June, one thousand nine hun-

dred twenty-nine; specifying the circumstances under which such permits to drill or fracture shall be issued; requiring a performance bond as a condition precedent to the issuance of a permit or permits to drill, or a permit or permits to fracture oil and/or gas wells originally drilled before the fifth day of June, one thousand nine hundred twenty-nine; permitting objections to proposed location of oil and/or gas wells and to proposed fracturing; providing for hearing on objections; authorizing parties to agree on drilling location and the conditions under which fracturing is to take place for the protection of life and property; authorizing department of mines to fix location of oil and/or gas wells and the conditions under which fracturing is to take place for the protection of life and property; providing for exceptions to drilling locations and to conditions of fracturing fixed by department of mines; providing for docket of proceedings; permitting judicial review of drilling location fixed or approved, and of the conditions of fracturing fixed or approved for the protection of life and property, by department of mines, and of the issuance of any drilling or fracturing permit, and providing for pro-

ceedings upon such judicial review; requiring notice of intention to plug and abandon oil and/or gas wells; providing for plugging and abandonment of oil and/or gas wells; providing for plugging and abandonment of oil and/or gas wells upon obtaining certain approval in writing; requiring a performance bond as a condition precedent to plugging and abandonment of a well; requiring an affidavit showing the time and manner of plugging and filling an oil and/or gas well or wells; providing that natural gas shall not be unreasonably wasted; requiring filing with department of mines of plans of operation for wasting gas to produce oil; permitting rejection of such plans by department of mines; establishing in the department of mines the office of deputy director for oil and gas; specifying the powers, duties, salary and oath of such deputy director; requiring a bond of such deputy director; providing for expenses of such deputy director; establishing the eligibility requirements for such deputy director; providing for the appointment, tenure and removal of not more than eight district oil and gas inspectors and a supervising inspector; providing for the examination of can-

didates for appointment as oil and gas inspectors and for appointment as a supervising inspector; providing for a register of certified eligible candidates for appointment as oil and gas inspectors and as supervising inspector; providing for the removal of names from such register and under certain circumstances the reinstatement thereof; specifying the oath, bond and salary of oil and gas inspectors and supervising inspector; providing for expenses of oil and gas inspectors and supervising inspector; establishing the eligibility requirements and qualifications of persons desiring to serve as oil and gas inspectors and as supervising inspector; providing procedures for removal of oil and gas inspectors and supervising inspector; establishing the oil and gas inspectors' examining board; specifying the qualifications of persons to serve on such board; providing for the appointment of members of such board; providing a per diem and mileage allowance for the members of such board; specifying an oath for the members of such board; providing for meetings of such board; specifying the powers and duties of such board; authorizing the deputy director for oil and gas, oil and gas inspectors and the su-

pervising inspector to visit and inspect oil and/or gas wells, well sites and any other oil and/or gas facilities; requiring the owner or operator of every oil and/or gas well, well site or any other oil and/or gas facility to cooperate with the deputy director for oil and gas, all oil and gas inspectors and the supervising inspector in making inspections or obtaining information; specifying the duties of oil and gas inspectors and of the supervising inspector; providing for findings and orders of oil and gas inspectors; providing for special inspections; providing for notice of findings and orders; providing for review by deputy director for oil and gas of findings and orders of oil and gas inspectors; providing for notice of findings and orders made after review by such deputy director; specifying the manner in which findings and orders must be made and notice thereof given; permitting judicial review of final orders of deputy director for oil and gas concerning inspection of oil and/or gas wells, well sites and any other oil and/or gas facility; providing the method and manner of applying for such judicial review; providing for proceedings upon judicial review; providing that well operators must give

notice to coal operators and department of mines of intention to fracture certain other wells; specifying the contents of such notice; requiring permits to fracture such other wells; specifying the circumstances under which such permits to fracture such other wells shall be issued; and providing for injunctive relief.

Be it enacted by the Legislature of West Virginia:

That sections one, two, three, four, nine and fourteen, article four, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article four be further amended by adding thereto twelve new sections, designated sections one-a, one-b, one-c, one-d, one-e, one-f, one-g, one-h, one-i, one-j, two-a and eighteen, all to read as follows:

Section 1. Definitions.—The term “well” when used in
2 this article, means a bore hole drilled or proposed to be
3 drilled for the purpose of producing natural gas and/or
4 petroleum, or through which natural gas and/or petroleum
5 is being produced; the terms “oil and/or gas facility” when
6 used in this article, mean any facility utilized in the oil
7 and gas industry in this state and specifically named or

8 referred to in this article or in articles five or seven of
9 this chapter, other than a well or well site; the term
10 "owner," when used with reference to any such well,
11 shall include any person or persons, firm, partnership,
12 partnership association or corporation that owns, manages,
13 operates, controls or possesses such well as principals, or
14 as lessee or contractor, employee or agent of such prin-
15 cipal; the term "well operator" shall include any person
16 or persons, firm, partnership, partnership association or
17 corporation that proposes to or does locate, drill, operate
18 or abandon any well as herein defined; the term "coal
19 operator" shall include any person or persons, firm, part-
20 nership, partnership association or corporation that pro-
21 poses to or does operate a coal mine; the term "depart-
22 ment" or "department of mines" includes the duly con-
23 stituted authorities under the laws of this state having
24 jurisdiction over coal mining operations; the term "plat"
25 means a map, drawing or print showing the location of a
26 well or wells as herein defined; the term "casing" means
27 a string or strings of pipe commonly placed in wells drilled
28 for natural gas and/or petroleum; the terms "oil" and

29 "gas" are synonyms for petroleum and natural gas re-
30 spectively; the term "cement" means hydraulic cement
31 properly mixed with water only; the term "workable coal
32 bed" means a coal bed in fact being operated commer-
33 cially, or which, in the judgment of the department of
34 mines, can, and that it is reasonably to be expected will,
35 be so operated, and which, when operated, will require
36 protection if wells are drilled through it.

Sec. 2. When Well Operator to File Plat; Contents;

2 Notice; Permit Required; Performance Bond Required.

3 —Before drilling for oil or gas, or before fracturing an oil
4 and/or gas well originally drilled before the fifth day of
5 June, one thousand nine hundred twenty-nine, on any
6 tract of land, the well operator shall have a plat prepared
7 by a competent engineer showing the district and county
8 in which the tract of land is located, the name and acre-
9 age of the same, the names of the owners of adjacent
10 tracts, the proposed or actual location of the well deter-
11 mined by survey, the courses and distances of such loca-
12 tion from two permanent points or landmarks on said
13 tract and the number to be given the well (and the date

14 of drilling completion of a well originally drilled before
15 the fifth day of June, one thousand nine hundred twenty-
16 nine, when it is proposed that such a well be fractured),
17 and shall forward by registered mail a copy of the plat
18 to the department of mines. In the event the tract of land
19 on which the said well proposed to be drilled or fractured
20 is located is known to be underlaid with one or more work-
21 able beds of coal, copies of the plat shall be forwarded by
22 registered mail to each and every coal operator, if any,
23 operating said beds of coal beneath said tract of land, or
24 within five hundred feet of the boundaries of the same,
25 who has mapped the same and filed his maps as required
26 by law. With each of such plats there shall be enclosed
27 a notice (form for which shall be furnished on request
28 by the department of mines) addressed to the department
29 of mines and to each such coal operator, if any, at their
30 respective addresses, informing them that such plat and
31 notice are being mailed to them respectively by registered
32 mail, pursuant to the requirements of this article. If no
33 objections are made, or are found by the department, to
34 such proposed location or proposed fracturing within ten

35 days from receipt of such plat and notice by the depart-
36 ment of mines, the same shall be filed and become a per-
37 manent record of such location or fracturing subject to
38 inspection at any time by any interested person, and the
39 department shall forthwith issue to the well operator a
40 permit reciting the filing of such plat, that no objections
41 have been made by the coal operators, if any, or found
42 thereto by the department, and authorizing the well
43 operator to drill at such location, or to fracture the well
44 originally drilled before the fifth day of June, one thou-
45 sand nine hundred twenty-nine: *Provided*, That unless
46 the department has objections to such proposed location
47 or proposed fracturing, such permit shall be issued prior
48 to the expiration of such ten day period upon the obtain-
49 ing by the well operator of the consent in writing of the
50 coal operator or operators to whom copies of the plat and
51 notice shall have been mailed as herein required, and upon
52 presentation of such written consent to the department.
53 The notice above provided for may be given to the coal
54 operator by delivering or mailing it as above to any agent
55 or superintendent in actual charge of mines.

56 A permit to drill, or to fracture an oil and/or gas well
57 originally drilled before the fifth day of June, one thou-
58 sand nine hundred twenty-nine, shall not be issued unless
59 the application therefor is accompanied by a bond of the
60 operator in the sum of one thousand dollars, payable to
61 the state of West Virginia, with a corporate bonding and/
62 or surety company authorized to do business in this state
63 as surety thereon, conditioned on full compliance with all
64 laws, rules and regulations relating to the drilling, re-
65 drilling, deepening, casing, plugging and abandonment of
66 wells and for furnishing such reports and information as
67 may be required by the department: *Provided, however,*
68 That when such operator makes or has made application
69 for permits to drill a number of wells and/or fracture a
70 well or wells originally drilled before the fifth day of
71 June, one thousand nine hundred twenty-nine, the oper-
72 ator may in lieu of furnishing a separate bond furnish a
73 blanket bond in the sum of ten thousand dollars, payable
74 to the state of West Virginia, with a corporate bonding
75 and/or surety company authorized to do business in this
76 state as surety thereon, and conditioned as aforesaid:

77 *Provided, further,* That in lieu of corporate surety on a
78 separate or blanket bond, as the case may be, the operator
79 may elect to deposit with the deputy director for oil and
80 gas cash and/or the following collateral securities or any
81 combination thereof: (1) bonds of the United States or
82 agency thereof, or those guaranteed by, or for which the
83 credit of the United States or agency thereof is pledged for
84 the payment of the principal and interest thereof; (2) direct
85 general obligation bonds of this state, or any other state, or
86 territory of the United States, or the District of Columbia,
87 unconditionally guaranteed as to the principal and interest
88 by such other state or territory of the United States, or the
89 District of Columbia if such other state, territory, or the
90 District of Columbia has the power to levy taxes for the
91 payment of the principal and interest of such securities,
92 and if at the time of the deposit such other state, terri-
93 tory, or the District of Columbia is not in default in the
94 payment of any part of the principal or interest owing
95 by it upon any part of its funded indebtedness; (3) direct
96 general obligation bonds of any county, district, city, town,
97 village, school district or other political subdivision of

98 this state issued pursuant to law and payable from ad
99 valorem taxes levied on all the taxable property located
100 therein, provided that the total indebtedness after de-
101 ducting sinking funds and all debts incurred for self-sus-
102 taining public works does not exceed five per cent of the
103 assessed value of all taxable property therein at the time
104 of the last assessment made before the date of such de-
105 posit, and provided that the issuer has not, within five
106 years prior to the making thereof, been in default for more
107 than ninety days in the payment of any part of the prin-
108 cipal or interest on any debt evidenced by its bonds; (4)
109 revenue bonds issued by this state or any agency of this
110 state when such bonds are payable from revenues or earn-
111 ings specifically pledged for the payment of principal and
112 interest, and a lawful sinking fund or reserve fund has
113 been established and is being maintained for the payment
114 of such bonds; (5) revenue bonds issued by a municipality
115 in this state for the acquisition, construction, improve-
116 ment, or extension of a waterworks system, or a sewer-
117 age system, or a combined waterworks and sewerage sys-
118 tem, when such bonds are payable from revenue or earn-

119 ings specifically pledged for the payment of principal and
120 interest, and a lawful sinking fund or reserve fund has
121 been established and is being maintained for the payment
122 of such bonds; (6) revenue bonds issued by a public serv-
123 ice board of a public service district in this state for the
124 acquisition, construction, improvement or extension of
125 any public service properties, or for the reimbursement
126 or payment of the costs and expenses of creating the
127 district, when such bonds are payable from revenue or
128 earnings specifically pledged for the payment of principal
129 and interest, and a lawful sinking fund or reserve fund
130 has been established and is being maintained for the pay-
131 ment of such bonds; (7) revenue bonds issued by a board
132 of trustees of a sanitary district in this state for the cor-
133 porate purposes of such district, when such bonds are
134 payable from revenue or earnings specifically pledged
135 for the payment of principal and interest, and a lawful
136 sinking fund or reserve fund has been established and is
137 being maintained for the payment of such bonds; and (8)
138 bonds issued by a federal land bank or home owners loan
139 corporation. The cash deposit and/or market value of

140 the collateral securities shall be equal to or greater than
141 the penalty of the separate or blanket bond, as the case
142 may be. Upon receipt of any such deposit of cash and/or
143 collateral securities, the deputy director for oil and gas
144 shall immediately deliver the same to the treasurer of
145 the state of West Virginia. The treasurer shall determine
146 whether any such securities satisfy the requirements of
147 this section. If the securities are approved they shall be
148 accepted by the treasurer. If the securities are not ap-
149 proved, they shall be rejected and returned to the oper-
150 ator and no permit shall be issued until a corporate surety
151 bond is filed or cash and/or proper collateral securities are
152 filed in lieu of such surety. The treasurer shall hold any
153 cash and/or securities in the name of the state in trust
154 for the purposes for which the deposit was made. The
155 operator shall be entitled to all interest and income earned
156 on the collateral securities filed by such operator so long
157 as the operator is in full compliance with all laws, rules
158 and regulations relating to the drilling, redrilling, deep-
159 ening, casing, plugging and abandonment of wells and for
160 furnishing such reports and information as may be re-

161 quired by the department. The operator making the de-
162 posit shall be entitled from time to time to receive from
163 the treasurer, upon the written order of the deputy di-
164 rector for oil and gas, the whole or any portion of such
165 securities upon depositing with the treasurer in lieu there-
166 of cash equal to or greater than the penalty of the
167 bond, and/or other approved securities of the classes here-
168 in specified having a market value equal to or greater
169 than the penalty of the bond, or a corporate surety bond.

170 Any such bond shall remain in force until released by
171 the department and the department shall release the same
172 when it is satisfied the conditions thereof have been
173 fully performed. Upon the release of any such bond, any
174 cash and/or collateral securities deposited shall be re-
175 turned by the deputy director for oil and gas to the oper-
176 ator who deposited same.

Sec. 3. Objections to Proposed Drilling Location; Objec-
2 **tions to Proposed Fracturing; Hearing; Agreed Location**
3 **of Well; Agreed Conditions of Fracturing; Drilling Loca-**
4 **tion Fixed by Department of Mines; Conditions of Frac-**
5 **turing Fixed by Department of Mines; Exceptions; Docket**

6 **of Proceedings.**—In any case where the proposed drilling
7 or fracturing site is above or in close proximity to any mine
8 opening or shaft, entry, traveling, air, haulage, drainage
9 or other passageway, or to any proposed extension there-
10 of, in any operated or abandoned or operating coal mine,
11 or coal mine already surveyed and platted, but not yet
12 being operated, so that the well or the pillar of coal about
13 the well necessary to the protection of the mine and of
14 the well itself when drilled or fractured will interfere
15 with or endanger the use of such mine opening, entries or
16 ways, then the coal operator or operators affected may,
17 and shall, if the drilling or fracturing of a well at such
18 location will cause a dangerous condition in their mine
19 or mines, within ten days from the receipt by the depart-
20 ment of mines of the plat and notice required by section
21 two, or within ten days from receipt by the department of
22 mines of the notice required by section two-a, file objec-
23 tions in writing (forms for which will be furnished by
24 the department on request) to such proposed drilling or
25 fracturing with the department of mines, setting out
26 therein as definitely as is reasonably possible the ground

27 or grounds on which such objections are based and in the
28 case of proposed drilling, indicating the direction and dis-
29 tance from the location shown the proposed well should
30 be drilled to overcome such objections, and in the case of
31 proposed fracturing, indicating the conditions for the pro-
32 tection of life and property under which the well should
33 be fractured to overcome such objections.

34 If any objection or objections are so filed by any coal
35 operator or are made by the department of mines, the de-
36 partment shall notify the well operator of the character
37 of the objections and by whom made and fix a time and
38 place, not less than ten days from the end of said ten day
39 period, at which such objections will be considered, of
40 which time and place the well operator and all coal oper-
41 ators to whom a copy of the plat and notice required by
42 section two was mailed, or to whom the notice required
43 by section two-a was mailed, as the case may be, whether
44 objecting or not objecting to the proposed drilling or
45 fracturing, shall be given at least five days' written notice
46 by the department, by registered mail, and summoned
47 to appear, bringing with them their maps and plans show-

48 ing their mines and mine workings and in the case of pro-
49 posed drilling, being prepared to approve or to except to
50 such location or locations as the department may, after
51 hearing, approve or itself fix in case no agreement is
52 reached, and in the case of proposed fracturing being pre-
53 pared to approve or to except to any conditions under
54 which the fracturing is to take place as the department
55 may, for the protection of life and property, after hearing,
56 approve or itself fix in case no agreement is reached. At
57 the time and place so fixed the well operator and the in-
58 terested coal operators, or such of them as are present or
59 represented, shall proceed to consider the objections, and
60 in the case of proposed drilling to agree upon either the
61 location as made or so moved as to satisfy all objections
62 and meet the approval of the department, and any change
63 in the original location so agreed upon and approved by
64 the department shall be indicated on said plat on file with
65 the department, and the distance and direction of the new
66 location from the original location shall be shown, and,
67 as so altered, the plat shall be filed and become a perma-
68 nent record, and in the case of proposed fracturing to

69 agree upon conditions under which the well is to be frac-
70 tured which will protect life and property and which will
71 satisfy all objections and meet the approval of the de-
72 partment, at which time the plat and notice required by
73 section two, or the notice required by section two-a, as
74 the case may be, shall be filed and become a permanent
75 record. Whereupon the department shall forthwith issue
76 to the well operator a drilling or fracturing permit, as
77 the case may be, reciting the filing of the plat and notice
78 required by said section two, or the notice required by
79 said section two-a, as the case may be, that at a hearing
80 duly held a location as shown on the plat or the conditions
81 under which the fracturing is to take place for the pro-
82 tection of life and property were agreed upon and ap-
83 proved, and that the well operator is authorized to drill
84 at such location or to fracture at the site shown on such
85 plat, or to fracture the well identified in the notice re-
86 quired by section two-a, as the case may be.

87 In case the well operator and the coal operator or such
88 of the coal operators as are present or represented at such
89 hearing are unable to agree upon a drilling location, or

90 upon a drilling location that meets the approval of the
91 department of mines, then the department shall fix a
92 drilling location on such tract of land as near to the orig-
93 inal location as possible in a pillar of suitable size, through
94 which the well can be drilled safely, taking into consider-
95 ation the dangers from creep, squeeze, or other disturb-
96 ance, due to the extraction of coal. Should no such pillar
97 exist, however, the well may be located and drilled
98 through open workings where, in the judgment of the
99 department of mines, it is practicable and safe so to do,
100 taking into consideration the dangers from creeps,
101 squeezes, or other disturbances. In case the well operator
102 and the coal operator or such of the coal operators as are
103 present or represented at such hearing are unable to
104 agree upon the conditions under which the well is to be
105 fractured so as to protect life and property, or upon con-
106 ditions of fracturing that meet the approval of the de-
107 partment of mines, then the department shall fix the con-
108 ditions under which the well is to be fractured, provided
109 the well can be fractured safely, taking into consideration
110 the dangers from creeps, squeezes, or other disturbances.

111 Such new drilling location shall be indicated on the plat
112 on file with the department as provided in the next pre-
113 ceding paragraph of this section, and the department
114 shall forthwith tender to the well operator a permit to
115 drill at such location, or to fracture at the site shown on
116 plat, or to fracture the well identified in the notice re-
117 quired by section two-a, as the case may be, which permit
118 the well operator may accept or refuse to accept, and if
119 it accepts such permit, the coal operator or operators hav-
120 ing filed objections and appearing or being represented at
121 such hearing, may except to such location or fracturing
122 and to the issuance of such drilling or fracturing permit;
123 and the well operator accepting the same may require the
124 record of the hearing to show that it accepts such drilling
125 permit at the location made by the department as a new
126 or additional location and not in lieu of its original loca-
127 tion, or that it accepts such fracturing permit as to the
128 conditions under which the well is to be fractured as
129 fixed by the department as new conditions and not in lieu
130 of the conditions preferred by it, and that it reserves the
131 right to appeal to the circuit court of the county in which

132 its original drilling location, or its fracturing site, lies for
133 relief, and that it excepts to the refusal of the department
134 to approve such original location substantially as made
135 or to approve the conditions of fracturing preferred.

136 The department of mines shall number and keep an
137 index of and docket each plat and notice mailed to it as
138 provided in section two of this article, and each notice
139 mailed to it as provided in section two-a of this article,
140 entering in such docket the name of the well operator,
141 names of the coal operators notified and their addresses,
142 the date of receipt of any such plat and notice required
143 by said section two or notice required by said section
144 two-a and of all objections filed, dates of hearings and all
145 actions taken by the department, permits issued or re-
146 fused, which docket shall be open to inspection by the
147 public, and, together with the papers filed, shall consti-
148 tute the record of each such proceeding before the de-
149 partment.

**Sec. 4. Appeal by Coal Operator or Well Operator from
2 Drilling Location Fixed or Approved, or from the Condi-
3 tions of Fracturing Fixed or Approved, by Department**

4 **of Mines or from Issuance of Permit to Drill or Fracture;**
5 **Procedure.**—Any coal operator excepting to any drilling
6 location fixed or approved by the department of mines or
7 to the issuance of any drilling permit, or to the conditions
8 under which the well is to be fractured as fixed or ap-
9 proved by the department of mines for the protection of
10 life and property or to the issuance of any fracturing
11 permit, and any well operator excepting to the refusal of
12 the department to grant a drilling permit at the location
13 shown in the plat mailed to the department as provided
14 in section two of this article, or such location so shifted
15 as to be still substantially the same or the equivalent
16 thereof, or to the refusal of the department to grant a
17 fracturing permit in accordance with the conditions of
18 fracturing preferred by the well operator, may at any
19 time within ten days of the taking of such action by the
20 department of mines appeal to the circuit court of the
21 county in which the proposed drilling location or frac-
22 turing site involved lies. The procedure shall be by peti-
23 tion and answer, duly verified, and naming the depart-
24 ment as one of the respondents. The petition shall briefly

25 set forth the matter in controversy, the ruling of the de-
26 partment and the relief sought. The operator making
27 such appeal shall forthwith send a copy of such petition
28 for appeal, by registered mail, to the deputy director for
29 oil and gas. Upon receipt of such copy of such petition
30 for appeal the deputy director for oil and gas shall
31 promptly certify and file in such court a complete tran-
32 script of the record upon which the ruling complained of
33 was made, as well as copies of all papers filed with the
34 department. The costs of such transcriptions shall be paid
35 by the party making the appeal. The respondents shall
36 be required to answer under oath within ten days after
37 service of copies of the petition upon them, and the pro-
38 cedure shall be expedited, as far as is reasonably possible,
39 having regard to possible drainage or loss of title by the
40 well operator through its failure to complete or fracture
41 a well within the period fixed by the terms of the lease
42 under which it holds. The court may, by preliminary
43 order, upon proper proof of the necessity therefor and the
44 giving of proper security, stay the drilling or fracturing
45 of any well until a final decision on the appeal, and after

46 a final hearing, at which any competent and relevant evi-
47 dence may be introduced, may set aside any action or
48 order of the department and enter such final order and
49 decree as in its judgment is just and right and will best
50 carry out the provisions of this article. From such final
51 orders and decrees of the circuit court an appeal may be
52 taken to the supreme court of appeals. During vacation
53 periods or when for any reason the circuit court is not in
54 session, such proceedings shall be before the judge of such
55 court in vacation, or, in his absence, before the judge of
56 an adjoining circuit, who may act until the return of the
57 regular judge to his circuit, whereupon all further pro-
58 ceedings shall be had before the regular judge or circuit
59 court having initial jurisdiction therein, and all proceed-
60 ings in vacation shall be of like force and effect as if be-
61 fore the court in session.

Sec. 9. Plugging and Abandonment of Well; Notice of
2 **Intention; Performance Bond Required; Affidavit Show-**
3 **ing Time and Manner.**—Prior to the abandonment of any
4 well, the well operator shall notify, by registered mail,
5 the department of mines and the coal operator or oper-

6 ators, if any, to whom notices are required to be given by
7 section two of this article and the coal operator or oper-
8 ators to whom notices are required to be given by section
9 two-a of this article of its intention to plug and abandon
10 any such well (using such form of notice as the depart-
11 ment may provide), giving the number of the well and
12 its location and fixing the time at which the work of
13 plugging and filling will be commenced, which time shall
14 be not less than five days after the day on which such
15 notice so mailed is received or in due course should be
16 received by the department of mines, in order that a
17 representative or representatives of the department and
18 the coal operator or operators, if any, or of both, may be
19 present at the plugging and filling of the well. Whether
20 such representatives appear or do not appear, the well
21 operator may proceed at the time fixed to plug and fill
22 the well in the manner hereinafter described. Notwith-
23 standing the foregoing, a well operator may proceed to
24 plug and fill a well at any time without giving the afore-
25 said notice of intention if such operator has first obtained
26 in writing the approval of the department of mines and

27 the coal operator or operators, if any, to whom notices
28 are required to be given by section two of this article
29 and the coal operator or operators to whom notices are
30 required to be given by section two-a of this article. No
31 well shall be plugged or abandoned unless the depart-
32 ment is furnished a bond of the operator in the sum of
33 one thousand dollars, payable to the state of West Vir-
34 ginia, with a corporate bonding and/or surety company
35 authorized to do business in this state as surety thereon,
36 conditioned on full compliance with all laws, rules and
37 regulations relating to the casing, plugging and abandon-
38 ment of wells and for furnishing such reports and in-
39 formation as may be required by the department: *Pro-*
40 *vided*, That when a number of wells are involved, the
41 operator may in lieu of furnishing a separate bond furnish
42 a blanket bond in the sum of ten thousand dollars, pay-
43 able to the state of West Virginia, with a corporate bond-
44 ing and/or surety company authorized to do business in
45 this state as surety thereon, and conditioned as aforesaid:
46 *Provided, however*, That in lieu of corporate surety on a
47 separate or blanket bond, as the case may be, the operator

48 may elect to deposit with the deputy director for oil and
49 gas cash and/or collateral securities as specified in sec-
50 tion two of this article. All of the provisions of section
51 two dealing with cash and/or collateral securities in lieu
52 of corporate surety shall be fully applicable hereto except
53 for the condition of the bond with respect to which the
54 operator must be in full compliance in order to be entitled
55 to the interest and income earned on such securities. The
56 operator shall be entitled to such interest and income
57 under this section so long as the operator is in full com-
58 pliance with all laws, rules and regulations relating to
59 the casing, plugging and abandonment of wells and for
60 furnishing such reports and information as may be re-
61 quired by the department. Any such bond shall remain
62 in force until released by the department and the depart-
63 ment shall release the same when it is satisfied the condi-
64 tions thereof have been fully performed. Notwithstand-
65 ing the foregoing provisions, any operator who, in ac-
66 cordance with section two of this article, has furnished
67 a separate bond, which has not been released by the de-
68 partment, for the drilling or fracturing of the well it is

69 now proposed be plugged and abandoned, or who, in
70 accordance with the provisions of said section two of this
71 article, has furnished a blanket bond which has not been
72 released by the department shall not be required by this
73 section nine to furnish any other bond. When the plugging
74 and filling of a well have been completed, an affidavit,
75 in triplicate, shall be made (on a form to be furnished
76 by the department) by two experienced men who par-
77 ticipated in the work, in which affidavit shall be set forth
78 the time and manner in which the well was plugged and
79 filled. One copy of this affidavit shall be retained by the
80 well operator, another (or true copies of same) shall be
81 mailed to the coal operator or operators, if any, and the
82 third to the department of mines.

Sec. 14. Preventing Waste of Gas; Plans of Operation

2 **Required; Rejection Thereof.**—Natural gas shall not be
3 permitted to waste or escape from any well or pipe line,
4 when it is reasonably possible to prevent such waste,
5 after the owner or operator of such gas, or well, or pipe
6 line, has had a reasonable length of time to shut in such
7 gas in the well, or make the necessary repairs to such

8 well or pipe line to prevent such waste: *Provided*, That
9 (a) if, in the process of drilling a well for oil or gas, or
10 both, gas is found in such well, and the owner or oper-
11 ator thereof desires to continue to search for oil or gas,
12 or both, by drilling deeper in search of lower oil or gas-
13 bearing strata, or (b) if it becomes necessary to make
14 repairs to any well producing gas, commonly known as
15 "cleaning out," and if in either event it is necessary for
16 the gas in such well to escape therefrom during the
17 process of drilling or making repairs, as the case may be,
18 then the owner or operator of such well shall prosecute
19 such drilling or repairs with reasonable diligence, so that
20 the waste of gas from the well shall not continue longer
21 than reasonably necessary, and if, during the progress of
22 such deeper drilling or repairs, any temporary suspension
23 thereof becomes necessary, the owner or operator of
24 such well shall use all reasonable means to shut in the gas
25 and prevent its waste during such temporary suspension:
26 *Provided, however*, That in all cases where both oil and
27 gas are found and produced from the same oil and gas-
28 bearing stratum, and where it is necessary for the gas

29 therefrom to waste in the process of producing the oil,
30 the owner or operator shall use all reasonable diligence
31 to conserve and save from waste so much of such gas as
32 it is reasonably possible to save, but in no case shall
33 such gas from any well be wasted in the process of pro-
34 ducing oil therefrom until the owner or operator of such
35 well shall have filed with the department a plan of opera-
36 tion for said well showing, among other things, the gas-
37 oil production ratio involved in such operation, which
38 plan shall govern the operation of said well unless the
39 department shall, within ten days from the date on which
40 such plan is submitted to the department, make a finding
41 that such plan fails, under all the facts and circumstances,
42 to propose the exercise of all reasonable diligence to con-
43 serve and save from waste so much of such gas as it is
44 reasonably possible to save, in which event production of
45 oil at such well by the wasting of gas shall cease and
46 determine until a plan of operation is approved by the
47 department. Successive plans of operation may be filed
48 by the owner or operator of any such well with the de-
49 partment.

Sec. 1-a. Deputy Director for Oil and Gas; Appoint-

2 **ment; Powers and Duties.**—There shall be an employee
3 of the department whose title shall be “deputy for oil and
4 gas,” who shall be appointed by the director to serve at
5 the will and pleasure of the director. The deputy director
6 for oil and gas shall have full charge of the oil and gas
7 matters set out in this article and in articles five and seven
8 of this chapter, subject always to the direct supervision
9 and control of the director of the department of mines.
10 As such, the deputy director for oil and gas shall have
11 the power and duty to:

12 (1) Supervise and direct the execution and enforce-
13 ment of the provisions of this article and articles five and
14 seven of this chapter;

15 (2) Employ a supervising oil and gas inspector and
16 not more than eight district oil and gas inspectors upon
17 approval by the director, such clerks, stenographers and
18 other employees as may be approved by the director, at
19 compensation fixed by the director, except as otherwise
20 provided in this article;

21 (3) Supervise and direct such oil and gas inspectors and

22 supervising inspector in the performance of their duties;

23 (4) Suspend for good cause any oil and gas inspector
24 or supervising inspector without compensation for a pe-
25 riod not exceeding thirty days in any calendar year;

26 (5) Prepare report forms to be used by oil and gas
27 inspectors or the supervising inspector in making their
28 findings, orders and notices, upon inspections made in
29 accordance with this chapter;

30 (6) Hear and determine applications made by owners,
31 well operators, and coal operators for the annulment or
32 revision of orders made by oil and gas inspectors or the
33 supervising inspector, and to make inspections, in accord-
34 ance with the provisions of this article and articles five
35 and seven of this chapter;

36 (7) Cause a properly indexed permanent and public
37 record to be kept of all inspections made by himself or by
38 oil and gas inspectors or the supervising inspector;

39 (8) Make annually a full and complete written report
40 to the director of the department of mines in such form
41 and detail as the director may from time to time request,
42 so that the director can complete the preparation of the

43 director's annual report to the governor of the state;

44 (9) Conduct such research and studies as the director
45 shall deem necessary to aid in protecting the health and
46 safety of persons employed within or at potential or
47 existing oil or gas production fields within this state, to
48 improve drilling and production methods and to provide
49 for the more efficient protection and preservation of oil
50 and gas bearing rock strata and property used in connec-
51 tion therewith;

52 (10) Perform all other duties which are expressly im-
53 posed upon him by the provisions of this chapter, as well
54 as duties assigned to him by the director of the depart-
55 ment of mines.

56 All records of the department shall be open to the pub-
57 lic.

Sec. 1-b. Same; Eligibility; Salary; Expenses; Oath and

2 **Bond.**—The deputy director for oil and gas shall be a
3 citizen of West Virginia, shall be a competent person of
4 good reputation and temperate habits and shall have had
5 at least ten years' practical experience in the oil and gas
6 industry, at least five of which shall have been in this

7 state. A diploma in geology or in mining or petroleum
8 engineering from West Virginia University, or any simi-
9 larly accredited school shall be counted as two years' prac-
10 tical experience. The deputy director for oil and gas shall
11 devote all of his time to the duties of his office, and shall
12 not be directly or indirectly interested financially in any
13 oil and/or gas production or drilling or in any coal mine
14 in this state. The salary of the deputy director for oil
15 and gas shall be not less than seven thousand five hundred
16 dollars nor more than ten thousand dollars per year, and
17 traveling expenses, which shall be paid out of the state
18 treasury upon a requisition upon the state auditor, prop-
19 erly certified by the director of the department of mines.

20 The deputy director for oil and gas shall, before en-
21 tering upon the discharge of his duties, take the oath of
22 office prescribed by section five, article four of the Con-
23 stitution, and shall execute a bond in the penalty of two
24 thousand dollars, with security to be approved by the
25 director of the department of mines, conditioned upon the
26 faithful discharge of his duties, a certificate of which oath
27 and which bond shall be filed in the office of the secretary
28 of state.

Sec. 1-c. Oil and Gas Inspectors; Supervising Inspec-

2 **tor; Tenure; Oath and Bond.**—Notwithstanding any
3 other provisions of law, oil and gas inspectors shall be
4 selected, serve and be removed as in this article provided.

5 The deputy director for oil and gas shall divide the
6 state into not more than eight oil and gas districts, so as
7 to equalize, as far as practical, the work of each oil and
8 gas inspector. He shall assign inspectors to districts, and
9 designate a supervising inspector and shall designate their
10 places of abode, at points convenient to the accomplish-
11 ment of their work. In the event the oil and gas in-
12 spectors' examining board is unable to provide an ade-
13 quate register of certified eligible candidates for appoint-
14 ment prior to the first day of July, one thousand nine
15 hundred sixty-three, the appointment of the supervising
16 inspector and other inspectors shall be deferred until an
17 adequate register is available: *Provided*, That notwith-
18 standing any other provisions contained in this article,
19 those persons serving as oil and gas inspectors on the ef-
20 fective date of this act may be appointed as oil and gas
21 inspectors with permanent tenure if such persons pass

22 the examinations conducted by the oil and gas inspectors'
23 examining board in accordance with the provisions of
24 sections one-d and one-e.

25 All other oil and gas inspectors, including the super-
26 vising inspector, shall be appointed from the names on
27 such register. Each original appointment shall be made
28 by the deputy director for oil and gas, and shall be ap-
29 proved by the director of the department of mines, for a
30 probationary period of not more than one year.

31 The deputy director for oil and gas shall make each
32 appointment from among the three qualified eligible can-
33 didates on the register having the highest grades: *Pro-*
34 *vided, however,* That the director of the department of
35 mines or the deputy director for oil and gas may, for good
36 cause, at least thirty days prior to making an appoint-
37 ment, strike any name from the register. Upon striking
38 any name from the register, the director or deputy di-
39 rector, as the case may be, shall immediately notify in
40 writing each member of the oil and gas inspectors' exam-
41 ining board of his action, together with a detailed state-
42 ment of the reasons therefor. Thereafter, the oil and gas

43 inspectors' examining board, after hearing, if it finds that
44 the action of striking such name was arbitrary or unrea-
45 sonable, may order the name of any candidate so stricken
46 from the register to be reinstated thereon. Such rein-
47 statement shall be effective from the date of removal from
48 the register.

49 Any candidate passed over for appointment for three
50 years shall be automatically stricken from the register.

51 After having served for a probationary period of one
52 year to the satisfaction of the deputy director for oil and
53 gas and the director, an oil and gas inspector or super-
54 vising inspector shall have permanent tenure until he be-
55 comes seventy years of age, subject only to dismissal for
56 cause in accordance with the provisions of section one-d
57 of this article. No oil and gas inspector or supervising
58 inspector while in office shall be directly or indirectly in-
59 terested as owner, lessor, operator, stockholder, superin-
60 tendent or engineer of any oil and/or gas drilling or pro-
61 ducing venture or of any coal mine in this state. Before
62 entering upon the discharge of his duties as an oil and gas
63 inspector or supervising inspector, he shall take the oath

64 of office prescribed by the Constitution, and shall execute
65 a bond in the penalty of two thousand dollars, with se-
66 curity to be approved by the director of the department
67 of mines, conditioned upon the faithful discharge of his
68 duties, a certificate of which oath and bond shall be filed
69 in the office of the secretary of state.

70 The supervising inspector and oil and gas inspectors
71 shall perform such duties as are imposed upon them by
72 this chapter, and related duties assigned by the deputy
73 director for oil and gas upon approval of the director.

Sec. 1-d. Same; Eligibility for Appointment; Qualifica-
2 **tions; Salary; Expenses; Removal.**—(a) No person shall
3 be eligible for appointment as an oil and gas inspector
4 or supervising inspector unless, at the time of his pro-
5 bationary appointment he (1) is a citizen of West Vir-
6 ginia, in good health, and of good character, reputation
7 and temperate habits; (2) has had at least ten years'
8 practical experience in the oil and gas industry, at least
9 five years of which, immediately preceding his original
10 appointment shall have been in the oil and gas industry
11 in this state: *Provided*, That a diploma in geology or in

12 mining or petroleum engineering from West Virginia
13 University, or any similarly accredited school shall be
14 considered the equivalent of two years' practical experi-
15 ence; and (3) has good theoretical and practical knowl-
16 edge of oil and gas drilling and production methods, prac-
17 tices and techniques, sound safety practices and applica-
18 ble mining laws.

19 (b) In order to qualify for appointment as an oil and
20 gas inspector or supervising inspector, an eligible applicant
21 shall submit to a written and oral examination by the oil
22 and gas inspectors' examining board and shall furnish
23 such evidence of good health, character and other facts
24 establishing eligibility as such board may require. If
25 such board finds after investigation and examination that
26 an applicant: (1) is eligible for appointment and (2) has
27 passed all written and oral examinations, the board shall
28 add such applicant's name and grade to the register of
29 qualified eligible candidates and certify its action to the
30 deputy director for oil and gas. No candidate's name
31 shall remain on the register for more than three years
32 without requalifying.

33 (c) The salary of the supervising inspector shall be
34 not less than five thousand four hundred dollars per
35 annum, nor more than eight thousand dollars per annum,
36 and reasonable traveling expenses. Salaries of inspectors
37 shall not be less than five thousand four hundred dollars
38 per annum, nor more than seven thousand dollars per
39 annum, and reasonable traveling expenses. Within the
40 limits provided by law, the salary of each inspector and
41 of the supervising inspector shall be fixed by the deputy
42 director for oil and gas, subject to the approval of the
43 director of the department of mines and oil and gas in-
44 spectors' examining board. In fixing salaries of the oil
45 and gas inspectors and of the supervising inspector, the
46 deputy director for oil and gas shall consider ability, per-
47 formance of duty, and experience. No reimbursement for
48 traveling expenses shall be made except upon an item-
49 ized account of such expenses submitted by the inspector
50 or supervising inspector, as the case may be, who shall
51 verify, upon oath, that such expenses were actually in-
52 curred in the discharge of his official duties.

53 (d) An inspector or the supervising inspector, after

54 having received a permanent appointment, shall be re-
55 moved from office only for physical or mental impair-
56 ment, incompetency, neglect of duty, drunkenness, mal-
57 feasance in office, or other good cause.

58 Proceedings for the removal of an oil and gas inspector
59 or the supervising inspector may be initiated by the
60 deputy director for oil and gas or the director of the de-
61 partment of mines whenever either has reasonable
62 grounds to believe and does believe that adequate cause
63 exists warranting removal. Such a proceeding shall be
64 initiated by a verified petition, filed with the oil and gas
65 inspectors' examining board by the deputy director for
66 oil and gas or the director, setting forth with particu-
67 larity the facts alleged. Not less than twenty reputable
68 citizens engaged in oil and/or gas drilling and produc-
69 tion operations in the state may petition the deputy di-
70 rector for oil and gas or the director of the department of
71 mines for the removal of an inspector or the supervising
72 inspector. If such petition is verified by at least one of
73 the petitioners, based on actual knowledge of the affiant,
74 and alleges facts which, if true, warrant the removal of

75 the inspector or supervising inspector, the deputy direc-
76 tor for oil and gas or the director of the department of
77 mines shall cause an investigation of the facts to be made.
78 If, after such investigation, the deputy director for oil
79 and gas or the director finds that there is substantial evi-
80 dence which, if true, warrants removal of the inspector
81 or supervising inspector, he shall file a petition with the
82 oil and gas inspectors' examining board requesting re-
83 moval of the inspector or supervising inspector.

84 On receipt of a petition by the deputy director for oil
85 and gas or by the director of the department of mines
86 seeking removal of an inspector or the supervising in-
87 spector, the oil and gas inspectors' examining board shall
88 promptly notify the inspector or supervising inspector,
89 as the case may be, to appear before it at a time and place
90 designated in said notice, which time shall be not less
91 than fifteen days nor more than thirty days thereafter.
92 There shall be attached to the copy of the notice served
93 upon the inspector or supervising inspector a copy of the
94 petition filed with such board.

95 At the time and place designated in said notice, the

96 oil and gas inspectors' examining board shall hear all
97 evidence offered in support of the petition and on behalf
98 of the inspector or supervising inspector. Each witness
99 shall be sworn and a transcript shall be made of all
100 evidence taken and proceedings had at any such hearing.
101 No continuance shall be granted except for good cause
102 shown.

103 The chairman of the board, the deputy director for oil
104 and gas, and the director of the department of mines
105 shall have power to administer oaths and subpoena wit-
106 nesses.

107 Any inspector or supervising inspector who shall wil-
108 fully refuse or fail to appear before such board, or having
109 appeared, shall refuse to answer under oath any relevant
110 question on the ground that his testimony or answer
111 might incriminate him, or shall refuse to accept a grant
112 of immunity from prosecution on account of any relevant
113 matter about which he may be asked to testify at such
114 hearing before such board, shall forfeit his position.

115 If, after hearing, the oil and gas inspectors' examining
116 board finds that the inspector or supervising inspector

117 should be removed, it shall enter an order to that effect.
118 The decision of the board shall be final and shall not be
119 subject to judicial review.

**Sec. 1-e. Oil and Gas Inspectors' Examining Board;
2 Per Diem and Mileage Allowance; Oath; Powers and
3 Duties; Appeals from Suspension Orders.**—There is
4 hereby created an oil and gas inspectors' examining board
5 consisting of five members who, except for the public rep-
6 resentative on such board, shall be appointed by the gov-
7 ernor, by and with the advice and consent of the senate.
8 Members may be removed only for the same causes and
9 like manner as elective state officers. One member of the
10 board, who shall be the representative of the public, shall
11 be the professor in charge of the petroleum engineering
12 department of the school of mines at West Virginia Uni-
13 versity; two members shall be persons who by reason of
14 previous training and experience may reasonably be said to
15 represent the viewpoint of independent oil and gas opera-
16 tors; and two members shall be persons who by reason of
17 previous training and experience may reasonably be said to
18 represent the viewpoint of major oil and gas producers.

19 The deputy director for oil and gas shall be an “ex
20 officio” member of the board, and shall serve as secretary
21 of the board without additional compensation, but he shall
22 have no right to vote with respect to any matter before the
23 board.

24 The members of the board, except the public represen-
25 tative, shall be appointed for overlapping terms of eight
26 years, except that the original appointments shall be for
27 terms of two, four, six, and eight years, respectively. Any
28 member whose term expires may be reappointed by the
29 governor.

30 Each member of the board shall receive forty dollars
31 per diem while actually engaged in the performance of
32 the work of the board; and shall receive mileage at the
33 rate of ten cents for each mile actually traveled going
34 from the home of the member to the place of the meeting
35 of the board and returning therefrom, which shall be paid
36 out of the state treasury upon a requisition upon the state
37 auditor, properly certified by such members of the board.

38 The public member shall serve as chairman of the board.

39 Members of the board, before performing any duty shall

40 take and subscribe to the oath required by article four,
41 section five of the Constitution of West Virginia.

42 The board shall meet at such times and places as shall be
43 designated by the chairman. It shall be the duty of the
44 chairman to call a meeting of the board on the written
45 request of two members, or on the written request of the
46 deputy director for oil and gas or the director of the de-
47 partment of mines. Notice of each meeting shall be given
48 in writing to each member by the secretary at least five
49 days in advance of the meeting. Three voting members
50 shall constitute a quorum for the transaction of business.

51 In addition to other powers and duties expressly set
52 forth elsewhere in this article, the board shall:

53 (1) Establish, and from time to time revise, forms of
54 application for employment as an oil and gas inspector
55 and supervising inspector and forms for written exami-
56 nations to test the qualifications of candidates, with such
57 distinctions, if any, in the forms for oil and gas inspector
58 and supervising inspector as the board may from time
59 to time deem necessary or advisable;

60 (2) Adopt and promulgate reasonable rules and regu-

61 lations relating to the examination, qualification and cer-
62 tification of candidates for appointment, and relating to
63 hearings for removal of inspectors or the supervising
64 inspector, required to be held by this article. All of such
65 rules and regulations shall be printed and a copy thereof
66 furnished by the secretary of the board to any person upon
67 request;

68 (3) Conduct, after public notice of the time and place
69 thereof, examinations of candidates for appointment. By
70 unanimous agreement of all members of the board, one
71 or more members of the board or an employee of the
72 department of mines may be designated to give to a can-
73 didate the written portion of the examination;

74 (4) Prepare and certify to the deputy director for oil
75 and gas and the director of the department of mines a
76 register of qualified eligible candidates for appointment
77 as oil and gas inspectors or as supervising inspectors, with
78 such differentiation, if any, between the certification of
79 candidates for oil and gas inspectors and for supervising
80 inspector as the board may from time to time deem neces-
81 sary or advisable. The register shall list all qualified eli-

82 gible candidates in the order of their grades, the candidate
83 with the highest grade appearing at the top of the list.
84 After each meeting of the board held to examine such
85 candidates and at least annually, the board shall prepare
86 and submit to the deputy director for oil and gas and the
87 director of the department of mines a revised and cor-
88 rected register of qualified eligible candidates for appoint-
89 ment, deleting from such revised register all persons (a)
90 who are no longer residents of West Virginia, (b) who
91 have allowed a calendar year to expire without, in writ-
92 ing, indicating their continued availability for such ap-
93 pointment, (c) who have been passed over for appoint-
94 ment for three years, (d) who have become ineligible for
95 appointment since the board originally certified that such
96 persons were qualified and eligible for appointment, or
97 (e) who, in the judgment of at least three members of
98 the board, should be removed from the register for good
99 cause;

100 (5) Cause the secretary of the board to keep and pre-
101 serve the written examination papers, manuscripts, grad-
102 ing sheets and other papers of all applicants for appoint-

103 ment for such period of time as may be established by the
104 board. Specimens of the examinations given, together
105 with the correct solution of each question, shall be pre-
106 served permanently by the secretary of the board;

107 (6) Issue a letter or written notice of qualification to
108 each successful eligible candidate;

109 (7) Hear and determine proceedings for the removal
110 of inspectors or the supervising inspector in accordance
111 with the provisions of this article;

112 (8) Hear and determine appeals of inspectors or the
113 supervising inspector from suspension orders made by the
114 deputy director for oil and gas pursuant to the provisions
115 of section one-a of this article: *Provided*, That in order to
116 appeal from any order of suspension, an aggrieved inspec-
117 tor or supervising inspector shall file such appeal in writ-
118 ing with the oil and gas inspectors' examining board not
119 later than ten days after receipt of the notice of suspen-
120 sion. On such appeal the board shall affirm the action of
121 the deputy director for oil and gas unless it be satisfied
122 from a clear preponderance of the evidence that the
123 deputy director for oil and gas has acted arbitrarily;

124 (9) Make an annual report to the governor concerning
125 the administration of oil and gas inspection personnel in
126 the state service; making such recommendations as the
127 board considers to be in the public interest.

**Sec. 1-f. Deputy Director for Oil and Gas, Oil and Gas
2 Inspectors and Supervising Inspector Authorized to Visit
3 and Inspect Oil and/or Gas Wells or Well Sites and Any
4 Other Oil and/or Gas Facilities; Duty of Oil and Gas
5 Inspectors to Visit and Inspect Oil and/or Gas Wells or
6 Well Sites and Any Other Oil and/or Gas Facilities.—The
7 deputy director for oil and gas of the department of mines
8 shall have authority to visit and inspect any oil and/or
9 gas well or well site and any other oil and/or gas facility
10 in this state and may call for the assistance of any oil and
11 gas inspector or inspectors or supervising inspector when-
12 ever such assistance is necessary in the inspection of any
13 such oil and/or gas well or well site or any other oil and/
14 or gas facility. Similarly, all oil and gas inspectors and
15 the supervising inspector shall have authority to visit
16 and inspect any oil and/or gas well or well site and any
17 other oil and/or gas facility in this state. The operator or**

18 owner of every oil and/or gas well or well site or any
19 other oil and/or gas facility shall cooperate with the dep-
20 uty director for oil and gas, all oil and gas inspectors and
21 the supervising inspector in making inspections or ob-
22 taining information.

23 Oil and gas inspectors shall devote their full time and
24 undivided attention to the performance of their duties,
25 and they shall be responsible for the inspection of all oil
26 and/or gas wells or well sites or other oil and/or gas fa-
27 cilities in their respective districts as often as may be re-
28 quired in the performance of their duties.

Sec. 1-g. Findings and Orders of Oil and Gas Inspec-

2 **tors; Special Inspections; Notice of Findings and Orders.**

3 — (a) If an oil and gas inspector, upon making an inspec-
4 tion of an oil and/or gas well or well site or any other oil
5 and/or gas facility, as authorized by this article, finds that
6 any provision of this article is being violated, he shall
7 determine what would be a reasonable period of time
8 within which such violation should be totally abated.
9 Such findings shall contain reference to the provisions of
10 this article which he finds are being violated, and a de-

11 tailed description of the conditions which cause and con-
12 stitute such violation.

13 (b) The period of time so found by such oil and gas in-
14 spector to be a reasonable period of time may be extended
15 by such inspector, or by any other oil and gas inspector
16 duly authorized by the deputy director for oil and gas,
17 from time to time, but on not more than three occasions,
18 upon the making of a special inspection to ascertain
19 whether or not such violation has been totally abated.
20 The deputy director for oil and gas shall cause a special
21 inspection to be made: (A) Whenever an operator of an
22 oil and/or gas well or well site or any other oil and/or
23 gas facility, prior to the expiration of any such period of
24 time, requests him to cause a special inspection to be made
25 at such oil and/or gas well or well site or any other oil
26 and/or gas facility; and (B) Upon expiration of such
27 period of time as originally fixed or as extended, unless
28 the deputy director for oil and gas is satisfied that the vio-
29 lation has been abated. Upon making such special in-
30 spection, such oil and gas inspector shall determine wheth-
31 er or not such violation has been totally abated. If he

32 determines that such violation has not been totally abated,
33 he shall determine whether or not such period of time as
34 originally fixed, or as so fixed and extended, should be
35 extended. If he determines that such period of time
36 should be extended, he shall determine what a reasonable
37 extension would be. If he determines that such violation
38 has not been totally abated, and if such period of time as
39 originally fixed, or as so fixed and extended, has then ex-
40 pired, and if he also determines that such period of time
41 should not be further extended, he shall thereupon make
42 an order requiring the operator of such oil and/or gas well
43 or well site or other oil and/or gas facility to cease fur-
44 ther operations of such well, well site or facility, as the
45 case may be. Such findings and order shall contain refer-
46 ence to the specific provisions of this article which are
47 being violated.

48 (c) Notice of each finding and order made under this
49 section shall promptly be given to the operator of the oil
50 and/or gas well or well site or other oil and/or gas fa-
51 cility to which it pertains, by the person making such
52 finding or order.

53 (d) No order shall be issued under the authority of
54 this section which is not expressly authorized herein.

**Sec. 1-h. Review of Findings and Orders by Deputy
2 Director for Oil and Gas; Special Inspectors; Annulment,
3 Revision, etc., of Order; Notice.**—Any operator of an oil
4 and/or gas well or well site or other oil and/or gas facility
5 notified of findings or an order made by an oil and gas in-
6 spector pursuant to section one-g of this article, may ap-
7 ply to the deputy director for oil and gas for annulment
8 or revision of such order. Upon receipt of such applica-
9 tion the deputy director for oil and gas shall make a
10 special inspection of the oil and/or gas well, well site or
11 other oil and/or gas facility affected by such order, or
12 cause two duly authorized oil and gas inspectors, other
13 than the oil and gas inspector who made such order or
14 the supervising inspector and one duly authorized oil and
15 gas inspector other than the oil and gas inspector who
16 made such order, to make such inspection of such oil
17 and/or gas well, or well site or other oil and/or gas
18 facility and to report thereon to him. Upon making such
19 special inspection himself, or upon receiving the report

20 of such special inspection, as the case may be, the deputy
21 director for oil and gas shall make an order which shall
22 include his findings and shall annul, revise or affirm the
23 order of the oil and gas inspector.

24 The deputy director for oil and gas shall cause notice
25 of each finding and order made under this section to be
26 given promptly to the operator of the oil and/or gas well,
27 well site or other oil and/or gas facility to which such
28 findings and order pertain.

29 At any time while an order made pursuant to section
30 one-g of this article is in effect, the operator of the oil
31 and/or gas well, well site or other oil and/or gas facility
32 affected by such order may apply to the deputy director
33 for oil and gas for annulment or revision of such order.
34 The deputy director for oil and gas shall thereupon pro-
35 ceed to act upon such application in the manner provided
36 in this section.

37 In view of the urgent need for prompt decision of
38 matters submitted to the deputy director for oil and gas
39 under this article, all actions which he, or oil and gas
40 inspectors, or the supervising inspector, is required to

41 take under this article, shall be taken as rapidly as prac-
42 ticable, consistent with adequate consideration of the
43 issues involved.

Sec. 1-i. Requirements for Findings, Orders and Notices;

2 **Posting of Findings and Orders.**—(a) All findings and
3 orders made pursuant to sections one-g or one-h of this
4 article, and all notices required to be given of the making
5 of such findings and orders, shall be in writing. All such
6 findings and orders shall be signed by the person making
7 them, and all such notices shall be signed by the person
8 charged with the duty of giving the notice. All such
9 notices shall contain a copy of the findings and orders
10 referred to therein.

11 (b) Notice of any finding or order required by sec-
12 tions one-g or one-h of this article to be given to an
13 operator shall be given by causing such notice, addressed
14 to the operator of the oil and/or gas well, well site or
15 other oil and/or gas facility to which such finding or order
16 pertains, to be delivered to such operator by causing a
17 copy thereof to be sent by registered mail to the perma-
18 nent address of such operator as filed with the depart-

19 ment of mines and by causing a copy thereof to be posted
20 upon the drilling rig or other equipment at the oil and/or
21 gas well, well site or other oil and/or gas facility, as the
22 case may be. The requirement of this article that a
23 notice shall be "addressed to the operator of the oil and/or
24 gas well, well site or other oil and/or gas facility to which
25 such finding or other pertains," shall not require that
26 the name of the operator for whom it is intended shall be
27 specifically set out in such address. Addressing such
28 notice to "Operator of _____," specifying the
29 oil and/or gas well, well site or other oil and/or gas
30 facility sufficiently to identify it, shall satisfy such re-
31 quirement.

Sec. 1-j. Judicial Review of Final Orders of the Deputy

2 **Director for Oil and Gas.**—(a) Any final order issued by
3 the deputy director for oil and gas under section one-h
4 of this article shall be subject to judicial review by the
5 circuit court of the county in which the oil and/or gas
6 well, well site or other oil and/or gas facility affected is
7 located or the circuit court of Kanawha county upon the
8 filing in such court or with the judge thereof in vacation,

9 of a petition for appeal by the operator aggrieved by
10 such final order, within thirty days from the date of the
11 making of such final order.

12 (b) The operator making such appeal shall forthwith
13 send a copy of such petition for appeal, by registered
14 mail, to the deputy director for oil and gas. Upon receipt
15 of such copy of such petition for appeal the deputy di-
16 rector for oil and gas shall promptly certify and file in
17 such court a complete transcript of the record upon which
18 the order complained of was made. The costs of such
19 transcriptions shall be paid by the party making the
20 appeal.

21 (c) The court sitting in lieu of a jury, or judge thereof
22 in vacation, shall, after due notice, conduct a hearing on
23 the issues presented by such appeal and shall permit
24 argument, oral or written or both, by the parties. The
25 court shall permit such pleadings, in addition to the
26 pleadings before the deputy director for oil and gas, as
27 it deems to be required. Evidence relating to the making
28 of the order complained of and relating to the questions
29 raised by the allegations of the pleadings or other ques-

30 tions pertinent in the proceeding may be offered by the
31 parties to the proceeding.

32 (d) Upon such conditions as may be required and to
33 the extent necessary to prevent irreparable injury, any
34 circuit court to which an appeal has been made as pro-
35 vided in this section, may, after due notice to and hear-
36 ing of the parties to the appeal, issue all necessary and
37 appropriate process to postpone the effective date of the
38 final order of the deputy director for oil and gas or to
39 grant such other relief as may be appropriate pending
40 final determination.

41 (e) A circuit court to which an appeal has been made
42 as provided in this section, may affirm, annul or revise
43 the final order of the deputy director for oil and gas, or it
44 may remand the proceeding to the deputy director for oil
45 and gas for such further action as it directs.

46 (f) The decision of a circuit court on an appeal from
47 the deputy director for oil and gas shall be final, subject
48 only to review by the supreme court of appeals of West
49 Virginia upon a petition for certiorari filed in such court
50 within sixty days from the entry of the order and decision

51 of the circuit court upon such appeal from the deputy di-
52 rector for oil and gas.

**Sec. 2-a. Notice to Coal Operators and Department of
2 Mines of Intention to Fracture Certain Other Wells; Con-
3 tents of Such Notice; Permit Required.**—Before fracturing
4 any oil and/or gas well originally drilled on and after
5 the fifth day of June, one thousand nine hundred twenty-
6 nine, and before the effective date of this act, and which
7 is located on any tract of land known to be underlaid
8 with one or more workable beds of coal, the well operator
9 shall, by registered mail, forward a notice of intention
10 to fracture such well to the department of mines and to
11 each and every coal operator operating said beds of coal
12 beneath said tract of land, or within five hundred feet of
13 the boundaries of the same, who has mapped the same
14 and filed his maps as required by law: *Provided*, That
15 nothing contained in this article shall under any circum-
16 stances be construed to require any well operator to give
17 a notice of intention to fracture, or to obtain a permit to
18 fracture, a well drilled on and after the effective date
19 of this article. The notice shall be addressed to the de-

20 department of mines and to each such coal operator at their
21 respective addresses, shall contain the number of the
22 drilling permit for such well and/or such other informa-
23 tion as may be required by the department to enable the
24 department and the coal operators to locate and identify
25 such well and shall inform them that such notice is
26 being mailed to them respectively by registered mail,
27 pursuant to the requirements of this article. (The
28 form for such notice of intention shall be furnished on
29 request by the department of mines.) If no objections
30 are made, or are found by the department, to such pro-
31 posed fracturing within ten days from receipt of such
32 notice by the department of mines, the same shall be filed
33 and become a permanent record of such fracturing,
34 subject to inspection at any time by any interested per-
35 son, and the department shall forthwith issue to the well
36 operator a permit reciting the filing of such notice, that
37 no objections have been made by the coal operators, or
38 found thereto by the department, and authorizing the
39 well operator to fracture such well: *Provided, however,*
40 That unless the department has objections to such pro-

41 posed fracturing, such permit shall be issued prior to the
42 expiration of such ten day period upon the obtaining by
43 the well operator of the consent in writing of the coal
44 operator or operators to whom notice of intention to frac-
45 ture shall have been mailed as herein required, and upon
46 presentation of such written consent to the department.
47 The notice above provided for may be given to the coal
48 operator by delivering or mailing it as above to any agent
49 or superintendent in actual charge of mines.

Sec. 18. **Injunctive Relief.**—In addition to all other
2 remedies, and aside from various penalties provided by
3 law, if any person, firm or corporation is violating or
4 threatening to violate any provision of this article, or any
5 lawful rule or regulation promulgated thereunder, the
6 department may maintain a civil action in the circuit
7 court of the county wherein such violation has occurred
8 or is threatened, or wherein such person, firm or corpo-
9 ration may be found, to enjoin, restrain or prevent such
10 actual or threatened violation. No injunction bond shall
11 be required to be filed in any such proceeding.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

O. Roy Parker
Chairman Senate Committee

Ethel L. Crandall
Chairman House Committee

Originated in the Senate.

Takes effect July 1, 1963 passage.

James Hayes
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howan W. Carson
President of the Senate

Julius W. Singleton Jr.
Speaker House of Delegates

The within approved this the 11th
day of March, 1963.

Howan W. Carson
Governor

