

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1973

ENROLLED

Com. Sub.

SENATE BILL NO. 60

(By Mr. Nealey, original sponsor)

PASSED April 14 1973

In Effect 90 Days from Passage

FILED IN THE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE
THIS DATE 5/4/73

60

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 60

(Mr. Neeley, *original sponsor*)

[Passed April 11, 1973; in effect ninety days from passage.]

AN ACT to amend and reenact sections one, one-c, one-e, one-k, two, two-a, two-b, eight-a, nine, ten and ten-a, article four, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend article four of said chapter twenty-two by adding thereto a new section, designated section nineteen, all relating to oil and gas wells; giving additional duties to examining board, increasing the scope of article to include any physical damage to well and providing limits for the drilling of wells near fresh water wells; increasing amounts of bond; requiring additional notice to be given; requiring plats to be made by registered engineer or licensed land surveyor; and increasing the scope of article to provide rebuttable presumption in actions for contamination or deprivation of fresh water source or supply.

Be it enacted by the Legislature of West Virginia:

That sections one, one-c, one-e, one-k, two, two-a, two-b, eight-a, nine, ten and ten-a, 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 article four of said chapter twenty-two be further amended by adding thereto a new section, designated section nineteen, to read as follows:

ARTICLE 4. OIL AND GAS WELLS.

§22-4-1. Definitions.

1 Unless the context in which used clearly requires a dif-

2 ferent meaning, as used in this article:

3 (a) "Deputy director" shall mean the deputy director for
4 oil and gas;

5 (b) "Well" shall mean any shaft or hole sunk, drilled,
6 bored or dug into the earth or into underground strata for
7 the extraction or injection or placement of any liquid or gas,
8 or any shaft or hole sunk or used in conjunction with such
9 extraction or injection or placement. The term "well" shall
10 not have included within its meaning any shaft or hole
11 sunk, drilled, bored or dug into the earth for the sole
12 purpose of core drilling or plumbing or extracting therefrom
13 potable, fresh or usable water for household, domestic,
14 industrial, agricultural or public use;

15 (c) "Facility" shall mean any facility utilized in the oil
16 and gas industry in this state and specifically named or
17 referred to in this article or in articles five or seven of this
18 chapter, other than a well or well site;

19 (d) "Owner" when used with reference to any such well,
20 shall include any person or persons, firm, partnership,
21 partnership association or corporation that owns, manages,
22 operates, controls or possesses such well as principals,
23 or as lessee or contractor, employee or agent of such
24 principal;

25 (e) "Well operator" or "operator" shall include any per-
26 son or persons, firm, partnership, partnership association or
27 corporation that proposes to or does locate, drill, operate or
28 abandon any well as herein defined;

29 (f) "Chief" shall mean chief of the division of water
30 resources of the department of natural resources;

31 (g) "Coal operator" shall include any person or persons,
32 firm, partnership, partnership association or corporation
33 that proposes to or does operate a coal mine;

34 (h) "Department" or "department of mines" includes
35 the duly constituted authorities under the laws of this
36 state having jurisdiction over coal mining operations;

37 (i) "Plat" means a map, drawing or print showing the
38 location of a well or wells as herein defined;

39 (j) "Casing" means a string or strings of pipe commonly
40 placed in wells drilled for natural gas or petroleum or both;

41 (k) "Oil" and "gas" are synonyms for petroleum and
42 natural gas respectively;

43 (l) "Cement" means hydraulic cement properly mixed
44 with water only;

45 (m) "Workable coal bed" means a coal bed in fact
46 being operated commercially, or which, in the judgment
47 of the department of mines, can, and that it is reasonably
48 to be expected will, be so operated, and which, when
49 operated, will require protection if wells are drilled through
50 it;

51 (n) "Stimulate" means any action taken by any well
52 operator to increase oil or gas production from any oil
53 or gas well, including fracturing, shooting or acidizing,
54 but excluding cleaning out or bailing operations.

**§22-4-1c. Oil and gas inspectors; supervising inspectors; tenure;
oath and bond.**

1 Notwithstanding any other provisions of law, oil and gas
2 inspectors shall be selected, serve and be removed as in this
3 article provided.

4 The deputy director for oil and gas shall divide the state
5 into not more than eight oil and gas districts, so as to
6 equalize, as far as practical, the work of each oil and gas
7 inspector. He may designate a supervising inspector and
8 other inspectors as may be necessary, and may designate
9 their places of abode, at points convenient to the ac-
10 complishment of their work.

11 The deputy director for oil and gas shall make each
12 appointment from among the three qualified eligible candi-
13 dates on the register having the highest grades. The director
14 of the department of mines or the deputy director for oil
15 and gas may, for good cause, at least thirty days prior to
16 making an appointment, strike any name from the register.
17 Upon striking any name from the register, the director or
18 deputy director, as the case may be, shall immediately
19 notify in writing each member of the oil and gas inspectors'
20 examining board of his action, together with a detailed
21 statement of the reasons therefor. Thereafter, the oil and
22 gas inspectors' examining board, after hearing, if it finds that
23 the action of striking such name was arbitrary or unreason-
24 able, may order the name of any candidate so stricken
25 from the register to be reinstated thereon. Such reinstate-

26 ment shall be effective from the date of removal from the
27 register.

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

30 After having served for a probationary period of one
31 year to the satisfaction of the deputy director for oil and gas
32 and the director, an oil and gas inspector or supervising
33 inspector shall have permanent tenure until he becomes
34 seventy years of age, subject only to dismissal for cause in
35 accordance with the provisions of section one-d of this
36 article. No oil and gas inspector or supervising inspector
37 while in office shall be directly or indirectly interested as
38 owner, lessor, operator, stockholder, superintendent or engi-
39 neer of any oil or gas drilling or producing venture or of
40 any coal mine in this state. Before entering upon the dis-
41 charge of his duties as an oil and gas inspector or super-
42 vising inspector, he shall take the oath of office prescribed
43 by the constitution, and shall execute a bond in the penalty
44 of two thousand dollars, with security to be approved by
45 the director of the department of mines, conditioned upon
46 the faithful discharge of his duties, a certificate of which
47 oath and bond shall be filed in the office of the secretary
48 of state.

49 The supervising inspector and oil and gas inspectors shall
50 perform such duties as are imposed upon them by this
51 chapter, and related duties assigned by the deputy director
52 for oil and gas upon approval of the director.

**§22-4-1e. Oil and gas inspectors' examining board created;
composition; appointment, term and compensation of
members; chairman; oaths of members; meetings;
powers and duties generally.**

1 There is hereby created an oil and gas inspectors' examin-
2 ing board consisting of five members who, except for the
3 public representative on such board, shall be appointed by
4 the governor, by and with the advice and consent of the
5 Senate. Members may be removed only for the same causes
6 and like manner as elective state officers. One member
7 of the board who shall be the representative of the public,
8 shall be a professor in the petroleum engineering department
9 of the school of mines at West Virginia University appointed
10 by the dean of said school; two members shall be persons

11 who by reason of previous training and experience may
12 reasonably be said to represent the viewpoint of independent
13 oil and gas operators; and two members shall be persons
14 who by reason of previous training and experience may
15 reasonably be said to represent the viewpoint of major
16 oil and gas producers.

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

21 The members of the board, except the public representa-
22 tive, shall be appointed for overlapping terms of eight years,
23 except that the original appointments shall be for terms of
24 two, four, six and eight years, respectively. Any member
25 whose term expires may be reappointed by the governor.

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

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

35 Members of the board, before performing any duty shall
36 take and subscribe to the oath required by section five,
37 article IV of the constitution of West Virginia.

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

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

49 (1) Establish, and from time to time revise, forms of
50 application for employment as an oil and gas inspector

51 and supervising inspector and forms for written examina-
52 tions to test the qualifications of candidates, with such
53 distinctions, if any, in the forms for oil and gas inspector
54 and supervising inspector as the board may from time to
55 time deem necessary or advisable;

56 (2) Adopt and promulgate reasonable rules and regula-
57 tions relating to the examination, qualification and certifica-
58 tion of candidates for appointment, and relating to hearings
59 for removal of inspectors or the supervising inspector,
60 required to be held by this article. All of such rules and
61 regulations shall be printed and a copy thereof furnished by
62 the secretary of the board to any person upon request;

63 (3) Conduct, after public notice of the time and place
64 thereof, examinations of candidates for appointment. By
65 unanimous agreement of all members of the board, one or
66 more members of the board or an employee of the depart-
67 ment of mines may be designated to give to a candidate the
68 written portion of the examination;

69 (4) Prepare and certify to the deputy director for oil and
70 gas and the director of the department of mines a register of
71 qualified eligible candidates for appointment as oil and gas
72 inspectors or as supervising inspectors, with such differen-
73 tiation, if any, between the certification of candidates for
74 oil and gas inspectors and for supervising inspector as the
75 board may from time to time deem necessary or advisable.
76 The register shall list all qualified eligible candidates in the
77 order of their grades, the candidate with the highest grade
78 appearing at the top of the list. After each meeting of the
79 board held to examine such candidates and at least annual-
80 ly, the board shall prepare and submit to the deputy
81 director for oil and gas and the director of the department
82 of mines a revised and corrected register of qualified
83 eligible candidates for appointment, deleting from such
84 revised register all persons (a) who are no longer residents
85 of West Virginia, (b) who have allowed a calendar year to
86 expire without, in writing, indicating their continued
87 availability for such appointment, (c) who have been passed
88 over for appointment for three years, (d) who have
89 become ineligible for appointment since the board originally
90 certified that such persons were qualified and eligible for
91 appointment, or (e) who, in the judgment of at least three
92 members of the board, should be removed from the register

93 for good cause;

94 (5) Cause the secretary of the board to keep and
95 preserve the written examination papers, manuscripts, grad-
96 ing sheets and other papers of all applicants for appoint-
97 ment for such period of time as may be established by the
98 board. Specimens of the examinations given, together with
99 the correct solution of each question, shall be preserved
100 permanently by the secretary of the board;

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

103 (7) Hear and determine proceedings for the removal of
104 inspectors or the supervising inspector in accordance with
105 the provisions of this article;

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

118 (9) Make an annual report to the governor concerning
119 the administration of oil and gas inspection personnel in the
120 state service; making such recommendations as the board
121 considers to be in the public interest; and

122 (10) Render such advice and assistance to the deputy
123 director for oil and gas as he shall from time to time
124 determine necessary or desirable in the performance of his
125 duties.

**§22-4-1k. Permits required; application for permit; information;
responsible agent; drilling permit number; when per-
mits not to be issued; penalty.**

1 It shall be unlawful for any well to be drilled, redrilled,
2 deepened, fractured, stimulated, plugged, pressured, convert-
3 ed, combined or physically changed to allow the migration of
4 fluid from one formation to another unless a permit therefor

5 has been issued by the department. An application for any
6 such permit shall be filed with the deputy director and shall
7 contain the following:

8 (a) The name and address of the well operator;

9 (b) The name and address of the owner of the surface
10 lands upon which the well is or may be located;

11 (c) The name and address of the agent of the well
12 operator, if any such agent is required to be designated
13 under the provisions of this section;

14 (d) The approximate depth to which the well is to be
15 drilled;

16 (e) The proposed casing program of such well including
17 the sizes of all such casing, the depth to which all casing
18 is to be run and the extent to which such casing is to be
19 cemented; and,

20 (f) Any other information which the deputy director by
21 rule or regulation may require.

22 If the well operator named in such application is a corpo-
23 ration, partnership or a nonresident of the state of West
24 Virginia, then there shall be designated the name and
25 address of an agent for such operator who shall be the
26 attorney in fact for the operator and who shall be a
27 resident of the state of West Virginia upon whom notices,
28 orders or other communications issued pursuant to this
29 article or article five-a, chapter twenty, may be served,
30 and upon whom process may be served. Every well opera-
31 tor required to designate an agent under this section shall
32 within five days after the termination of such designation
33 notify the department of such termination and designate
34 a new agent.

35 The well owner or operator shall install the permit
36 number as issued by the deputy director in a legible and
37 permanent manner to the well upon completion of any
38 permitted work. The dimensions, specifications and manner
39 of installation shall be in accordance with the administra-
40 tive rules and regulations of the department.

41 For the purpose of ascertaining whether or not issuance of
42 any permit to drill, redrill, deepen, case, fracture, stimulate,
43 pressure, operate, plug, abandon, convert or combine
44 any well, or physically change any well to allow the

45 migration of fluid from one formation to another, will
46 contribute to an existing pollution problem, the deputy
47 director shall have the right and it shall be his duty to
48 consult with the director of the department of natural
49 resources. In the event the issuance of any such permit
50 may reasonably be expected to contribute to any such
51 existing pollution then the deputy director will not issue
52 such permit.

53 Any person who violates any provision of this section
54 shall be guilty of a misdemeanor, and, upon conviction
55 thereof, shall be punished by a fine not exceeding two
56 thousand dollars, or imprisonment in jail for not exceeding
57 twelve months, or both such fine and imprisonment.

**§22-4-2. Plats prerequisite to drilling or fracturing wells;
preparation and contents; notice and information
furnished to coal operators; issuance of permits; per-
formance bonds or securities in lieu thereof; bond
forfeiture.**

1 Before drilling for oil or gas, or before fracturing or
2 stimulating a well on any tract of land, the well operator
3 shall have a plat prepared by a licensed land surveyor or
4 registered engineer showing the district and county in which
5 the tract of land is located, the name and acreage of the
6 same, the names of the owners of adjacent tracts, the pro-
7 posed or actual location of the well determined by survey,
8 the courses and distances of such location from two perma-
9 nent points or landmarks on said tract and the number to be
10 given the well and the date of drilling completion of a well
11 when it is proposed that such well be fractured and shall
12 forward by registered mail a copy of the plat to the
13 department of mines. In the event the tract of land on
14 which the said well proposed to be drilled or fractured
15 is located is known to be underlaid with one or more
16 workable beds of coal, copies of the plat shall be forwarded
17 by registered mail to each and every coal operator, if any,
18 operating said beds of coal beneath said tract of land,
19 or within five hundred feet of the boundaries of the
20 same, who has mapped the same and filed his maps as
21 required by law. With each of such plats there shall be
22 enclosed a notice (form for which shall be furnished on
23 request by the department of mines) addressed to the
24 department of mines and to each such coal operator, if

25 any, at their respective addresses, informing them that
26 such plat and notice are being mailed to them respectively
27 by registered mail, pursuant to the requirements of this
28 article. If no objections are made, or are found by the
29 department, to such proposed location or proposed fractur-
30 ing within ten days from receipt of such plat and
31 notice by the department of mines, the same shall be filed
32 and become a permanent record of such location or fractur-
33 ing subject to inspection at any time by any interested
34 person, and the department may forthwith issue to the well
35 operator a permit reciting the filing of such plat, that no
36 objections have been made by the coal operators, if any,
37 or found thereto by the department, and authorizing the
38 well operator to drill at such location, or to fracture the
39 well. Unless the department has objections to such pro-
40 posed location or proposed fracturing or stimulating, such
41 permit may be issued prior to the expiration of such ten-
42 day period upon the obtaining by the well operator
43 of the consent in writing of the coal operator or operators
44 to whom copies of the plat and notice shall have been
45 mailed as herein required, and upon presentation of such
46 written consent to the department. The notice above pro-
47 vided for may be given to the coal operator by delivering
48 or mailing it as above to any agent or superintendent in
49 actual charge of mines.

50 A permit to drill, or to fracture or stimulate an oil or
51 gas well, shall not be issued unless the application therefor
52 is accompanied by a bond of the operator in the sum of
53 two thousand five hundred dollars, payable to the state of
54 West Virginia, with a corporate bonding or surety company
55 authorized to do business in this state as surety thereon,
56 conditioned on full compliance with all laws, rules and
57 regulations relating to the drilling, redrilling, deepening,
58 casing, plugging and abandonment of wells and for furnish-
59 ing such reports and information as may be required by the
60 department: *Provided*, That when such operator makes or
61 has made application for permits to drill a number of wells
62 or fracture or stimulate a well or wells the operator may in
63 lieu of furnishing a separate bond furnish a blanket bond
64 in the sum of fifteen thousand dollars, payable to the state
65 of West Virginia, with a corporate bonding or surety com-
66 pany authorized to do business in this state as surety
67 thereon, and conditioned as aforesaid: *Provided, however*,

68 That in lieu of corporate surety on a separate or blanket
69 bond, as the case may be, the operator may elect to deposit
70 with the deputy director for oil and gas cash or the
71 following collateral securities or any combination thereof:
72 (1) Bonds of the United States or agency thereof, or those
73 guaranteed by, or for which the credit of the United States
74 or agency thereof is pledged for the payment of the princi-
75 pal and interest thereof; (2) direct general obligation
76 bonds of this state, or any other state, or territory of the
77 United States, or the District of Columbia, unconditionally
78 guaranteed as to the principal and interest by such other
79 state or territory of the United States, or the District
80 of Columbia if such other state, territory, or the District
81 of Columbia has the power to levy taxes for the payment of
82 the principal and interest of such securities, and if at the
83 time of the deposit such other state, territory, or the
84 District of Columbia is not in default in the payment
85 of any part of the principal or interest owing by it upon any
86 part of its funded indebtedness; (3) direct general obliga-
87 tion bonds of any county, district, city, town, village, school
88 district or other political subdivision of this state issued
89 pursuant to law and payable from ad valorem taxes levied
90 on all the taxable property located therein, that the total
91 indebtedness after deducting sinking funds and all debts
92 incurred for self-sustaining public works does not exceed
93 five percent of the assessed value of all taxable property
94 therein at the time of the last assessment made before the
95 date of such deposit, and that the issuer has not, within
96 five years prior to the making thereof, been in default for
97 more than ninety days in the payment of any part of the
98 principal or interest on any debt evidenced by its
99 bonds; (4) revenue bonds issued by this state or any
100 agency of this state when such bonds are payable from
101 revenues or earnings specifically pledged for the payment
102 of principal and interest, and a lawful sinking fund or
103 reserve fund has been established and is being maintained
104 for the payment of such bonds; (5) revenue bonds issued
105 by a municipality in this state for the acquisition, construc-
106 tion, improvement or extension of a waterworks system,
107 or a sewerage system, or a combined waterworks and
108 sewerage system, when such bonds are payable from reve-
109 nue or earnings specifically pledged for the payment of
110 principal and interest, and a lawful sinking fund or

111 reserve fund has been established and is being maintained
112 for the payment of such bonds; (6) revenue bonds issued
113 by a public service board of a public service district
114 in this state for the acquisition, construction, improvement
115 or extension of any public service properties, or for the reim-
116 bursement or payment of the costs and expenses of creating
117 the district, when such bonds are payable from revenue or
118 earnings specifically pledged for the payment of principal
119 and interest, and a lawful sinking fund or reserve fund has
120 been established and is being maintained for the payment
121 of such bonds; (7) revenue bonds issued by a board of
122 trustees of a sanitary district in this state for the corporate
123 purposes of such district, when such bonds are payable
124 from revenue or earnings specifically pledged for the pay-
125 ment of principal and interest, and a lawful sinking fund
126 or reserve fund has been established and is being maintain-
127 ed for the payment of such bonds; and (8) bonds issued
128 by a federal land bank or home owners' loan corporation.
129 The cash deposit or market value, or both, of the collateral
130 securities shall be equal to or greater than the penalty of
131 the separate or blanket bond, as the case may be. Upon
132 receipt of any such deposit or cash or collateral securities,
133 the deputy director for oil and gas shall immediately deliver
134 the same to the treasurer of the state of West Virginia.
135 The treasurer shall determine whether any such securities
136 satisfy the requirements of this section. If the securities
137 are approved they shall be accepted by the treasurer.
138 If the securities are not approved, they shall be rejected
139 and returned to the operator and no permit shall be issued
140 until a corporate surety bond is filed or cash or proper
141 collateral securities are filed in lieu of such surety. The
142 treasurer shall hold any cash or securities in the name
143 of the state in trust for the purposes for which the deposit
144 was made. The operator shall be entitled to all interest
145 and income earned on the collateral securities filed by
146 such operator so long as the operator is in full compliance
147 with all laws, rules and regulations relating to the drilling,
148 redrilling, deepening, casing, plugging and abandonment of
149 wells and for furnishing such reports and information as
150 may be required by the department. The operator making
151 the deposit shall be entitled from time to time to receive
152 from the treasurer, upon the written order of the deputy
153 director for oil and gas, the whole or any portion of

154 such securities upon depositing with the treasurer in lieu
155 thereof cash equal to or greater than the penalty of the
156 bond, or other approved securities of the classes herein
157 specified having a market value equal to or greater than
158 the penalty of the bond, or a corporate surety bond.

159 Any such bond shall remain in force until released by the
160 department and the department shall release the same
161 when it is satisfied the conditions thereof have been fully
162 performed. Upon the release of any such bond, any cash
163 or collateral securities deposited shall be returned by the
164 deputy director for oil and gas to the operator who deposit-
165 ed same.

166 If any of the requirements of this article or rules and
167 regulations promulgated pursuant thereto or the orders of
168 the deputy director for oil and gas have not been complied
169 with within the time limit set by the violation notice as
170 defined in sections one-g, one-h and one-i, article four,
171 chapter twenty-two of this code the performance bond shall
172 then be forfeited.

173 When any bond is forfeited pursuant to the provisions of
174 this article or rules and regulations promulgated pursuant
175 thereto the deputy director shall give notice to the attorney
176 general who shall collect the forfeiture without delay.

177 All forfeitures shall be deposited in the treasury of the
178 state of West Virginia in the special reclamation fund as
179 defined in section twelve-a, article four, chapter twenty-two
180 of this code.

**§22-4-2a. Notice to coal operators and department of mines of
intention to fracture certain other wells; contents of
such notice; permit required.**

1 Before fracturing any well the well operator shall, by
2 registered mail, forward a notice of intention to fracture such
3 well to the department of mines and to each and every coal
4 operator operating said beds of coal beneath said tract of
5 land, or within five hundred feet of the boundaries of the
6 same, who has mapped the same and filed his maps as
7 required by law.

8 The notice shall be addressed to the department of mines
9 and to each such coal operator at their respective addresses,
10 shall contain the number of the drilling permit for such
11 well and such other information as may be required by the

12 department to enable the department and the coal opera-
13 tors to locate and identify such well and shall inform them
14 that such notice is being mailed to them, respectively,
15 by registered mail, pursuant to the requirements of this
16 article. (The form for such notice of intention shall be
17 furnished on request by the department of mines.) If no
18 objections are made, or are found by the department, to
19 such proposed fracturing within ten days from receipt of
20 such notice by the department of mines, the same shall
21 be filed and become a permanent record of such fracturing,
22 subject to inspection at any time by any interested person,
23 and the department shall forthwith issue to the well
24 operator a permit reciting the filing of such notice, that no
25 objections have been made by the coal operators, or
26 found thereto by the department, and authorizing the well
27 operator to fracture such well. Unless the department has
28 objections to such proposed fracturing, such permit shall
29 be issued prior to the expiration of such ten-day period
30 upon the obtaining by the well operator of the consent in
31 writing of the coal operator or operators to whom notice of
32 intention to fracture shall have been mailed as herein
33 required, and upon presentation of such written consent
34 to the department. The notice above provided for may be
35 given to the coal operator by delivering or mailing it as
36 above to any agent or superintendent in actual charge of
37 mines.

**§22-4-2b. Plats prerequisite to introducing liquids or waste
into wells; preparation and contents; notices and
information furnished to coal operators and chief
of water resources; issuance of permits; perfor-
mance bonds of security in lieu thereof.**

1 Before drilling a well for the introduction of liquids for
2 the purposes provided for in section ten-a of this article
3 or for the introduction of liquids for the disposal of sewage,
4 industrial waste or other waste or the effluent there-
5 from on any tract of land, or before converting an existing
6 well for such purposes, the well operator shall have a plat
7 prepared by a registered engineer or licensed land sur-
8 veyor showing the district and county in which the tract
9 of land is located, the name and acreage of the same, the
10 names of the owners of all adjacent tracts, the proposed or
11 actual location of the well or wells determined by a survey,

12 the courses and distances of such location from two perma-
13 nent points of land marked on said tract and the number
14 to be given to the well, and shall forward by registered or
15 certified mail the original and one copy of the plat to the
16 department of mines. In addition, the well operator shall
17 provide the following information on the plat or by way of
18 attachment thereto to the department in the manner and
19 form prescribed by the department's rules and regulations:
20 (a) The location of all wells, abandoned or otherwise lo-
21 cated within the area to be affected; (b) where available,
22 the casing records of all such wells; (c) where available,
23 the drilling log of all such wells; (d) the maximum pres-
24 sure to be introduced; (e) the geological formation into
25 which such liquid or pressure is to be introduced; (f) a
26 general description of the liquids to be introduced; (g) the
27 location of all water-bearing horizons above and below
28 the geological formation into which such pressure, liquid
29 or waste is to be introduced; and (h) such other informa-
30 tion as the deputy director by rule and regulation may re-
31 quire.

32 In the event the tract of land on which said well pro-
33 posed to be drilled or converted for the purposes provided
34 for in this section is located is known to be underlaid with
35 one or more workable beds of coal, copies of the plat and
36 all information required by this section shall be forwarded
37 by the operator by registered or certified mail to each and
38 every coal operator, if any, operating said beds of coal be-
39 neath said tracts of land, or within five hundred feet of
40 the boundaries of the same, who has mapped the same
41 and filed his maps as required by law. With each of such
42 plats, there shall be enclosed a notice (form for which
43 shall be furnished on request by the department of mines)
44 addressed to the department of mines and to each such coal
45 operator, if any, at their respective addresses, informing
46 them that such plat and notice are being mailed to them,
47 respectively, by registered or certified mail, pursuant to
48 the requirements of this section. The deputy director shall
49 forward a copy of the plat, notice and all other information
50 required by this section to the chief of the division of
51 water resources of the department of natural resources.

52 If no objections are made by any such coal operator or
53 such chief, or are found by the department to such pro-
54 posed drilling or converting of the well or wells for the

55 purposes provided for in this section within thirty days
56 from the receipt of such plat and notice by the department
57 of mines, the same shall be filed and become a permanent
58 record of such location or well, subject to inspection at any
59 time by any interested person, and the department shall
60 forthwith issue to the well operator a permit reciting the
61 filing of such plat and notice, that no objections have
62 been made by the coal operators, if any, or found thereto
63 by the department of mines or by the chief, and authorizing
64 the well operator to drill at such location or convert such
65 existing well or wells for the purposes provided for in
66 this section. Such permit shall be issued prior to the expira-
67 tion of such thirty-day period upon the obtaining by the
68 well operator of the consent in writing of the coal operator
69 or operators to whom copies of the plat and notices must
70 have been mailed as herein required and upon obtaining
71 the consent in writing of the chief, and upon presentation
72 of such written consent in writing of the chief, and upon
73 presentation of such written consent to the department. The
74 notices above provided for may be given to the coal
75 operator by delivering or mailing it as above to any agent
76 or superintendent in actual charge of the mines.

77 A permit to drill a well or wells or convert an existing
78 well or wells for the purposes provided for in this section
79 shall not be issued until all of the bonding provisions
80 required by the provisions of section two of this article
81 have been fully complied with and all such bonding
82 provisions shall apply to all wells drilled or converted for the
83 purposes provided for in this section as if such wells had
84 been drilled for the purposes provided for in section two
85 of this article, except that such bonds shall be conditioned
86 upon full compliance with all laws, rules and regulations
87 relating to the drilling of a well or the converting of an
88 existing well for the purposes provided for in said section
89 ten-a, or introducing of liquids for the disposal of sewage,
90 industrial waste or other waste or the effluent therefrom
91 including the redrilling, deepening, casing, plugging or
92 abandonment of all such wells.

§22-4-8a. Same-Installation of fresh water casings.

1 When a permit has been issued for the drilling of an oil
2 or gas well or both, each well operator shall run and per-
3 manently cement a string of casing in the hole through

4 the fresh water bearing strata in such a manner and to the
 5 extent provided for in rules and regulations promulgated
 6 by the director of the department of mines in accordance
 7 with the provisions of chapter twenty-nine-a.

8 No oil or gas well shall be drilled nearer than two hun-
 9 dred feet from an existing water well or dwelling without
 10 first obtaining the written consent of the owner of such
 11 water well or dwelling.

**§22-4-9. Plugging and abandonment of well; notice of inten-
 tion; performance bonds or securities in lieu thereof;
 affidavit showing time and manner.**

1 All dry or abandoned wells or wells presumed to be aban-
 2 doned under the provisions of section seven of this article
 3 shall be plugged in accordance with this section and the
 4 other provisions of this article and in accordance with the
 5 rules and regulations promulgated by the deputy director.

6 Prior to the commencement of plugging operations and
 7 the abandonment of any well, the well operator shall either
 8 (a) notify, by registered or certified mail, the department of
 9 mines and the coal operator or operators, if any, to whom
 10 notices are required to be given by section two of this
 11 article and the coal operator or operators to whom notices
 12 are required to be given by section two-a of this article
 13 of its intention to plug and abandon any such well
 14 (using such form of notice as the department may provide),
 15 giving the number of the well and its location and fixing
 16 the time at which the work of plugging and filling will be
 17 commenced, which time shall be not less than five days
 18 after the day on which such notice so mailed is received
 19 or in due course should be received by the department of
 20 mines, in order that a representative or representatives of
 21 the department and the coal operator or operators, if any
 22 or of both, may be present at the plugging and filling of
 23 the well: *Provided*, That whether such representatives
 24 appear or do not appear, the well operator may proceed
 25 at the time fixed to plug and fill the well in the manner
 26 hereinafter described, or (b) first obtain the written ap-
 27 proval of the department of mines and the coal operator
 28 or operators, if any, to whom notices are required to be
 29 given by section two of this article and the coal operator
 30 or operators to whom notices are required to be given by
 31 section two-a of this article, or (c) in the event the well

32 to be plugged and abandoned is one on which drilling or
33 reworking operations have been continuously progressing
34 pursuant to authorization granted by the department, first
35 obtain the verbal permission of the deputy director for oil
36 and gas or his designated representative to plug and
37 abandon such well, except, that the well operator, shall,
38 within a reasonable period not to exceed five days after
39 the commencement of such plugging operations, give the
40 written notices required by subdivision (a) above.

41 No well shall be plugged or abandoned unless prior to
42 the commencement of plugging operations and the aban-
43 donment of any well the department is furnished a bond of
44 the operator in the sum of two thousand five hundred
45 dollars, payable to the state of West Virginia, with a
46 corporate bonding or surety company authorized to do
47 business in this state as surety thereon, conditioned on
48 full compliance with all laws, rules and regulations relat-
49 ing to the casing, plugging and abandonment of wells and
50 for furnishing such reports and information as may be
51 required by the department. When a number of wells are
52 involved, the operator may in lieu of furnishing a separate
53 bond furnish a blanket bond in the sum of fifteen thousand
54 dollars, payable to the state of West Virginia, with a
55 corporate bonding or surety company authorized to do
56 business in this state as surety thereon, and conditioned
57 as aforesaid. In lieu of corporate surety on a separate or
58 blanket bond, as the case may be, the operator may elect
59 to deposit with the deputy director for oil and gas cash
60 or collateral securities as specified in section two of this
61 article. All of the provisions of section two dealing with
62 cash or collateral securities in lieu of corporate surety
63 shall be fully applicable hereto except for the condition of
64 the bond with respect to which the operator must be in
65 full compliance in order to be entitled to the interest and
66 income earned on such securities. The operator shall be
67 entitled to such interest and income under this section
68 so long as the operator is in full compliance with all
69 laws, rules and regulations relating to the casing, plug-
70 ging and abandonment of wells and for furnishing such
71 reports and information as may be required by the depart-
72 ment. Any such bond shall remain in force until released
73 by the department and the department shall release the
74 same when it is satisfied the conditions thereof have been

75 fully performed. Notwithstanding the foregoing provi-
 76 sions, any operator who, in accordance with section two
 77 of this article, has furnished a separate bond, which has
 78 not been released by the department, for the drilling, con-
 79 verting or drilling for the introduction of liquids, for the
 80 disposal of sewage, industrial waste or other waste or
 81 the effluent therefrom, or introducing pressure, whether
 82 liquid or gas, or introducing liquid for the purposes pro-
 83 vided for in section ten-a of this article or fracturing of the
 84 well it is now proposed be plugged and abandoned, or
 85 who, in accordance with the provisions of said section
 86 two of this article, has furnished a blanket bond which
 87 has not been released by the department shall not be
 88 required by this section to furnish any other bond. When
 89 the plugging and filling of a well have been completed,
 90 an affidavit, in triplicate, shall be made (on a form to be
 91 furnished by the department) by two experienced men
 92 who participated in the work, in which affidavit shall be
 93 set forth the time and manner in which the well was
 94 plugged and filled. One copy of this affidavit shall be
 95 retained by the well operator, another (or true copies
 96 of same) shall be mailed to the coal operator or operators,
 97 if any, and the third to the department of mines.

§22-4-10. Methods of plugging well.

1 Upon the abandonment or cessation of the operation of
 2 any well drilled for natural gas or petroleum, or drilled or
 3 converted for the introduction of pressure, whether liquid
 4 or gas, or for the introduction of liquid for the purposes
 5 provided for in section ten-a of this article or for the dispos-
 6 al of sewage, industrial waste or other waste or the effluent
 7 therefrom, the well operator, at the time of such abandon-
 8 ment or cessation, shall fill and plug the well in the follow-
 9 ing manner:

10 (a) Where the well does not penetrate workable coal
 11 beds, it shall either be filled with mud, clay or other non-
 12 porous material from the bottom of the well to a point
 13 twenty feet above the top of its lowest oil, gas or water-
 14 bearing stratum; or a permanent bridge shall be anchored
 15 thirty feet below its lowest oil, gas or water-bearing stra-
 16 tum, and from such bridge it shall be filled with mud,
 17 clay or other nonporous material to a point twenty feet

18 above such stratum; at this point there shall be placed a
19 plug of cement or other suitable material which will com-
20 pletely seal the hole. Between this sealing plug and a point
21 twenty feet above the next higher oil, gas or water-bearing
22 stratum, the hole shall either be filled, or bridged and fill-
23 ed, in the manner just described; and at such point there
24 shall be placed another plug of cement or other suitable
25 material which will completely seal the hole. In like man-
26 ner the hole shall be filled and plugged, or bridged, filled
27 and plugged with reference to each of its oil, gas or water-
28 bearing strata. However, whenever such strata are not
29 widely separated and are free from water, they may be
30 grouped and treated as a single sand, gas or petroleum hor-
31 izon, and the aforesaid filling and plugging be performed
32 as though there were but one horizon. After the plugging of
33 all oil, gas or water-bearing strata, as aforesaid, a final
34 plug shall be anchored approximately ten feet below the
35 bottom of the largest casing in the well; from this point to
36 the surface the well shall be filled with mud, clay or other
37 nonporous material. In case any of the oil or gas-bearing
38 strata in a well shall have been shot, thereby creating cav-
39 ities which cannot readily be filled in the manner above de-
40 scribed, the well operator shall follow either of the follow-
41 ing methods:

42 (1) Should the stratum which has been shot be the low-
43 est one in the well, there shall be placed, at the nearest
44 suitable point, but not less than twenty feet above the stra-
45 tum, a plug of cement or other suitable material which will
46 completely seal the hole. In the event, however, that the
47 shooting has been done above one or more oil or gas-bear-
48 ing strata in the well, plugging in the manner specified
49 shall be done at the nearest suitable points, but not less
50 than twenty feet below and above the stratum shot. Or
51 (2), when such cavity shall be in the lowest oil or gas-
52 bearing stratum in the well, a liner shall be placed which
53 shall extend from below the stratum to a suitable point,
54 but not less than twenty feet above the stratum in which
55 shooting has been done. In the event, however, that the
56 shooting has been done above one or more oil or gas-bear-
57 ing strata in the well, the liner shall be so placed that it
58 will extend not less than twenty feet above, nor less than
59 twenty feet below, the stratum in which shooting has been
60 done. Following the placing of the liner in the manner here

61 specified it shall be compactly filled with cement, mud, clay
62 or other nonporous sealing material;

63 (b) Where the well has penetrated one or more workable
64 coal beds, it shall be filled and securely plugged in the
65 manner aforesaid, to a point forty feet below the lowest
66 workable coal bed. If, in the judgement of the well operator
67 the coal operator and the department of mines, a perma-
68 nent outlet to the surface is required, such outlet shall be
69 provided in the following manner: A plug of cement, or
70 other suitable material, shall be placed in the well at a suit-
71 able point, not less than thirty feet below the lowest work-
72 able coal bed. In this plug and passing through the center
73 of it shall be securely fastened an open pipe not less than
74 two inches in diameter, which shall extend to the surface.
75 At or above the surface the pipe shall be provided with a
76 device which will permit the free passage of gas, and pre-
77 vent obstruction of the same. Following the setting of the
78 cement plug and outlet pipe as aforesaid, the hole shall be
79 filled with cement to a point twenty feet above the lowest
80 workable coal bed. From this point the hole shall be filled
81 with mud, clay or other nonporous material to a point thirty
82 feet beneath the next overlying workable coal bed, if such
83 there be, and the next succeeding fifty feet of the hole fill-
84 ed with cement, and similarly, in case there are more over-
85 lying workable coal beds. If, in the judgment of the well
86 operator the coal operator and the department of mines,
87 no outlet to the surface is considered necessary, the plug-
88 ging, filling and cementing shall be as last above described.

89 Where a coal protection string of casing has been ce-
90 mented in and circulated to the surface, if a coal outlet pipe
91 is not required in a well which penetrates one or more
92 workable coal beds, then a fifty foot cement plug shall be
93 placed from thirty feet below the casing seat. The well
94 shall than be filled to twenty feet of surface with nonporous
95 material, and cement plug with the monument installed in
96 cement from twenty feet to the surface and extending thirty
97 inches above ground level.

98 Where a coal protection string of casing has been ce-
99 mented in and circulated to the surface, if a coal outlet pipe
100 is required in a well which penetrates one or more work-
101 able coal beds, then a fifty foot cement plug shall be place-
102 ed in the well from thirty feet to eighty feet below casing

103 seat completely sealing the well. The outlet pipe shall be
104 placed twenty feet below the casing seat centrally located
105 in the casing. A cement basket shall be installed on the out-
106 let pipe and placed ten feet above the casing seat with
107 twenty feet of cement in the annulus between the outlet
108 pipe and the casing. The remaining annulus shall be filled
109 with nonporous material to ten feet of surface. The outlet
110 pipe and monument shall then be cemented from ten feet
111 to the surface with a bleeder pipe which will permit the
112 free passage of gas and prevent obstructions of the same.

§22-4-10-a. Introducing liquid pressure into producing strata to recover oil contained therein.

1 The owner or operator of any well or wells which produce
2 oil or gas may allow such well or wells to remain open for
3 the purpose of introducing water or other liquid pressure
4 into and upon the producing strata for the purpose of
5 recovering the oil contained therein, and may drill additional
6 wells for like purposes, provided that the introduction of
7 such water or other liquid pressure shall be controlled as to
8 volume and pressure and shall be through casing or tubing
9 which shall be so anchored and packed that no water-bear-
10 ing strata or other oil, or gas-bearing sand or producing
11 stratum, above or below the producing strata into and upon
12 which such pressure is introduced, shall be affected thereby,
13 fulfilling requirements as set forth under section two-b.

§22-4-19. Civil action for contamination or deprivation of fresh water source or supply; presumption.

1 In any action for contamination or deprivation of a fresh
2 water source or supply within 1,000 feet of the site of
3 drilling for an oil or gas well, there shall be a rebuttable
4 presumption that such drilling, and such oil or gas well, or
5 either, was the proximate cause of the contamination or de-
6 privation of such fresh water source or supply.

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

W. Darrel Darby
Chairman Senate Committee

Clarence C. Kristie, Jr.
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Haward W. Carson
Clerk of the Senate

A. Blankenship
Clerk of the House of Delegates

H. G. Mott
President of the Senate

Lewis F. McNamee
Speaker House of Delegates

The within Approved this the 24th
day of April, 1973.

Arch A. Rouse, Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 4/24/73

Time 2:34 p.m.