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OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1976

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ENROLLED

Committee Substitute
SENATE BILL NO. 157

(By Mr. *Calpin, original sponsor*)

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PASSED *March 9,* 1976

In Effect *ninety days from* Passage

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 3/17/76

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 157
(MR. GALPERIN, *original sponsor*)

[Passed March 9, 1976; in effect ninety days from passage.]

AN ACT to amend and reenact sections one-k, two, nine, twelve and twelve-a, 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 by adding thereto a new section, designated section twelve-b, all relating to requirements for the reclamation of lands affected by oil and gas drilling; changes in drilling permit requirements; penalty under drilling permit requirements; and bond to assure that such reclamation is carried out.

Be it enacted by the Legislature of West Virginia:

That sections one-k, two, nine, twelve and twelve-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 said article be further amended by adding thereto a new section, designated section twelve-b, all to read as follows:

ARTICLE 4. OIL AND GAS WELLS.

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

1 It shall be unlawful for any well to be drilled, re-
2 drilled, deepened, fractured, stimulated, plugged, pres-
3 sured, converted, combined or physically changed to allow
4 the migration of fluid from one formation to another

5 unless a permit therefor has been issued by the depart-
6 ment. An application for any such permit shall be filed
7 with the deputy director and shall 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 in-
17 cluding the sizes of all such casing, the depth to which
18 all casing is to be run and the extent to which such casing
19 is to be cemented;

20 (f) The proposed method of reclamation which shall
21 comply with the requirements of section twelve-b of this
22 article; and

23 (g) Any other information which the deputy director
24 by rule or regulation may require.

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

38 The well owner or operator shall install the permit
39 number as issued by the deputy director in a legible and
40 permanent manner to the well upon completion of any
41 permitted work. The dimensions, specifications and man-
42 ner of installation shall be in accordance with the ad-
43 ministrative rules and regulations of the department.

44 For the purpose of ascertaining whether or not issuance
45 of any permit to drill, redrill, deepen, case, fracture,
46 stimulate, pressure, operate, plug, abandon, convert or
47 combine any well, or physically change any well to allow
48 the migration of fluid from one formation to another, will
49 contribute to an existing pollution problem, the deputy
50 director shall have the right and it shall be his duty to
51 consult with the director of the department of natural
52 resources. In the event the issuance of any such permit
53 may reasonably be expected to contribute to any such
54 existing pollution then the deputy director will not issue
55 such permit.

56 Any person who violates any provision of this section
57 shall be guilty of a misdemeanor, and, upon conviction
58 thereof, shall be punished by a fine not exceeding two
59 thousand dollars, or imprisonment in jail for not exceed-
60 ing 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; performance 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
5 which the tract of land is located, the name and acreage
6 of the same, the names of the owners of adjacent tracts,
7 the proposed or actual location of the well determined by
8 survey, the courses and distances of such location from
9 two permanent points or landmarks on said tract and the
10 number to be given the well and the date of drilling
11 completion of a well when it is proposed that such well
12 be fractured and shall forward by registered mail a copy
13 of the plat to the department of mines. In the event the
14 tract of land on which the said well proposed to be drilled
15 or fractured is located is known to be underlaid with one
16 or more workable beds of coal, copies of the plat shall
17 be forwarded by registered mail to each and every coal
18 operator, if any, operating said beds of coal beneath said

19 tract of land, or within five hundred feet of the boundaries
20 of the same, who has mapped the same and filed his
21 maps as required by law. With each of such plats there
22 shall be enclosed a notice (form for which shall be
23 furnished on request by the department of mines) ad-
24 dressed to the department of mines and to each such
25 coal operator, if any, at their respective addresses, in-
26 forming them that such plat and notice are being mailed
27 to them respectively by registered mail, pursuant to the
28 requirements of this article. If no objections are made,
29 or are found by the department, to such proposed loca-
30 tion or proposed fracturing within ten days from receipt
31 of such plat and notice by the department of mines, the
32 same shall be filed and become a permanent record of
33 such location or fracturing subject to inspection at any
34 time by any interested person, and the department may
35 forthwith issue to the well operator a permit reciting
36 the filing of such plat, that no objections have been made
37 by the coal operators, if any, or found thereto by the
38 department, and authorizing the well operator to drill
39 at such location, or to fracture the well. Unless the de-
40 partment has objections to such proposed location or
41 proposed fracturing or stimulating, such permit may be
42 issued prior to the expiration of such ten-day period upon
43 the obtaining by the well operator of the consent in
44 writing of the coal operator or operators to whom copies
45 of the plat and notice shall have been mailed as herein
46 required, and upon presentation of such written consent
47 to the department. The notice above provided for may be
48 given to the coal operator by delivering or mailing it as
49 above to any agent or superintendent in actual charge of
50 mines.

51 A permit to drill, or to fracture or stimulate an oil
52 or gas well, shall not be issued unless the application
53 therefor is accompanied by a bond of the operator in the
54 sum of two thousand five hundred dollars, payable to
55 the state of West Virginia, with a corporate bonding or
56 surety company authorized to do business in this state
57 as surety thereon, conditioned on full compliance with all
58 laws, rules and regulations relating to the drilling, re-
59 drilling, deepening, casing, plugging, abandonment and

60 reclamation of wells and for furnishing such reports and
61 information as may be required by the department:
62 *Provided*, That when such operator makes or has made
63 application for permits to drill a number of wells or
64 fracture or stimulate a well or wells the operator may
65 in lieu of furnishing a separate bond furnish a blanket
66 bond in the sum of fifteen thousand dollars, payable to
67 the state of West Virginia, with a corporate bonding or
68 surety company authorized to do business in this state
69 as surety thereon, and conditioned as aforesaid: *Provided*,
70 *however*, That in lieu of corporate surety on a separate
71 or blanket bond, as the case may be, the operator may
72 elect to deposit with the deputy director for oil and gas
73 cash or the following collateral securities or any combina-
74 tion thereof: (1) Bonds of the United States or agency
75 thereof, or those guaranteed by, or for which the credit
76 of the United States or agency thereof is pledged for
77 the payment of the principal and interest thereof; (2)
78 direct general obligation bonds of this state, or any other
79 state, or territory of the United States, or the District of
80 Columbia, unconditionally guaranteed as to the principal
81 and interest by such other state or territory of the United
82 States, or the District of Columbia if such other state,
83 territory, or the District of Columbia has the power to
84 levy taxes for the payment of the principal and interest
85 of such securities, and if at the time of the deposit such
86 other state, territory, or the District of Columbia is not
87 in default in the payment of any part of the principal or
88 interest owing by it upon any part of its funded indebted-
89 ness; (3) direct general obligation bonds of any county,
90 district, city, town, village, school district or other political
91 subdivision of this state issued pursuant to law and pay-
92 able from ad valorem taxes levied on all the taxable
93 property located therein, that the total indebtedness after
94 deducting sinking funds and all debts incurred for self-
95 sustaining public works does not exceed five percent of
96 the assessed value of all taxable property therein at the
97 time of the last assessment made before the date of
98 such deposit, and that the issuer has not, within five
99 years prior to the making thereof, been in default for
100 more than ninety days in the payment of any part of

101 the principal or interest on any debt evidenced by its
102 bonds; (4) revenue bonds issued by this state or any
103 agency of this state when such bonds are payable from
104 revenues or earnings specifically pledged for the pay-
105 ment of principal and interest, and a lawful sinking fund
106 or reserve fund has been established and is being main-
107 tained for the payment of such bonds; (5) revenue bonds
108 issued by a municipality in this state for the acquisition,
109 construction, improvement or extension of a waterworks
110 system, or a sewerage system, or a combined water-
111 works and sewerage system, when such bonds are pay-
112 able from revenue or earnings specifically pledged for
113 the payment of principal and interest, and a lawful
114 sinking fund or reserve fund has been established and
115 is being maintained for the payment of such bonds;
116 (6) revenue bonds issued by a public service board of
117 a public service district in this state for the acquisition,
118 construction, improvement or extension of any public
119 service properties, or for the reimbursement or payment
120 of the costs and expenses of creating the district, when
121 such bonds are payable from revenue or earnings spe-
122 cifically pledged for the payment of principal and interest,
123 and a lawful sinking fund or reserve fund has been
124 established and is being maintained for the payment of
125 such bonds; (7) revenue bonds issued by a board of
126 trustees of a sanitary district in this state for the cor-
127 porate purposes of such district, when such bonds are
128 payable from revenue or earnings specifically pledged
129 for the payment of principal and interest, and a lawful
130 sinking fund or reserve fund has been established and
131 is being maintained for the payment of such bonds; and
132 (8) bonds issued by a federal land bank or home owners'
133 loan corporation. The cash deposit or market value, or
134 both, of the collateral securities shall be equal to or
135 greater than the penalty of the separate or blanket bond,
136 as the case may be. Upon receipt of any such deposit
137 or cash or collateral securities, the deputy director for
138 oil and gas shall immediately deliver the same to the
139 treasurer of the state of West Virginia. The treasurer
140 shall determine whether any such securities satisfy the
141 requirements of this section. If the securities are ap-

142 proved they shall be accepted by the treasurer. If the
143 securities are not approved, they shall be rejected and
144 returned to the operator and no permit shall be issued
145 until a corporate surety bond is filed or cash or proper
146 collateral securities are filed in lieu of such surety. The
147 treasurer shall hold any cash or securities in the name
148 of the state in trust for the purposes for which the de-
149 posit was made. The operator shall be entitled to all
150 interest and income earned on the collateral securities
151 filed by such operator so long as the operator is in full
152 compliance with all laws, rules and regulations relating
153 to the drilling, redrilling, deepening, casing, plugging,
154 abandonment and reclamation of wells and for furnishing
155 such reports and information as may be required by the
156 department. The operator making the deposit shall be
157 entitled from time to time to receive from the treasurer,
158 upon the written order of the deputy director for oil
159 and gas, the whole or any portion of such securities upon
160 depositing with the treasurer in lieu thereof cash equal
161 to or greater than the penalty of the bond, or other
162 approved securities of the classes herein specified having
163 a market value equal to or greater than the penalty of
164 the bond, or a corporate surety bond.

165 Any such bond shall remain in force until released by
166 the department and the department shall release the
167 same when it is satisfied the conditions thereof have been
168 fully performed. Upon the release of any such bond,
169 any cash or collateral securities deposited shall be re-
170 turned by the deputy director for oil and gas to the
171 operator who deposited same.

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

179 When any bond is forfeited pursuant to the provisions
180 of this article or rules and regulations promulgated pur-
181 suant thereto the deputy director shall give notice to the

182 attorney general who shall collect the forfeiture without
183 delay.

184 All forfeitures shall be deposited in the treasury of
185 the state of West Virginia in the special reclamation fund
186 as defined in section twelve-a, article four, chapter
187 twenty-two of this code.

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

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

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

32 tion two of this article and the coal operator or operators
33 to whom notices are required to be given by section
34 two-a of this article, or (c) in the event the well to
35 be plugged and abandoned is one on which drilling
36 or reworking operations have been continuously pro-
37 gressing pursuant to authorization granted by the de-
38 partment, first obtain the verbal permission of the deputy
39 director for oil and gas or his designated representative
40 to plug and abandon such well, except, that the well
41 operator, shall, within a reasonable period not to
42 exceed five days after the commencement of such plug-
43 ging operations, give the written notices required by
44 subdivision (a) above.

45 No well shall be plugged or abandoned unless prior
46 to the commencement of plugging operations and the
47 abandonment of any well the department is furnished
48 a bond of the operator in the sum of two thousand five
49 hundred dollars, payable to the state of West Virginia,
50 with a corporate bonding or surety company author-
51 ized to do business in this state as surety thereon, con-
52 ditioned on full compliance with all laws, rules and reg-
53 ulations relating to the casing, plugging, abandonment
54 and reclamation of wells and for furnishing such reports
55 and information as may be required by the depart-
56 ment. When a number of wells are involved, the oper-
57 ator may in lieu of furnishing a separate bond furnish
58 a blanket bond in the sum of fifteen thousand dollars,
59 payable to the state of West Virginia, with a corporate
60 bonding or surety company authorized to do business
61 in this state as surety thereon, and conditioned as afore-
62 said. In lieu of corporate surety on a separate or blanket
63 bond, as the case may be, the operator may elect
64 to deposit with the deputy director for oil and gas
65 cash or collateral securities as specified in section two
66 of this article. All of the provisions of section two deal-
67 ing with cash or collateral securities in lieu of corporate
68 surety shall be fully applicable hereto except for the
69 condition of the bond with respect to which the operator
70 must be in full compliance in order to be entitled to
71 the interest and income earned on such securities. The
72 operator shall be entitled to such interest and income

73 under this section so long as the operator is in full com-
74 pliance with all laws, rules and regulations relating to
75 the casing, plugging, abandonment and reclamation of
76 wells and for furnishing such reports and informa-
77 tion as may be required by the department. Any such
78 bond shall remain in force until released by the depart-
79 ment and the department shall release the same when
80 it is satisfied the conditions thereof have been fully
81 performed. Notwithstanding the foregoing provisions,
82 any operator who, in accordance with section two of
83 this article, has furnished a separate bond, which has
84 not been released by the department, for the drilling,
85 converting or drilling for the introduction of liquids,
86 for the disposal of sewage, industrial waste or other
87 waste or the effluent therefrom, or introducing pressure,
88 whether liquid or gas, or introducing liquid for the
89 purposes provided for in section ten-a of this article
90 or fracturing of the well it is now proposed be plugged
91 and abandoned, or who, in accordance with the provi-
92 sions of said section two of this article, has furnished a
93 blanket bond which has not been released by the de-
94 partment shall not be required by this section to furnish
95 any other bond. When the plugging, filling and reclama-
96 tion of a well have been completed, an affidavit, in trip-
97 licate, shall be made (on a form to be furnished by the
98 department) by two experienced men who participated
99 in the work, the deputy director for oil and gas or his
100 designated representative, in which affidavit shall be
101 set forth the time and manner in which the well was
102 plugged and filled and the land reclaimed. One copy
103 of this affidavit shall be retained by the well operator,
104 another (or true copies of same) shall be mailed to the
105 coal operator or operators, if any, and the third to the
106 department of mines.

**§22-4-12. Supervision by department of mines over drilling
and mining operations; complaints; hearings; ap-
peals.**

1 The department shall exercise supervision over the
2 drilling, casing, plugging, filling and reclamation of all
3 wells and of all mining operations in close proximity to

4 any well and shall have such access to the plans, maps and
5 other records and to the properties of the well operators
6 and coal operators as may be necessary or proper for this
7 purpose, and, either as the result of its own investigations
8 or pursuant to charges made by any well operator or coal
9 operator, the department may itself enter, or shall permit
10 any aggrieved person to file before it, a formal complaint
11 charging any well operator with not drilling or casing, or
12 not plugging or filling, or reclaiming any well in ac-
13 cordance with the provisions of this article, or charging
14 any coal operator with conducting mining operations in
15 proximity to any well contrary to the provisions of this
16 article, or to the order of the department. True copies of
17 any such complaints shall be served upon or mailed by
18 registered mail to any person so charged, with notice of the
19 time and place of hearing, of which the operator or
20 operators so charged shall be given at least five days'
21 notice. At the time and place fixed for hearing, full
22 opportunity shall be given any person so charged or
23 complaining to be heard and to offer such evidence as
24 desired, and after a full hearing, at which the department
25 may offer in evidence the results of such investigations as
26 it may have made, the department shall make its findings
27 of fact and enter such order as in its judgment is just and
28 right and necessary to secure the proper administration
29 of this article, and, if it deems necessary, restraining the
30 well operator from continuing to drill or case any well or
31 from further plugging, filling or reclaiming the same,
32 except under such conditions as the department may im-
33 pose in order to insure a strict compliance with the provi-
34 sions of this article relating to such matters, or restraining
35 further mining operations in proximity to any well, except
36 under such conditions as the department may impose.
37 From any such order an appeal, naming the department
38 as a respondent, may be taken by the operator or opera-
39 tors so restrained, within ten days of notice of entry of the
40 same, to the circuit court of the county in which the well
41 involved is located, and the department or complainant or
42 complainants, or both, may, in case such order is disobey-
43 ed, apply at any time to such circuit court for a decree
44 enforcing the same.

§22-4-12a. Special reclamation fund; fees.

1 In addition to any other fees required by the provisions
2 of this article, every applicant for a permit to drill a
3 well shall, before the permit is issued, pay to the deputy
4 director for oil and gas a special reclamation fee of one
5 hundred dollars for each well to be drilled. Such special
6 reclamation fee shall be paid at the time the application
7 for a drilling permit is filed with the deputy director
8 and the payment of such reclamation fee shall be a con-
9 dition precedent to the issuance of said permit.

10 There is hereby created within the treasury of the
11 state of West Virginia a special fund to be known as the
12 oil and gas reclamation fund, and the deputy director shall
13 deposit with the state treasurer to the credit of such
14 special fund all special reclamation fees collected. The
15 proceeds of any bond forfeited under the provisions of
16 this article shall inure to the benefit of and shall be
17 deposited in such oil and gas reclamation fund.

18 The oil and gas reclamation fund shall be administered
19 by the director of the department of mines. The deputy
20 director for oil and gas shall cause to be prepared plans
21 for the reclaiming and plugging of abandoned wells which
22 have not been reclaimed or plugged or which have been
23 improperly reclaimed or plugged. The director of the
24 department of mines, as funds become available in the oil
25 and gas reclamation fund, shall reclaim and properly plug
26 wells in accordance with said plans and specifications and
27 in accordance with the provisions of this article relating
28 to the reclaiming and plugging of wells and all rules and
29 regulations promulgated thereunder. Such funds may also
30 be utilized for the purchase of abandoned wells, where
31 such purchase is necessary, and for the reclamation of
32 such abandoned wells, and for any engineering, adminis-
33 trative and research costs as may be necessary to properly
34 effectuate the reclaiming and plugging of all wells,
35 abandoned or otherwise.

36 The director may avail himself of any federal funds
37 provided on a matching basis that may be made available
38 for the purpose of reclaiming or plugging any wells.

39 The director shall make an annual report to the gov-
40 ernor and to the Legislature setting forth the number of
41 wells reclaimed or plugged through the use of the oil and
42 gas reclamation fund provided for herein. Such report
43 shall identify each such reclamation and plugging project,
44 state the number of wells reclaimed or plugged thereby,
45 show the county wherein such wells are located and shall
46 make a detailed accounting of all expenditures from the
47 oil and gas reclamation fund.

48 All wells shall be reclaimed or plugged by contract
49 entered into by the director on a competitive bid basis as
50 provided for under the provisions of article three, chapter
51 five-a of this code and the rules and regulations promul-
52 gated thereunder.

§22-4-12b. Reclamation requirements.

1 The operator of a well shall reclaim the land surface
2 within the area disturbed in siting, drilling, completing or
3 producing the well in accordance with the following
4 requirements:

5 (a) Within six months after the completion of a
6 producing well, the operator shall fill all the pits for
7 containing muds, cuttings, salt water and oil that are not
8 needed for production purposes, or are not required or
9 allowed by state or federal law or rule or regulation, and
10 remove all concrete bases, drilling supplies and drilling
11 equipment. Within such period, the operator shall grade
12 or terrace and plant, seed or sod the area disturbed that is
13 not required in production of the well where necessary to
14 bind the soil and prevent substantial erosion and sedi-
15 mentation. No pit may be used for the ultimate disposal
16 of salt water. Salt water and oil shall be periodically
17 drained or removed, and properly disposed of, from any pit
18 that is retained so the pit is kept reasonably free of salt
19 water and oil.

20 (b) Within six months after a well that has produced
21 oil or gas is plugged, or after the plugging of a dry hole,
22 the operator shall remove all production and storage
23 structures, supplies and equipment, and any oil, salt water
24 and debris, and fill any remaining excavations. Within
25 such period, the operator shall grade or terrace and plant,

26 seed or sod the area disturbed where necessary to bind the
27 soil and prevent substantial erosion and sedimentation.

28 The deputy director may, upon written application by
29 an operator showing reasonable cause, extend the period
30 within which reclamation shall be completed, but not to
31 exceed a further six-month period.

32 If the deputy director refuses to approve a request for
33 extension, he shall do so by order.

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

James L. Davis
Chairman Senate Committee

Howard C. Churchman
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

J. Keelongs
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

W. T. Bratton Jr.
President of the Senate

Lewis F. M. Thomas
Speaker House of Delegates

The within Approved this the 16th
day of March, 1976

Paula Thomas
Governor



PRESENTED TO THE
GOVERNOR

Date 3/11/76

Time 4:25 p.m.