WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1976

---

ENROLLED
Committee Substitute
SENATE BILL NO. 157

(By Mr. Salgain, original sponsor)

---

PASSED March 9, 1976

In Effect 90 days from passage

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 3/17/76
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
unless a permit therefor has been issued by the department. An application for any such permit shall be filed with the deputy director and shall contain the following:

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

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

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

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

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

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

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

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

The well owner or operator shall install the permit number as issued by the deputy director in a legible and permanent manner to the well upon completion of any permitted work. The dimensions, specifications and manner of installation shall be in accordance with the administrative rules and regulations of the department.
For the purpose of ascertaining whether or not issuance
of any permit to drill, redrill, deepen, case, fracture,
stimulate, pressure, operate, plug, abandon, convert or
combine any well, or physically change any well to allow
the migration of fluid from one formation to another, will
contribute to an existing pollution problem, the deputy
director shall have the right and it shall be his duty to
consult with the director of the department of natural
resources. In the event the issuance of any such permit
may reasonably be expected to contribute to any such
existing pollution then the deputy director will not issue
such permit.

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

§22-4-2. Plats prerequisite to drilling or fracturing wells; prep­
aration and contents; notice and information fur­
nished to coal operators; issuance of permits;
performance bonds or securities in lieu thereof;
bond forfeiture.

Before drilling for oil or gas, or before fracturing or
stimulating a well on any tract of land, the well operator
shall have a plat prepared by a licensed land surveyor or
registered engineer showing the district and county in
which the tract of land is located, the name and acreage
of the same, the names of the owners of adjacent tracts,
the proposed or actual location of the well determined by
survey, the courses and distances of such location from
two permanent points or landmarks on said tract and the
number to be given the well and the date of drilling
completion of a well when it is proposed that such well
be fractured and shall forward by registered mail a copy
of the plat to the department of mines. In the event the
tract of land on which the said well proposed to be drilled
or fractured is located is known to be underlaid with one
or more workable beds of coal, copies of the plat shall
be forwarded by registered mail to each and every coal
operator, if any, operating said beds of coal beneath said
tract of land, or within five hundred feet of the boundaries of the same, who has mapped the same and filed his maps as required by law. With each of such plats there shall be enclosed a notice (form for which shall be furnished on request by the department of mines) addressed to the department of mines and to each such coal operator, if any, at their respective addresses, informing them that such plat and notice are being mailed to them respectively by registered mail, pursuant to the requirements of this article. If no objections are made, or are found by the department, to such proposed location or proposed fracturing within ten days from receipt of such plat and notice by the department of mines, the same shall be filed and become a permanent record of such location or fracturing subject to inspection at any time by any interested person, and the department may forthwith issue to the well operator a permit reciting the filing of such plat, that no objections have been found by the coal operators, if any, or found thereto by the department, and authorizing the well operator to drill at such location, or to fracture the well. Unless the department has objections to such proposed location or proposed fracturing or stimulating, such permit may be issued prior to the expiration of such ten-day period upon the obtaining by the well operator of the consent in writing of the coal operator or operators to whom copies of the plat and notice shall have been mailed as herein required, and upon presentation of such written consent to the department. The notice above provided for may be given to the coal operator by delivering or mailing it as above to any agent or superintendent in actual charge of mines.

A permit to drill, or to fracture or stimulate an oil or gas well, shall not be issued unless the application therefor is accompanied by a bond of the operator in the sum of two thousand five hundred dollars, payable to the state of West Virginia, with a corporate bonding or surety company authorized to do business in this state as surety thereon, conditioned on full compliance with all laws, rules and regulations relating to the drilling, re-drilling, deepening, casing, plugging, abandonment and
reclamation of wells and for furnishing such reports and information as may be required by the department: Provided, That when such operator makes or has made application for permits to drill a number of wells or fracture or stimulate a well or wells the operator may in lieu of furnishing a separate bond furnish a blanket bond in the sum of fifteen thousand dollars, payable to the state of West Virginia, with a corporate bonding or surety company authorized to do business in this state as surety thereon, and conditioned as aforesaid: Provided, however, That in lieu of corporate surety on a separate or blanket bond, as the case may be, the operator may elect to deposit with the deputy director for oil and gas cash or the following collateral securities or any combination thereof: (1) Bonds of the United States or agency thereof, or those guaranteed by, or for which the credit of the United States or agency thereof is pledged for the payment of the principal and interest thereof; (2) direct general obligation bonds of this state, or any other state, or territory of the United States, or the District of Columbia, unconditionally guaranteed as to the principal and interest by such other state or territory of the United States, or the District of Columbia if such other state, territory, or the District of Columbia has the power to levy taxes for the payment of the principal and interest of such securities, and if at the time of the deposit such other state, territory, or the District of Columbia is not in default in the payment of any part of the principal or interest owing by it upon any part of its funded indebtedness; (3) direct general obligation bonds of any county, district, city, town, village, school district or other political subdivision of this state issued pursuant to law and payable from ad valorem taxes levied on all the taxable property located therein, that the total indebtedness after deducting sinking funds and all debts incurred for self-sustaining public works does not exceed five percent of the assessed value of all taxable property therein at the time of the last assessment made before the date of such deposit, and that the issuer has not, within five years prior to the making thereof, been in default for more than ninety days in the payment of any part of
the principal or interest on any debt evidenced by its
bonds; (4) revenue bonds issued by this state or any
agency of this state when such bonds are payable from
revenues or earnings specifically pledged for the pay-
ment of principal and interest, and a lawful sinking fund
or reserve fund has been established and is being main-
tained for the payment of such bonds; (5) revenue bonds
issued by a municipality in this state for the acquisition,
construction, improvement or extension of a waterworks
system, or a sewerage system, or a combined water-
works and sewerage system, when such bonds are pay-
able from revenue or earnings specifically pledged for
the payment of principal and interest, and a lawful
sinking fund or reserve fund has been established and
is being maintained for the payment of such bonds;
(6) revenue bonds issued by a public service board of
a public service district in this state for the acquisition,
construction, improvement or extension of any public
service properties, or for the reimbursement or payment
of the costs and expenses of creating the district, when
such bonds are payable from revenue or earnings spe-
cifically pledged for the payment of principal and interest,
and a lawful sinking fund or reserve fund has been
established and is being maintained for the payment of
such bonds; (7) revenue bonds issued by a board of
trustees of a sanitary district in this state for the cor-
porate purposes of such district, when such bonds are
payable from revenue or earnings specifically pledged
for the payment of principal and interest, and a lawful
sinking fund or reserve fund has been established and
is being maintained for the payment of such bonds; and
(8) bonds issued by a federal land bank or home owners'
loan corporation. The cash deposit or market value, or
both, of the collateral securities shall be equal to or
greater than the penalty of the separate or blanket bond,
as the case may be. Upon receipt of any such deposit
or cash or collateral securities, the deputy director for
oil and gas shall immediately deliver the same to the
treasurer of the state of West Virginia. The treasurer
shall determine whether any such securities satisfy the
requirements of this section. If the securities are ap-
proved they shall be accepted by the treasurer. If the
securities are not approved, they shall be rejected and
returned to the operator and no permit shall be issued
until a corporate surety bond is filed or cash or proper
collateral securities are filed in lieu of such surety. The
treasurer shall hold any cash or securities in the name
of the state in trust for the purposes for which the de-
posit was made. The operator shall be entitled to all
interest and income earned on the collateral securities
filed by such operator so long as the operator is in full
compliance with all laws, rules and regulations relating
to the drilling, redrilling, deepening, casing, plugging,
abandonment and reclamation of wells and for furnishing
such reports and information as may be required by the
department. The operator making the deposit shall be
entitled from time to time to receive from the treasurer,
upon the written order of the deputy director for oil
and gas, the whole or any portion of such securities upon
depositing with the treasurer in lieu thereof cash equal
to or greater than the penalty of the bond, or other
approved securities of the classes herein specified having
a market value equal to or greater than the penalty of
the bond, or a corporate surety bond.

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

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

When any bond is forfeited pursuant to the provisions
of this article or rules and regulations promulgated pur-
suant thereto the deputy director shall give notice to the
182 attorney general who shall collect the forfeiture without delay.

184 All forfeitures shall be deposited in the treasury of the state of West Virginia in the special reclamation fund as defined in section twelve-a, article four, chapter 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 abandoned under the provisions of section seven of this article shall be plugged and reclaimed in accordance with this section and the other provisions of this article and in accordance with the rules and regulations promulgated by the deputy director.

7 Prior to the commencement of plugging operations and the abandonment of any well, the well operator shall either (a) notify, by registered or certified mail, the department of mines and the local operator or operators, if any, to whom notices are required to be given by section two of this article and the coal operator or operators to whom notices are required to be given by section two-a of this article of its intention to plug and abandon any such well (using such form of notice as the department may provide), giving the number of the well and its location and fixing the time at which the work of plugging and filling will be commenced, which time shall be not less than five days after the day on which such notice so mailed is received or in due course should be received by the department of mines, in order that a representative or representatives of the department and the coal operator or operators, if any or of both, may be present at the plugging and filling of the well: Provided, That whether such representatives appear or do not appear, the well operator may proceed at the time fixed to plug and fill the well in the manner hereinafter described, or (b) first obtain the written approval of the department of mines and the coal operator or operators, if any, to whom notices are required to be given by sec-
tion two of this article and the coal operator or operators
to whom notices are required to be given by section
two-a of this article, or (c) in the event the well to
be plugged and abandoned is one on which drilling
or reworking operations have been continuously pro-
gressing pursuant to authorization granted by the de-
partment, first obtain the verbal permission of the deputy
director for oil and gas or his designated representative
to plug and abandon such well, except, that the well
operator, shall, within a reasonable period not to
exceed five days after the commencement of such plug-
ging operations, give the written notices required by
subdivision (a) above.

No well shall be plugged or abandoned unless prior
to the commencement of plugging operations and the
abandonment of any well the department is furnished
a bond of the operator in the sum of two thousand five
hundred dollars, payable to the state of West Virginia,
with a corporate bonding or surety company author-
ized to do business in this state as surety thereon, con-
ditioned on full compliance with all laws, rules and reg-
ulations relating to the casing, plugging, abandonment
and reclamation of wells and for furnishing such reports
and information as may be required by the depart-
ment. When a number of wells are involved, the oper-
ator may in lieu of furnishing a separate bond furnish
a blanket bond in the sum of fifteen thousand dollars,
payable to the state of West Virginia, with a corporate
bonding or surety company authorized to do business
in this state as surety thereon, and conditioned as afore-
said. In lieu of corporate surety on a separate or blanket
bond, as the case may be, the operator may elect
to deposit with the deputy director for oil and gas
cash or collateral securities as specified in section two
of this article. All of the provisions of section two deal-
ing with cash or collateral securities in lieu of corporate
surety shall be fully applicable hereto except for the
condition of the bond with respect to which the operator
must be in full compliance in order to be entitled to
the interest and income earned on such securities. The
operator shall be entitled to such interest and income
under this section so long as the operator is in full compliance with all laws, rules and regulations relating to the casing, plugging, abandonment and reclamation of wells and for furnishing such reports and information as may be required by the department. Any such bond shall remain in force until released by the department and the department shall release the same when it is satisfied the conditions thereof have been fully performed. Notwithstanding the foregoing provisions, any operator who, in accordance with section two of this article, has furnished a separate bond, which has not been released by the department, for the drilling, converting or drilling for the introduction of liquids, for the disposal of sewage, industrial waste or other waste or the effluent therefrom, or introducing pressure, whether liquid or gas, or introducing liquid for the purposes provided for in section ten-a of this article or fracturing of the well it is now proposed be plugged and abandoned, or who, in accordance with the provisions of said section two of this article, has furnished a blanket bond which has not been released by the department shall not be required by this section to furnish any other bond. When the plugging, filling and reclamation of a well have been completed, an affidavit, in triplicate, shall be made (on a form to be furnished by the department) by two experienced men who participated in the work, the deputy director for oil and gas or his designated representative, in which affidavit shall be set forth the time and manner in which the well was plugged and filled and the land reclaimed. One copy of this affidavit shall be retained by the well operator, another (or true copies of same) shall be mailed to the coal operator or operators, if any, and the third to the department of mines.

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

1 The department shall exercise supervision over the drilling, casing, plugging, filling and reclamation of all wells and of all mining operations in close proximity to
any well and shall have such access to the plans, maps and
other records and to the properties of the well operators
and coal operators as may be necessary or proper for this
purpose, and, either as the result of its own investigations
or pursuant to charges made by any well operator or coal
operator, the department may itself enter, or shall permit
any aggrieved person to file before it, a formal complaint
charging any well operator with not drilling or casing, or
not plugging or filling, or reclaiming any well in ac-
cordance with the provisions of this article, or charging
any coal operator with conducting mining operations in
proximity to any well contrary to the provisions of this
article, or to the order of the department. True copies of
any such complaints shall be served upon or mailed by
registered mail to any person so charged, with notice of the
time and place of hearing, of which the operator or
operators so charged shall be given at least five days’
notice. At the time and place fixed for hearing, full
opportunity shall be given any person so charged or
complaining to be heard and to offer such evidence as
desired, and after a full hearing, at which the department
may offer in evidence the results of such investigations as
it may have made, the department shall make its findings
of fact and enter such order as in its judgment is just and
right and necessary to secure the proper administration
of this article, and, if it deems necessary, restraining the
well operator from continuing to drill or case any well or
from further plugging, filling or reclaiming the same,
except under such conditions as the department may im-
pose in order to insure a strict compliance with the provi-
sions of this article relating to such matters, or restraining
further mining operations in proximity to any well, except
under such conditions as the department may impose.
From any such order an appeal, naming the department
as a respondent, may be taken by the operator or opera-
tors so restrained, within ten days of notice of entry of the
same, to the circuit court of the county in which the well
involved is located, and the department or complainant or
complainants, or both, may, in case such order is disobey-
ed, apply at any time to such circuit court for a decree
enforcing the same.
§22-4-12a. Special reclamation fund; fees.

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

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

3. The oil and gas reclamation fund shall be administered by the director of the department of mines. The deputy director for oil and gas shall cause to be prepared plans for the reclaiming and plugging of abandoned wells which have not been reclaimed or plugged or which have been improperly reclaimed or plugged. The director of the department of mines, as funds become available in the oil and gas reclamation fund, shall reclaim and properly plug wells in accordance with said plans and specifications and in accordance with the provisions of this article relating to the reclaiming and plugging of wells and all rules and regulations promulgated thereunder. Such funds may also be utilized for the purchase of abandoned wells, where such purchase is necessary, and for the reclamation of such abandoned wells, and for any engineering, administrative and research costs as may be necessary to properly effectuate the reclaiming and plugging of all wells, abandoned or otherwise.

4. The director may avail himself of any federal funds provided on a matching basis that may be made available for the purpose of reclaiming or plugging any wells.
The director shall make an annual report to the governor and to the Legislature setting forth the number of wells reclaimed or plugged through the use of the oil and gas reclamation fund provided for herein. Such report shall identify each such reclamation and plugging project, state the number of wells reclaimed or plugged thereby, show the county wherein such wells are located and shall make a detailed accounting of all expenditures from the oil and gas reclamation fund.

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

§22-4-12b. Reclamation requirements.

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

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

(b) Within six months after a well that has produced oil or gas is plugged, or after the plugging of a dry hole, the operator shall remove all production and storage structures, supplies and equipment, and any oil, salt water and debris, and fill any remaining excavations. Within such period, the operator shall grade or terrace and plant,
seed or sod the area disturbed where necessary to bind the soil and prevent substantial erosion and sedimentation. The deputy director may, upon written application by an operator showing reasonable cause, extend the period within which reclamation shall be completed, but not to exceed a further six-month period. If the deputy director refuses to approve a request for extension, he shall do so by order.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor
PRESENTED TO THE GOVERNOR

Date 3/11/76
Time 4:25 p.m.