

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1977



ENROLLED

Committee Substitute for

HOUSE BILL No. 1745

(By Mr. Sattes)



PASSED April 8 1977

In Effect ninety days from Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 1745

(By MR. SATTES)

(Originating in the House Committee on the Judiciary)

[Passed April 8, 1977; in effect ninety days from passage.]

AN ACT to amend and reenact sections one, one-f, one-g, one-h, one-j, one-k, two, two-a, two-b, three, three-a, four, four-a, nine, ten, twelve, thirteen and eighteen, article four, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto two new sections, designated sections eight-b and twenty, redefining certain terms; right to request inspection for violations; findings and orders of inspectors; rights of persons to seek review of findings; judicial review of final orders of deputy director; information required on permit applications; drilling notice to coal operators and others; bond requirements; notice to coal operators and others of intent to fracture; notice to coal operators and others regarding introduction of liquids or wastes into wells; objections to proposed drilling or fracturing; objections to proposed drilling or converting for introducing liquids or wastes into wells; appeal from order of issuance or refusal of permit to drill or fracture; appeal from order of issuance or refusal of permit for drilling

location for introduction of liquids or waste or from conditions of converting; filing of well log with department of mines; notice to coal operators and others of intent to plug or abandon wells; methods of plugging wells; appeals from final decision of department of mines; rules and regulations by and hearing before department of mines; injunctive relief; declaration of oil and gas notice by owners and lessees of coal seams.

Be it enacted by the Legislature of West Virginia:

That sections one, one-f, one-g, one-h, one-j, one-k, two, two-a, two-b, three, three-a, four, four-a, nine, ten, twelve, thirteen and eighteen, 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 two new sections, designated sections eight-b and twenty, all to read as follows:

ARTICLE 4. OIL AND GAS WELLS.

§22-4-1. Definitions.

1 Unless the context in which used clearly requires a different
2 meaning, as used in this article:

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

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

15 (c) "Facility" means any facility utilized in the oil and gas
16 industry in this state and specifically named or referred to in
17 this article or in articles five or seven of this chapter, other
18 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, part-
21 nership association or corporation that owns, manages, oper-
22 ates, controls or possesses such well as principals, or as lessee
23 or contractor, employee or agent of such principal;

24 (e) "Well operator" or "operator"^{means any} person or person^s, firm,
25 partnership, partnership association or corporation that pro-
26 poses to or does locate, drill, operate or abandon any well
27 as herein defined;

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28 (f) "Chief" means chief of the division of water resources
29 of the department of natural resources;

30 (g) "Coal operator" means any person or persons, firm,
31 partnership, partnership association or corporation that pro-
32 poses to or does operate a coal mine;

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

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

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

40 (k) "Oil" means natural crude oil or petroleum and other
41 hydrocarbons, regardless of gravity, which are produced at
42 the well in liquid form by ordinary production methods and
43 which are not the result of condensation of gas after it leaves
44 the underground reservoirs;

45 (l) "Gas" means all natural gas and all other fluid hydro-
46 carbons not defined as oil in subdivision (k) of this section;

47 (m) "Cement" means hydraulic cement properly mixed
48 with water only;

49 (n) "Coal seam" or "workable coal bed" are interchangeable
50 terms and mean any seam of coal twenty inches or more in
51 thickness, unless a seam of less thickness is being commercial-
52 ly worked, or can in the judgment of the department foresee-
53 ably be commercially worked and will require protection if
54 wells are drilled through it;

55 (o) "Stimulate" means any action taken by any well
56 operator to increase oil or gas production from any oil or
57 gas well, including fracturing, shooting or acidizing, but
58 excluding cleaning out or bailing operations.

§22-4-1f. Authority and duty of deputy director and inspectors to visit and inspect wells and facilities; inspectors to devote full time to duties.

1 The deputy director for oil and gas of the department of
2 mines shall have authority to visit and inspect any well or well
3 site and any other oil or gas facility in this state and may call
4 for the assistance of any oil and gas inspector or inspectors or
5 supervising inspector whenever such assistance is necessary in
6 the inspection of any such well or well site or any other oil
7 or gas facility. Similarly, all oil and gas inspectors and the
8 supervising inspector shall have authority to visit and inspect
9 any well or well site and any other oil or gas facility in this
10 state. Any well operator, coal operator operating coal seams
11 beneath the tract of land, or the coal seam owner or lessee, if
12 any, if said owner or lessee is not yet operating said coal seams
13 beneath said tract of land may request the deputy director to
14 have an immediate inspection made. The operator or owner of
15 every well or well site or any other oil or gas facility shall co-
16 operate with the deputy director for oil and gas, all oil and
17 gas inspectors and the supervising inspector in making inspec-
18 tions or obtaining information.

19 Oil and gas inspectors shall devote their full time and un-
20 divided attention to the performance of their duties, and they
21 shall be responsible for the inspection of all wells or well sites
22 or other oil or gas facilities in their respective districts as often
23 as may be required in the performance of their duties.

§22-4-1g. Findings and orders of inspectors concerning violations; determination of reasonable time for abatement; extensions of time for abatement; special inspections; notice of findings and orders.

1 (a) If an oil and gas inspector, upon making an inspection
2 of a well or well site or any other oil or gas facility, finds that
3 any provision of this article is being violated, he shall also
4 find whether or not an imminent danger to persons engaged in

5 active coal mining exists. If he finds that such imminent danger
6 exists, he shall forthwith make an order requiring the operator
7 of such well or well site or other oil or gas facility to cease
8 further operations until such imminent danger has been abated.
9 If he finds that no such imminent danger exists, he shall de-
10 termine what would be a reasonable period of time within
11 which such violation should be totally abated. Such findings
12 shall contain reference to the provisions of this article which
13 he finds are being violated, and a detailed description of the
14 conditions which cause and constitute such violation.

15 (b) The period of time so found by such oil and gas in-
16 spector to be a reasonable period of time may be extended by
17 such inspector, or by any other oil and gas inspector duly
18 authorized by the deputy director for oil and gas, from time
19 to time, but on not more than three occasions, upon the making
20 of a special inspection to ascertain whether or not such viola-
21 tion has been totally abated. The deputy director for oil and
22 gas shall cause a special inspection to be made: (A) Whenever
23 an operator of a well or well site or any other oil or gas facil-
24 ity, prior to the expiration of any such period of time, requests
25 him to cause a special inspection to be made at such well or
26 well site or any other oil or gas facility; and (B) upon expira-
27 tion of such period of time as originally fixed or as extended,
28 unless the deputy director for oil and gas is satisfied that the
29 violation has been abated. Upon making such special inspec-
30 tion, such oil and gas inspector shall determine whether or
31 not such violation has been totally abated. If he determines
32 that such violation has not been totally abated, he shall de-
33 termine whether or not such period of time as originally fixed,
34 or as so fixed and extended, should be extended. If he deter-
35 mines that such period of time should be extended, he shall
36 determine what a reasonable extension would be. If he deter-
37 mines that such violation has not been totally abated, and if
38 such period of time as originally fixed, or as so fixed and ex-
39 tended, has then expired, and if he also determines that such
40 period of time should not be further extended, he shall there-
41 upon make an order requiring the operator of such well or well
42 site or other oil or gas facility to cease further operations of
43 such well, well site or facility, as the case may be. Such find-

44 ings and order shall contain reference to the specific provisions
45 of this article which are being violated.

46 (c) Notice of each finding and order made under this sec-
47 tion shall promptly be given to the operator of the well or
48 well site or other oil or gas facility to which it pertains by the
49 person making such finding or order.

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

**§22-4-1h. Review of findings and orders by deputy director for
oil and gas; special inspection; annulment, revision,
etc., of order; notice.**

1 Any well operator, complaining coal operator, owner or
2 lessee, if any, aggrieved by findings or an order made by an
3 oil and gas inspector pursuant to section one-g of this article,
4 may within fifteen days apply to the deputy director for oil
5 and gas for annulment or revision of such order. Upon receipt
6 of such application the deputy director for oil and gas shall
7 make a special inspection of the well, well site or other oil and
8 gas facility affected by such order, or cause two duly authorized
9 oil and gas inspectors, other than the oil and gas inspector who
10 made such order or the supervising inspector and one duly
11 authorized oil and gas inspector other than the oil and gas in-
12 spector who made such order, to make such inspection of such
13 well, or well site or other oil or gas facility and to report there-
14 on to them. Upon making such special inspection himself, or
15 upon receiving the report of such special inspection, as the
16 case may be, the deputy director for oil and gas shall make
17 an order which shall include his findings and shall annul, re-
18 vise or affirm the order of the oil and gas inspector.

19 The deputy director for oil and gas shall cause notice of
20 each finding and order made under this section to be given
21 promptly to the operator of the well, well site or other oil
22 or gas facility to which such findings and order pertain, and
23 the complainant under section one-f, if any.

24 At any time while an order made pursuant to section one-g
25 of this article is in effect, the operator of the well, well site or
26 other oil or gas facility affected by such order may apply to

27 the deputy director for oil and gas for annulment or revision
28 of such order. The deputy director for oil and gas shall there-
29 upon proceed to act upon such application in the manner pro-
30 vided in this section.

31 In view of the urgent need for prompt decision of matters
32 submitted to the deputy director for oil and gas under this
33 article, all actions which he, or oil and gas inspectors, or the
34 supervising inspector, is required to take under this article,
35 shall be taken as rapidly as practicable, consistent with ade-
36 quate consideration of the issues involved.

**§22-4-1j. Judicial review of final orders of deputy director for
oil and gas.**

1 Any well operator, complaining coal operator, owner or
2 lessee, if any, adversely affected by a final order issued by
3 the deputy director under section one-h of this article shall be
4 entitled to judicial review thereof. All of the pertinent pro-
5 visions of section four, article five, chapter twenty-nine-a of
6 this code shall apply to and govern such judicial review with
7 like effect as if the provisions of said section four were set forth
8 in extenso in this section.

9 (b) The judgment of the circuit court shall be final unless
10 reversed, vacated or modified on appeal to the supreme court
11 of appeals in accordance with the provisions of section one,
12 article six, chapter twenty-nine-a of this code.

13 (c) Legal counsel and services for the deputy director in
14 all appeal proceedings in any circuit court and the supreme
15 court of appeals shall be provided by the attorney general or
16 his assistants and in any circuit court by the prosecuting
17 attorney of the county as well, all without additional com-
18 pensation. The deputy director, with written approval of the
19 attorney general, may employ special counsel to represent the
20 deputy director at any such appeal proceedings.

**§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, con-

3 verted, combined or physically changed to allow the migration
4 of 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 lands
10 upon which the well is or may be located;

11 (c) The name and address of every coal operator operating
12 coal seams under the tract of land on which the well is or
13 may be located, or the coal seam owner of record and lessee
14 of record required to be given notice by section two, if any, if
15 said owner or lessee is not yet operating said coal seams;

16 (d) The name and address of the agent of the well operator,
17 if any such agent is required to be designated under the pro-
18 visions of this section;

19 (e) The approximate depth to which the well is to be
20 drilled;

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

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

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

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

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39 of such designation notify the department of such termination
40 and designate a new agent.

41 The well owner or operator shall install the permit number
42 as issued by the deputy director in a legible and permanent
43 manner to the well upon completion of any permitted work.
44 The dimensions, specifications and manner of installation
45 shall be in accordance with the administrative rules and
46 regulations of the department.

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

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

**§22-4-2. Plats prerequisite to drilling or fracturing wells; prepara-
tion and contents; notice and information furnished to
coal operators, owners or lessees; issuance of permits;
performance bonds or securities in lieu thereof; bond
forfeiture.**

1 Before drilling for oil or gas, or before fracturing or stimu-
2 lating a well on any tract of land, the well operator shall have
2 a plat prepared by a licensed land surveyor or registered engi-
3 neer showing the district and county in which the tract of land
4 is located, the name and acreage of the same, the names of
5 the owners of adjacent tracts, the proposed or actual location
6 of the well determined by survey, the courses and distances of
7 such location from two permanent points or landmarks on said
8 tract and the number to be given the well and the date of drill-

9 ing completion of a well when it is proposed that such well
10 be fractured and shall forward by registered or certified mail
11 a copy of the plat to the department of mines. In the event
12 the tract of land on which the said well proposed to be drilled
13 or fractured is located is known to be underlaid with one or
14 more coal seams, copies of the plat shall be forwarded by
15 registered or certified mail to each and every coal operator
16 operating said coal seams beneath said tract of land, who has
17 mapped the same and filed his maps with the department in
18 accordance with article two of this chapter, or the coal seam
19 owner of record and lessee of record, if any, if said owner or
20 lessee has recorded the declaration provided in section twenty
21 of this article, and if said owner or lessee is not yet operating
22 said coal seams beneath said tract of land. With each of such
23 plats there shall be enclosed a notice (form for which shall be
24 furnished on request by the department of mines) addressed to
25 the department of mines and to each such coal operator, owner
26 and lessee, if any, at their respective addresses, informing them
27 that such plat and notice are being mailed to them respectively
28 by registered or certified mail, pursuant to the requirements of
29 this article. If no objections are made, or are found by the
30 department, to such proposed location or proposed fracturing
31 within fifteen days from receipt of such plat and notice by
32 the department of mines, the same shall be filed and become a
33 permanent record of such location or fracturing subject to
34 inspection at any time by any interested person, and the de-
35 partment may forthwith issue to the well operator a permit
36 reciting the filing of such plat, that no objections have been
37 made by the coal operators, owners and lessees, if any, or
38 found thereto by the department, and authorizing the well
39 operator to drill at such location, or to fracture the well. Un-
40 less the department has objections to such proposed location or
41 proposed fracturing or stimulating, such permit may be issued
42 prior to the expiration of such fifteen day period upon the ob-
43 taining by the well operator of the consent in writing of the
44 coal operator or operators, owners and lessees, if any, to whom
45 copies of the plat and notice shall have been mailed as herein
46 required, and upon presentation of such written consent to the
47 department. The notice above provided for may be given to
48 the coal operator by delivering or mailing it by registered or

49 certified mail as above to any agent or superintendent in actual
50 charge of mines.

51 A permit to drill, or to fracture or stimulate an oil or gas
52 well, shall not be issued unless the application therefor is ac-
53 companied by a bond of the operator in the sum of two-thou-
54 sand five hundred dollars, payable to the state of West Virginia,
55 with a corporate bonding or surety company authorized to do
56 business in this state as surety thereon, conditioned on full
57 compliance with all laws, rules and regulations relating to the
58 drilling, redrilling, deepening, casing, plugging, abandonment
59 and reclamation of wells and for furnishing such reports and
60 information as may be required by the department: *Provided,*
61 That when such operator makes or has made application for
62 permits to drill a number of wells or fracture or stimulate a
63 well or wells the operator may in lieu of furnishing a separate
64 bond furnish a blanket bond in the sum of fifteen thousand
65 dollars, payable to the state of West Virginia, with a corporate
66 bonding or surety company authorized to do business in this
67 state as surety thereon, and conditioned as aforesaid: *Pro-*
68 *vided, however,* That in lieu of corporate surety on a separate
69 or blanket bond, as the case may be, the operator may elect to
70 deposit with the deputy director for oil and gas cash or the
71 following collateral securities or any combination thereof: (1)
72 Bonds of the United States or agency thereof, or those guaran-
73 teed by, or for which the credit of the United States or agency
74 therefor is pledged for the payment of the principal and interest
75 thereof; (2) direct general obligation bonds of this State, or
76 any other state, or territory of the United States, or the Dis-
77 trict of Columbia, unconditionally guaranteed as to the princi-
78 pal and interest by such other state or territory of the United
79 States, or the District of Columbia if such other state, terri-
80 tory, or the District of Columbia has the power to levy taxes
81 for the payment of the principal and interest of such securities,
82 and if at the time of the deposit such other state, territory, or
83 the District of Columbia is not in default in the payment of
84 any part of the principal or interest owing by it upon any part
85 of its funded indebtedness; (3) direct general obligation bonds
86 of any county, district, city, town, village, school district or
87 other political subdivision of this state issued pursuant to law
88 and payable from ad valorem taxes levied on all the taxable

89 property located herein, that the total indebtedness after de-
90 ducting sinking funds and all debts incurred for self-sustaining
91 public works does not exceed five percent of the assessed value
92 of all taxable property therein at the time of the last assessment
93 made before the date of such deposit, and that the issuer has
94 not, within five years prior to the making thereof, been in
95 default for more than ninety days in the payment of any
96 part of the principal or interest on any debt evidenced by its
97 bonds; (4) revenue bonds issued by this state or any agency of
98 this state when such bonds are payable from revenues or earn-
99 ings specifically pledged for the payment of principal and
100 interest, and a lawful sinking fund or reserve fund has been
101 established and is being maintained for the payment of such
102 bonds; (5) revenue bonds issued by a municipality in this
103 state for the acquisition, construction, improvement or exten-
104 sion of a waterworks system, or a sewerage system, or a com-
105 bined waterworks and sewerage system, when such bonds are
106 payable from revenue or earnings specifically pledged for the
107 payment of principal and interest, and a lawful sinking fund or
108 reserve fund has been established and is being maintained for
109 the payment of such bonds; (6) revenue bonds issued by a
110 public service board of a public service district in this state for
111 the acquisition, construction, improvement or extension of any
112 public service properties, or for the reimbursement or payment
113 of the costs and expenses of creating the district, when such
114 bonds are payable from revenue or earnings specifically pledg-
115 ed for the payment of principal and interest, and a lawful
116 sinking fund or reserve fund has been established and is being
117 maintained for the payment of such bonds; (7) revenue bonds
118 issued by a board of trustees of a sanitary district in this state
119 for the corporate purposes of such district, when such bonds
120 are payable from revenue or earnings specifically pledged for
121 the payment of principal and interest, and a lawful sinking
122 fund or reserve fund has been established and is being main-
123 tained for the payment of such bonds; and (8) bonds issued
124 by a federal land bank or home owners' loan corporation. The
125 cash deposit or market value, or both, of the collateral securit-
126 ies shall be equal to or greater than the penalty of the separate
127 or blanket bond, as the case may be. Upon receipt of any such
128 deposit or cash or collateral securities, the deputy director for

129 oil and gas shall immediately deliver the same to the treasurer
 130 of the state of West Virginia. The treasurer shall determine
 131 whether any such securities satisfy the requirements of this
 132 section. If the securities are approved they shall be accepted
 133 by the treasurer. If the securities are not approved, they shall
 134 be rejected and returned to the operator and no permit shall be
 135 issued until a corporate surety bond is filed or cash or proper
 136 collateral securities are filed in lieu of such surety. The trea-
 137 surer shall hold any cash or securities in the name of the state in
 138 trust for the purposes for which the deposit was made. The
 139 operator shall be entitled to all interest and income earned on
 140 the collateral securities filed by such operator so long as the
 141 operator is in full compliance with all laws, rules and regula-
 142 tions relating to the drilling, redrilling, deepening, casing,
 143 plugging, abandonment and reclamation of wells and for fur-
 144 nishing such reports and information as may be required by
 145 the department. The operator making the deposit shall be
 146 entitled from time to time to receive from the treasurer, upon
 147 the written order of the deputy director for oil and gas, the
 148 whole or any portion of such securities upon depositing with
 149 the treasurer in lieu thereof cash equal to or greater than the
 150 penalty of the bond, in other approved securities of the classes
 151 herein specified having a market value equal to or greater than
 152 the penalty of the bond, or a corporation surety bond.

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153 When an operator has furnished a separate bond from a
 154 corporate bonding or surety company to drill, fracture or
 155 stimulate an oil or gas well and the well produces oil or
 156 gas, or both, its operator may deposit with the deputy
 157 director for oil and gas cash from the sale of the oil or
 158 gas, or both, until the total deposited is two thousand five
 159 hundred dollars. When the sum of the cash deposited is two
 160 thousand five hundred dollars, the separate bond for the
 161 well shall be released by the department. Upon receipt of
 162 such cash, the deputy director for oil and gas shall im-
 163 mediately deliver the same to the treasurer of the state of
 164 West Virginia. The treasurer shall hold such cash in the
 165 name of the state in trust for the purpose for which the
 166 bond was furnished and the deposit was made. The operator
 167 shall be entitled to all interest and income which may be
 168 earned on the cash deposited so long as the operator is in

169 full compliance with all laws, rules and regulations relating
170 to the drilling, redrilling, deepening, casing, plugging, abandon-
171 ment and reclamation of the well for which the cash was de-
172 posited and so long as he has furnished all reports and in-
173 formation as may be required by the department. If the cash
174 realized from the sale of oil or gas, or both, from the well is
175 not sufficient for the operator to deposit with the deputy
176 director for oil and gas the sum of two thousand five hundred
177 dollars within one year of the day the well started producing,
178 the corporate or surety company which issued the bond on the
179 well may notify the operator and the department of its intent
180 to terminate its liability under its bond. The operator then
181 shall have thirty days to furnish a new bond from a corporate
182 bonding or surety company or collateral securities, as provided
183 in the next preceding paragraph of this section, with the
184 department. If a new bond or collateral securities are fur-
185 nished by the operator, the liability of the corporate bonding
186 or surety company under the original bond shall terminate as
187 to any acts and operations of the operator occurring after the
188 effective date of the new bond or the date the collateral securi-
189 ties are accepted by the treasurer of the state of West Virginia.
190 If the operator does not furnish a new bond or collateral securi-
191 ties, as provided in the next preceding paragraph of this
192 section, with the department, he shall immediately plug, fill and
193 reclaim the well in accordance with all of the provisions of
194 law, rules and regulations applicable thereto. In such case,
195 the corporate or surety company which issued the original bond
196 shall be liable for any plugging, filling or reclamation not
197 performed in accordance with such laws, rules and regula-
198 tions.

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

205 If any of the requirements of this article or rules and regula-
206 tions promulgated pursuant thereto or the orders of the deputy
207 director for oil and gas have not been complied with within
208 the time limit set by the violation notice as defined in sections

209 one-g, one-h and one-i, article four, chapter twenty-two of
210 this code the performance bond shall then be forfeited.

211 When any bond is forfeited pursuant to the provisions of this
212 article or rules and regulations promulgated pursuant thereto
213 the deputy director shall give notice to the attorney general
214 who shall collect the forfeiture without delay.

215 All forfeitures shall be deposited in the treasury of the
216 state of West Virginia in the special reclamation fund as de-
217 fined in section twelve-a, article four, chapter twenty-two of
218 this code.

**§22-4-2a. Notice to coal operators, owners or lessees and depart-
ment 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 or certified mail, forward a notice of intention to
3 fracture such well to the department of mines and to each
4 and every coal operator operating coal seams beneath said tract
5 of land, who has mapped the same and filed his maps with the
6 department in accordance with article two of this chapter, or
7 the coal seam owner and lessee, if any, if said owner of record
8 or lessee of record has recorded the declaration provided in
9 section twenty of this article, and if said owner or lessee is
10 not yet operating said coal seams beneath said tract of land.

11 The notice shall be addressed to the department of mines
12 and to each such coal operator at their respective addresses,
13 shall contain the number of the drilling permit for such well
14 and such other information as may be required by the depart-
15 ment to enable the department and the coal operators to
16 locate and identify such well and shall inform them that such
17 notice is being mailed to them, respectively, by registered
18 or certified mail, pursuant to the requirements of this article.
19 (The form for such notice of intention shall be furnished by *or*
20 request by the department of mines.) If no objections are
21 made, or are found by the department, to such proposed
22 fracturing within fifteen days from receipt of such notice by
23 the department of mines, the same shall be filed and become
24 a permanent record of such fracturing, subject to inspection
25 at any time by any interested person, and the department

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26 shall forthwith issue to the well operator a permit reciting the
27 filing of such notice, that no objections have been made by the
28 coal operators, or found thereto by the department, and
29 authorizing the well operator to fracture such well. Unless
30 the department has objections to such proposed fracturing,
31 such permit shall be issued prior to the expiration of such
32 fifteen day period upon the obtaining by the well operator
33 of the consent in writing of the coal operator or operators,
34 owners or lessees, if any, to whom notice of intention to
35 fracture shall have been mailed as herein required, and upon
36 presentation of such written consent to the department. The
37 notice above provided for may be given to the coal operator
38 by delivering or mailing it by registered or certified mail as
39 above to any agent or superintendent in actual charge of
40 mines.

§22-4-2b. Plats prerequisite to introducing liquids or waste into wells; preparation and contents; notices and information furnished to coal operators, owners or lessees and chief of water resources; issuance of permits; performance bonds or 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 or for
3 the introduction of liquids for the disposal of sewage, industrial
4 waste or other waste or the effluent therefrom on any tract
5 of land, or before converting an existing well for such purposes,
6 the well operator shall have a plat prepared by a registered
7 engineer or licensed land surveyor showing the district and
8 county in which the tract of land is located, the name and
9 acreage of the same, the names of the owners of all adjacent
10 tracts, the proposed or actual location of the well or wells
11 determined by a survey, the courses and distances of such
12 location from two permanent points of land marked on said
13 tract and the number to be given to the well, and shall forward
14 by registered or certified mail the original and one copy of
15 the plat to the department of mines. In addition, the well
16 operator shall provide the following information on the plat
17 or by way of attachment thereto to the department in the man-
18 ner and form prescribed by the department's rules and regula-
19 tions: (a) The location of all wells, abandoned or otherwise

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20 located within the area to be affected; (b) where available, the
21 casing records of all such wells; (c) where available, the drill-
22 ing log of all such wells; (d) the maximum pressure to be
23 introduced; (e) the geological formation into which such liquid
24 or pressure is to be introduced; (f) a general description of
25 the liquids to be introduced; (g) the location of all water-
26 bearing horizons above and below the geological formation
27 into which such pressure, liquid or waste is to be introduced;
28 and (h) such other information as the deputy director by
29 rule and regulation may require.

30 In the event the tract of land on which said well proposed
31 to be drilled or converted for the purposes provided for in
32 this section is located is known to be underlaid with coal
33 seams, copies of the plat and all information required by this
34 section shall be forwarded by the operator by registered or
35 certified mail to each and every coal operator operating coal
36 seams beneath said tract of land, who has mapped the same and
37 filed his maps with the department in accordance with article
38 two of this chapter, or the coal seam owner of record and lessee
39 of record, if any, if said owner or lessee has recorded the de-
40 clarations provided in section twenty of this article, and if said
41 owner or lessee is not yet operating said seams beneath said
42 tract of land. With each of such plats, there shall be enclosed a
43 notice (form for which shall be furnished on request by the
44 department of mines) addressed to the department of mines
45 and to each such coal operator, owner or lessee, if any, at
46 their respective addresses, informing them that such plat
47 and notice are being mailed to them, respectively, by registered
48 or certified mail, pursuant to the requirements of this section.
49 The deputy director shall forward a copy of the plat, notice
50 and all other information required by this section to the chief
51 of the division of water resources of the department of natural
52 resources.

53 If no objections are made by any such coal operator, owner,
54 lessee or such chief, or are found by the department to such
55 proposed drilling or converting of the well or wells for the
56 purposes provided for in this section within thirty days from
57 the receipt of such plat and notice by the department of
58 mines, the same shall be filed and become a permanent record

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

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

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§22-4-3. Objections to proposed drilling or fracturing; notices and hearings; agreed location or conditions; indication of changes on plats, etc.; issuance of permits.

1 When the proposed drilling or fracturing site is above a seam
2 or seams of coal, then the coal operator operating said coal

3 seams beneath the tract of land, or the coal seam owner or
4 lessee, if any, if said owner or lessee is not yet operating said
5 coal seams, may within fifteen days from the receipt by the
6 department of the plat and notice required by section two of
7 this article, or within fifteen days from the receipt by the de-
8 partment of notice required by section two-a of this article,
9 file objections in writing (forms for which will be furnished by
10 the department on request) to such proposed drilling or frac-
11 turing with the department of mines, setting out therein as
12 definitely as is reasonably possible the ground or grounds on
13 which such objections are based.

14 If any objection or objections are so filed, or are made by
15 the department, the department shall notify the well operator
16 of the character of the objections and by whom made and fix a
17 time and place, not less than fifteen days from the end of said
18 fifteen day period, at which such objections will be considered
19 of which time and place the well operator and all objecting
20 coal operators, owners or lessees, if any, shall be given at least
21 ten days' written notice by the department, by registered or
22 certified mail, and summoned to appear. At the time and place
23 so fixed the well operator and the objecting coal operators,
24 owners or lessees, if any, or such of them as are present or
25 represented, shall proceed to consider the objections. In the
26 case of proposed drilling, such parties present or represented
27 may agree upon either the location as made or so moved as to
28 satisfy all objections and meet the approval of the department,
29 and any change in the original location so agreed upon and
30 approved by the department shall be indicated on said plat on
31 file with the department, and the distance and direction of the
32 new location from the original location shall be shown, and as
33 so altered, the plat shall be filed and become a permanent
34 record, and in the case of proposed fracturing, such parties
35 present or represented may agree upon conditions under which
36 the well is to be fractured which will protect life and property
37 and which will satisfy all objections and meet the approval of
38 the department, at which time the plat and notice required by
39 section two, or the notice required by section two-a, as the case
40 may be, shall be filed and become a permanent record. Where-
41 upon the department shall forthwith issue to the well opera-
42 tor a drilling or fracturing permit, as the case may be, reciting

43 the filing of the plat and notice required by said section two,
44 or the notice required by said section two-a, as the case may
45 be, that at a hearing duly held a location as shown on the plat
46 or the conditions under which the fracturing is to take place
47 for the protection of life and property were agreed upon and
48 approved, and that the well operator is authorized to drill at
49 such location or to fracture at the site shown on such plat, or
50 to fracture the well identified in the notice required by section
51 two-a, as the case may be.

52 (a) In the case, the well operator and the objecting coal
53 operators, owners or lessees, if any, or such as are present or
54 represented at such hearing are unable to agree upon a drilling
55 location, or upon a drilling location that meets the approval of
56 the department of mines, then the department shall proceed to
57 hear the evidence and testimony in accordance with sections
58 one and two, article five, chapter twenty-nine-a of this code,
59 except where such provisions are inconsistent with this article.
60 The department shall take into consideration upon its de-
61 cision:

62 (1) Whether the drilling location is above or in close prox-
63 imity to any mine opening or shaft, entry, traveling, air haulage,
64 drainage or passageway, or to any proposed extension thereof,
65 in any operated or abandoned or operating coal mine, or coal
66 mines already surveyed and platted, but not yet being operated;

67 (2) Whether the proposed drilling can reasonably be done
68 through an existing or planned pillar of coal, or in close prox-
69 imity to an existing well or such pillar of coal, taking into con-
70 sideration the surface topography;

71 (3) Whether a well can be drilled safely, taking into con-
72 sideration the dangers from creeps, squeezes or other distur-
73 bances due to the extraction of coal;

74 (4) The extent to which the proposed drilling location un-
75 reasonably interferes with the safe recovery of coal, oil and gas.

76 At the close of the hearing or within ten days thereafter the
77 department shall issue an order stating:

78 (1) That it refuses to issue a permit;

79 (2) That it will issue a permit for the proposed drilling lo-
80 cation;

81 (3) That it will issue a permit for drilling location different
82 than that requested by the well operator.

83 The order shall state with particularity the reasons for the
84 department's order and shall be mailed by registered or certi-
85 fied mail to the parties present or represented at such hearing.
86 If the department has ruled that it will issue a permit, it shall
87 issue a permit effective ten days after it has mailed such order:
88 Except that for good cause shown, the department may stay
89 the issuance of a permit for a period not to exceed thirty days.

90 If a permit is issued, the department shall indicate the new
91 drilling location on the plat on file with the department and
92 shall number and keep an index of and docket each plat and
93 notice mailed to it as provided in section two of this article, and
94 each notice mailed to it as provided in section two-a of this
95 article, entering in such docket the name of the well operator,
96 and the names and addresses of all persons notified, the dates
97 of hearings and all actions taken by the department, permits
98 issued or refused, the papers filed and a transcript of the hear-
99 ing. This shall constitute a record of the proceedings before the
100 department and shall be open to inspection by the public.

101 (b) In the case, the well operator and the objecting coal
102 operators, owners or lessees, if any, or such as are present
103 or represented at such hearing, are unable to agree upon the
104 conditions under which the well is to be fractured as to protect
105 life and property, or upon conditions of fracturing that meet
106 with the approval of the department, then the department shall
107 proceed to hear the evidence and testimony in accordance with
108 sections one and two, article five, chapter twenty-nine-a of this
109 code, except where such provisions are inconsistent with this
110 article.

111 The department shall take into consideration upon its de-
112 cision whether the well can be fractured safely, taking into
113 consideration the dangers from creeps, squeezes or other
114 disturbances.

115 At the close of the hearing, or within ten days thereafter,
116 the department shall issue an order stating the conditions

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117 under which the well is to be fractured, provided the well can
118 be fractured safely, taking into consideration the dangers from
119 creeps, squeezes, or other disturbances. If such fracturing can-
120 not be done safely, the department shall issue an order stating
121 with particularity the reasons for refusing to issue a permit.

122 The order shall state with particularity the reasons for the
123 department's order and shall be mailed by registered or certi-
124 fied mail to the parties present or represented at such hearing.
125 If the department has ruled that it will issue a permit, it shall
126 issue a permit effective ten days after it has mailed such order:
127 Except that for good cause shown, the department may stay the
128 issuance of a permit for a period not to exceed thirty days.

129 If a permit is issued, the department shall indicate the well
130 to be fractured on that plat on file with the department and
131 shall number and keep an index of and docket each plat and
132 notice mailed to it as provided in section two of this article,
133 and each notice mailed to it as provided in section two-a of
134 this article, entering in such docket the name of the well opera-
135 tor, the names and addresses of all persons notified, the dates
136 of hearings and all actions taken by the department, permits
137 issued or refused, the papers filed and a transcript of the hear-
138 ing. This shall constitute a record of the proceedings before
139 the department and shall be open to inspection by the public.

**§22-4-3a. Objections to proposed drilling or converting for in-
troducing liquids or waste into wells; notices and
hearings; agreed location or conditions; indication of
changes on plats, etc.; issuance of permits; docket
of proceeding.**

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1 When a well is proposed to be drilled or converted for the
2 purposes provided for in section two-b of this article, and
3 is above a seam or seams of coal, then the coal operator
4 operating said coal seams beneath the tract of land, or the
5 coal seam owner or lessee, if any, if said owner or lessee is
6 not yet operating said coal seams, may within fifteen days
7 from the receipt by the department of the plat and notice
8 required by section two of this article, file objections in
9 writing (forms for which will be furnished by the department
10 on request) to such proposed drilling or conversion.

11 In any case wherein a well proposed to be drilled or con-
12 verted for the purposes provided for in section two-b of this
13 article shall, in the opinion of the chief of the division of
14 water resources of the department of natural resources, affect
15 detrimentally the reasonable standards of purity and quality
16 of the waters of the state, such chief shall, within thirty days
17 from the receipt of the plats and notices required by section
18 two-b, file with the department his objections in writing to
19 such proposed drilling or conversion, setting out therein as
20 definitely as is reasonably possible the ground or grounds upon
21 which such objections are based and indicating the conditions,
22 consistent with the provisions of this article and the rules or
23 regulations promulgated thereunder, as may be necessary for
24 the protection of the reasonable standards of the purity and
25 quality of such waters under which such proposed drilling or
26 conversion may be completed to overcome such objections,
27 if any.

28 If any objection or objections are so filed, or are made by
29 the department, the department shall notify the well operator
30 of the character of the objections and by whom made and
31 fix a time and place, not less than thirty days from the end
32 of said thirty day period, at which such objections will be
33 considered, of which time and place the well operator and
34 all objecting coal operators, the owners or lessees, if any, or
35 such chief, shall be given at least ten days written notice
36 by the department, by registered or certified mail, and
37 summoned to appear. At the time and place so fixed the
38 well operator and the objecting coal operators, owners or
39 lessees, if any, or such of them as are present or represented,
40 or such chief, shall proceed to consider the objections. In
41 the case of proposed drilling or converting of a well for the
42 purposes provided for in section two-b, such parties present
43 or represented may agree upon either the location as made
44 or so moved as to satisfy all objections and meet the approval
45 of the department, and any change in the original location
46 so agreed upon and approved by the department shall be
47 indicated on said plat on file with the department, and the
48 distance and direction of the new location from the original
49 location shall be shown, and, as so altered, the plat shall be
50 filed and become a permanent record. In the case of proposed

51 conversion, such parties present or represented may agree
52 upon conditions under which the conversion is to take place
53 for the protection of life and property or for protection of
54 reasonable standards of purity and quality of the waters of the
55 state. At which time the plat and notice required by section
56 two-b shall be filed and become a permanent record. Where-
57 upon the department shall forthwith issue to the well operator
58 a permit to drill or convert, as the case may be, reciting the
59 filing of the plat and notice required by said section two-b
60 that at a hearing duly held a location as shown on the plat
61 or the conditions under which the conversion is to take place
62 for the protection of life and property and reasonable standards
63 of purity and quality of the waters of the state where agreed
64 upon and approved, and that the well operator is authorized
65 to drill at such location or to convert at the site shown on
66 such plat, as the case may be.

67 (a) In the case, the well operator and the objecting coal
68 operators, owners or lessees, if any, and such chief, or such as
69 are present or represented at such hearing are unable to
70 agree upon a drilling location, or upon a drilling location
71 that meets the approval of the department of mines, then
72 the department shall proceed to hear the evidence and testi-
73 mony in accordance with sections one and two, article five,
74 chapter twenty-nine-a of this code, except where such pro-
75 visions are inconsistent with this article. The department shall
76 take into consideration upon its decision:

77 (1) Whether the drilling location is above or in close prox-
78 imity to any mine opening or shaft, entry, traveling, air haul-
79 age, drainage or passageway, or to any proposed extension
80 thereof, in any operated or abandoned or operating coal mine,
81 or coal mine already surveyed and platted, but not yet being
82 operated;

83 (2) Whether the proposed drilling can reasonably be done
84 through an existing or planned pillar of coal, or in close
85 proximity to an existing well or such pillar of coal, taking
86 into consideration the surface topography;

87 (3) Whether a well can be drilled safely, taking into con-
88 sideration the dangers from creeps, squeezes or other disturb-
89 ances, due to the extraction of coal;

90 (4) The extent to which the proposed drilling location
91 unreasonably interferes with the safe recovery of coal, oil
92 and gas.

93 At the close of the hearing or within ten days thereafter the
94 department shall issue an order stating:

95 (1) That it refuses to issue a permit;

96 (2) That it will issue a permit for the proposed drilling
97 location;

98 (3) That it will issue a permit for a drilling location
99 different than that requested by the well operator.

100 The order shall state with particularity the reasons for
101 the department's order and shall be mailed by registered or
102 certified mail to the parties present or represented at such
103 hearing. If the department has ruled that it will issue a permit,
104 it shall issue a permit effective ten days after it has mailed
105 such order: Except that for good cause shown, the department
106 may stay the issuance of a permit for a period not to exceed
107 thirty days.

108 If a permit is issued, the department shall indicate the new
109 drilling location on the plat on file with the department and
110 shall number and keep an index of and docket each plat and
111 notice mailed to it as provided in section two of this article,
112 and each notice mailed to it as provided in section two-a of
113 this article, entering in such docket the name of the well opera-
114 tor, and the names and addresses of all persons notified, the
115 dates of hearings and all actions taken by the department,
116 permits issued or refused, the papers filed and a transcript
117 of the hearing. This shall constitute a record of the proceed-
118 ings before the department and shall be open to inspection
119 by the public.

120 (b) In the case, the well operator and the objecting coal
121 operators, owners or lessees, if any, and such chief, or such
122 as are present or represented at such hearing, are unable
123 to agree upon the conditions under which the well is to be
124 converted as to protect life and property, and the reasonable
125 standards of purity and quality of the waters of the state, or
126 upon conditions of converting that meet with the approval

127 of the department, then the department shall proceed to hear
128 the evidence and testimony in accordance with sections one
129 and two, article five, chapter twenty-nine-a of this code,
130 except where such provisions are inconsistent with this article.

131 The department shall take into consideration upon its
132 decision:

133 (1) Whether the well can be converted safely, taking into
134 consideration the dangers from creeps, squeezes or other
135 disturbances;

136 (2) Whether the well can be converted, taking into con-
137 sideration the reasonable standards of the purity and quality
138 of the waters of the state.

139 At the close of the hearing, or within ten days thereafter,
140 the department shall issue an order stating the conditions
141 under which the conversion is to take place, providing the
142 well can be converted safely, taking into consideration the
143 dangers from creeps, squeezes, or other disturbances and the
144 reasonable standards of purity and quality of the waters of
145 this state. If such converting cannot be done safely, or if the
146 reasonable standards of purity and quality of such waters
147 will be endangered, the department shall issue an order
148 stating with particularity the reasons for refusing to issue a
149 permit.

150 The order shall state with particularity the reasons for the
151 department's order and shall be mailed by registered or
152 certified mail to the parties present or represented at such
153 hearing. If the department has ruled that it will issue a permit,
154 it shall issue a permit effective ten days after it has mailed
155 such order: Except that for good cause shown, the depart-
156 ment may stay the issuance of a permit for a period not to
157 exceed thirty days.

158 If a permit is issued, the department shall indicate the well
159 to be converted on the plat on file with the department and
160 shall number and keep an index of and docket each plat and
161 notice mailed to it as provided in section two-b, of this article,
162 entering in such docket the name of the well operator, and
163 the names and addresses of all persons notified, the dates of

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164 hearings and all actions taken by the department, permits
165 issued or refused, the papers filed and a transcript of the
166 hearings. This shall constitute a record of the proceedings
167 before the department and shall be open to inspection by the
168 public.

**§22-4-4. Appeal from order of issuance or refusal of permit to drill
or fracture; procedure.**

1 Any party to the proceedings under section three of this
2 article adversely affected by the issuance of a drilling permit or
3 to the issuance of a fracturing permit or the refusal of the de-
4 partment to grant a drilling permit or fracturing permit is en-
5 titled to judicial review thereof. All of the pertinent provisions
6 of section four, article five, chapter twenty-nine-a of this code
7 shall apply to and govern such judicial review with like effect
8 as if the provisions of said section four were set forth in extenso
9 in this section.

10 The judgment of the circuit court shall be final unless re-
11 versed, vacated or modified on appeal to the supreme court of
12 appeals in accordance with the provisions of section one, article
13 six, chapter twenty-nine-a of this code.

**§22-4-4a. Appeal from order of issuance or refusal of permit for
drilling location for introduction of liquids or waste
or from conditions of converting procedure.**

1 Any party to the proceedings under section three-a of this
2 article adversely affected by the order of issuance of a drilling
3 permit or to the issuance of a fracturing permit or the refusal
4 of the department to grant a drilling permit or fracturing per-
5 mit is entitled to judicial review thereof. All of the pertinent
6 provisions of section four, article five, chapter twenty-nine-a
7 of this code shall apply to and govern such judicial review with
8 like effect as if the provisions of section four were set forth in
9 extenso in this section.

10 The judgment of the circuit court shall be final unless re-
11 versed, vacated or modified on appeal to the supreme court
12 of appeals in accordance with the provisions of section one,
13 article six, chapter twenty-nine-a of this code.

§22-4-8b. Well log to be filed; contents.

1 Within a reasonable time after the completion of the drilling
2 of a well, the well operator shall file with the deputy director
3 an accurate log. Such log shall contain the character, depth
4 and thickness of geological formations encountered, including
5 fresh water, coal seams, mineral beds, brine, and oil and gas
6 bearing formations and such other information as the deputy
7 director may require to effectuate the purposes of this article.

8 The deputy director may promulgate such reasonable rules
9 and regulations in accordance with article three, chapter
10 twenty-nine-a of this code, as it may deem necessary to insure
11 that the character, depth and thickness of geological formations
12 encountered are accurately logged: *Provided*, That the deputy
13 director shall not require logging by the use of an electrical
14 logging device.

**§22-4-9. Plugging, abandonment and reclamation of well; notice of
intention; performance bonds or securities in lieu there-
of; 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 shall
3 be plugged and reclaimed in accordance with this section and
4 the 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 the
7 abandonment of any well, the well operator shall either (a)
8 notify, by registered or certified mail, the department of mines
9 and the coal operator operating coal seams, or the coal seam
10 owner of record or lessee of record, if any, to whom notices are
11 required to be given by section two of this article, and to the
12 coal operators to whom notices are required to be given by sec-
13 tion two-a of this article, of its intention to plug and abandon
14 any such well (using such form of notice as the department may
15 provide), giving the number of the well and its location and fix-
16 ing the time at which the work of plugging and filling will be
17 commenced, which time shall be not less than five days after
18 the day on which such notice so mailed is received or in due
19 course should be received by the department of mines, in
20 order that a representative or representatives of the depart-

21 ment and such coal operator, owner or lessee, if any, may be
22 present at the plugging and filling of the well: *Provided*, That
23 whether such representatives appear or do not appear, the well
24 operator may proceed at the time fixed to plug and fill the
25 well in the manner hereinafter described, or (b) first obtain the
26 written approval of the department of mines and such coal
27 operator, owner or lessee, if any, or (c) in the event the well
28 to be plugged and abandoned is one on which drilling or re-
29 working operations have been continuously progressing pur-
30 suant to authorization granted by the department, first obtain
31 the verbal permission of the deputy director for oil and gas
32 or his designated representative to plug and abandon such
33 well, except that the well operator shall, within a reasonable
34 period not to exceed five days after the commencement of
35 of such plugging operations, give the written notices required
36 by subdivision (a) above.

37 No well shall be plugged or abandoned unless prior to the
38 commencement of plugging operations and the abandonment
39 of any well the department is furnished a bond of the opera-
40 tor in the sum of two thousand five hundred dollars, payable
41 to the state of West Virginia, with a corporate bonding or
42 surety company authorized to do business in this state as surety
43 thereon, conditioned on full compliance with all laws, rules and
44 regulations relating to the casing, plugging, abandonment and
45 reclamation of well and for furnishing such reports and infor-
46 mation as may be required by the department. When a number
47 of wells are involved, the operator may in lieu of furnishing a
48 separate bond furnish a blanket bond in the sum of fifteen
49 thousand dollars, payable to the state of West Virginia, with a
50 corporate bonding or surety company authorized to do busi-
51 ness in this state as surety thereon, and conditioned as afore-
52 said. In lieu of corporate surety on a separate or blanket bond,
53 as the case may be, the operator may elect to deposit with the
54 deputy director for oil and gas cash or collateral securities as
55 specified in section two of this article. All of the provisions
56 of section two dealing with cash or collateral securities in lieu
57 of corporate surety shall be fully applicable hereto except for
58 the condition of the bond with respect to which the operator
59 must be in full compliance in order to be entitled to the interest
60 and income earned on such securities. The operator shall be

61 entitled to such interest and income under this section so long
62 as the operator is in full compliance with all laws, rules and
63 regulations relating to the casing, plugging, abandonment and
64 reclamation of wells and for furnishing such reports and infor-
65 mation as may be required by the department. Any such bond
66 shall remain in force until released by the department and
67 the department shall release the same when it is satisfied the
68 conditions thereof have been fully performed. Notwithstanding
69 the foregoing provisions, any operator who, in accordance with
70 section two of this article, has furnished a separate bond, which
71 has not been released by the department, for the drilling, con-
72 verting or drilling for the introduction of liquids, for the dis-
73 posal of sewage, industrial waste or other waste or the effluent
74 therefrom, or introducing pressure, whether liquid or gas, or
75 introducing liquid for the purposes provided for in section ten-
76 a of this article or fracturing of the well it is now proposed be
77 plugged and abandoned, or who, in accordance with the pro-
78 visions of said section two of this article, has furnished a
79 blanket bond which has not been released by the department
80 shall not be required by this section to furnish any other bond.
81 When the plugging, filling and reclamation of a well have been
82 completed, an affidavit, in triplicate, shall be made (on a form
83 to be furnished by the department) by two experienced men
84 who participated in the work, the deputy director for oil and
85 gas or his designated representative, in which affidavit shall be
86 set forth the time and manner in which the well was plugged
87 and filled and the land reclaimed. One copy of this affidavit
88 shall be retained by the well operator, another (or true copies
89 of same) shall be mailed to the coal operator or operators, if
90 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 or
4 gas, or for the introduction of liquid for the purposes pro-
5 vided for in section ten-a of this article or for the disposal
6 of sewage, industrial waste or other waste or the effluent
7 therefrom the well operator, at the time of such abandonment
8 or cessation, shall fill and plug the well in the following
9 manner:

10 (a) Where the well does not penetrate workable coal beds,
11 it shall either be filled with mud, clay or other nonporous
12 material from the bottom of the well to a point twenty feet
13 above the top of its lowest oil, gas or water-bearing stratum;
14 or a permanent bridge shall be anchored thirty feet below
15 its lowest oil, gas or water-bearing stratum, and from such
16 bridge it shall be filled with mud, clay or other nonporous
17 material to a point twenty feet above such stratum; at this
18 point there shall be placed a plug of cement or other suitable
19 material which will completely seal the hole. Between this
20 sealing plug and a point twenty feet above the next higher
21 oil, gas or water-bearing stratum, the hole shall either be
22 filled, or bridged and filled, in the manner just described;
23 and at such point there shall be placed another plug of
24 cement or other suitable material which will completely seal
25 the hole. In like manner the hole shall be filled and plugged,
26 or bridged, filled and plugged with reference to each of its
27 oil, gas or water-bearing strata. However, whenever such
28 strata are not widely separated and are free from water, they
29 may be grouped and treated as a single sand, gas or petroleum
30 horizon, and the aforesaid filling and plugging be performed
31 as though there were but one horizon. After the plugging
32 of all oil, gas or water-bearing strata, as aforesaid, a final
33 plug shall be anchored approximately ten feet below the
34 bottom of the largest casing in the well; from this point to
35 the surface the well shall be filled with mud, clay or other
36 nonporous material. In case any of the oil or gas-bearing
37 strata in a well shall have been shot, thereby creating cavities
38 which cannot readily be filled in the manner above described,
39 the well operator shall follow either of the following methods:

40 (1) Should the stratum which has been shot be the lowest
41 one in the well, there shall be placed, at the nearest suitable
42 point, but not less than twenty feet above the stratum, a
43 plug of cement or other suitable material which will com-
44 pletely seal the hole. In the event, however, that the shooting
45 has been done above one or more oil or gas-bearing strata in
46 the well, plugging in the manner specified shall be done at
47 the nearest suitable point, but not less than twenty feet below
48 and above the stratum shot. Or (2), when such cavity shall
49 be in the lowest oil or gas-bearing stratum in the well, a

50 liner shall be placed which shall extend from below the stratum
51 to a suitable point, but not less than twenty feet above the
52 stratum in which shooting has been done. In the event,
53 however, that the shooting has been done above one or more
54 oil or gas-bearing strata in the well, the liner shall be so
55 placed that it will extend not less than twenty feet above, nor
56 less than twenty feet below, the stratum in which shooting has
57 been done. Following the placing of the liner in the manner
58 here specified it shall be compactly filled with cement, mud,
59 clay or other nonporous sealing material;

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

86 Where a coal protection string of casing has been cemented
87 in and circulated to the surface, if a coal outlet pipe is not
88 required in a well which penetrates one or more workable

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89 coal beds, then a sixty ~~feet~~^{foot} cement plug shall be placed
90 from forty feet below the casing seat. The well shall then be
91 filled to twenty feet of surface with nonporous material, and
92 cement plug with the monument installed in cement from
93 twenty feet to the surface and extending thirty inches above
94 ground level.

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95 Where a coal protection string of casing has been cemented
96 in and circulated to the surface, if a coal outlet pipe is re-
97 quired in a well which penetrates one or more workable coal
98 beds, then a sixty ~~feet~~ cement plug shall be placed in the well
99 from thirty feet to ninety feet below casing seat completely
100 sealing the well. The outlet pipe shall be placed twenty
101 feet below the casing seat centrally located in the casing.
102 A cement basket shall be installed on the outlet pipe and
103 placed ten feet above the casing seat with twenty feet of
104 cement in the annulus between the outlet pipe and the
105 casing. The remaining annulus shall be filled with non-
106 porous material to ten feet of surface. The outlet pipe and
107 monument shall then be cemented from ten feet to the surface
108 with a bleeder pipe which will permit the free passage of
109 gas and prevent obstructions of the same.

110 The deputy director may from time to time promulgate
111 reasonable rules and regulations in accordance with article
112 three, chapter twenty-nine-a of this code for the plugging of
113 wells for the protection and safety of persons working in or
114 about coal seams beneath the wells.

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

1 The department shall exercise supervision over the drilling,
2 casing, plugging, filling and reclamation of all wells and of all
3 mining operations in close proximity to any well and shall have
4 such access to the plans, maps and other records and to the
5 properties of the well operators and coal operators as may be
6 necessary or proper for this purpose, and, either as the result
7 of its own investigations or pursuant to charged made by any
8 well operator or coal operator, the department may itself enter,
9 or shall permit any aggrieved person to file before it, a formal

10 complaint charging any well operator with not drilling or cas-
11 ing, or not plugging or filling, or reclaiming any well in ac-
12 cordance with the provisions of this article, or charging any
13 coal operator with conducting mining operations in proximity
14 to any well contrary to the provisions of this article, or to the
15 order of the department. True copies of any such complaints
16 shall be served upon or mailed by registered mail to any per-
17 son so charged, with notice of the time and place of hearing,
18 of which the operator or operators so charged shall be given
19 at least five days' notice. At the time and place fixed for hear-
20 ing, full opportunity shall be given any person so charged or
21 complaining to be heard and to offer such evidence as desired,
22 and after a full hearing, at which the department may offer
23 in evidence the results of such investigations as it may have
24 made, the department shall make its findings of fact and enter
25 such order as in its judgment is just and right and necessary to
26 secure the proper administration of this article, and if it deems
27 necessary, restraining the well operator from continuing to
28 drill or case any well or from further plugging, filling or re-
29 claiming the same, except under such conditions as the depart-
30 ment may impose in order to insure a strict compliance with
31 the provisions of this article relating to such matters, or re-
32 straining further mining operations in proximity to any well,
33 except under such conditions as the department may impose.

34 Any well operator or coal operator adversely affected by a
35 final decision or order of the department, may appeal in the
36 manner set forth in section four of this article.

**§22-4-13. Rules and regulations; hearings before department of
mines; appeals.**

1 (a) The department of mines may promulgate such reason-
2 able rules and regulations as it may deem necessary or desirable
3 to implement and make effective the provisions of this article
4 and the powers and authority conferred and the duties im-
5 posed upon it under the provisions of this article and for
6 securing uniformity of procedure in the administration of the
7 provisions of article three, chapter twenty-nine-a of this code.

8 (b) Any hearing or proceeding before the department shall
9 be in accordance with the provisions of article five, chapter

10 twenty-nine-a of this code, except where such provisions are
11 inconsistent with this article.

12 Any well operator, coal operator, owner or lessee, if any,
13 who would be required to be given notice by section two, ad-
14 versely affected by an order or final decision of the depart-
15 ment may appeal the same in accordance with the provisions
16 of section four, article five, chapter twenty-nine-a except
17 where such provisions are inconsistent with this article.

§22-4-18. Injunctive relief.

1 (a) In addition to other remedies, and aside from various
2 penalties provided by law, whenever it appears to the depart-
3 ment that any person is violating or threatening to violate any
4 provision of this article, any order or final decision of the de-
5 partment, or any lawful rule or regulation promulgated here-
6 under, the department may apply in the name of the state to
7 the circuit court of the county in which the violations or any
8 part thereof has occurred, is occurring or is about to occur, or
9 the judge thereof in vacation, for an injunction against such
10 persons and any other persons who have been, are or are
11 about to be, involved in any practices, acts or admissions so in
12 violation, enjoining such person or persons from any viola-
13 tion or violations. Such application may be made and prose-
14 cuted to conclusion, whether or not any violation or violations
15 have resulted or shall result, in prosecution or conviction un-
16 der the provisions of this article.

17 (b) Upon application by the department, the circuit courts
18 of this state may, by mandatory or prohibitory injunction
19 compel compliance with the provisions of this article, and all
20 orders and final decisions of the department. The court may
21 issue a temporary injunction in any case pending a decision on
22 the merits of any application filed. Any other section of this
23 code to the contrary notwithstanding, the state shall not be re-
24 quired to furnish bond or other undertaking as a prerequisite
25 to obtaining mandatory, prohibitory or temporary injunctive
26 relief under the provisions of this article.

27 (c) The judgment of the circuit court upon application
28 permitted by the provisions of this section, shall be final un-
29 less reversed, vacated or modified on appeal to the supreme

30 court of appeals. Any such appeal shall be sought in the man-
31 ner and within the time provided by law for appeals from
32 circuit courts in other civil actions.

33 (d) The department shall be represented in all such pro-
34 ceedings by the attorney general or his assistants or in such
35 proceedings in the circuit courts by the prosecuting attorney of
36 the several counties as well, all without additional compen-
37 sation. The department, with the written approval of the at-
38 torney general, may employ special counsel to represent the de-
39 partment in any such proceedings.

40 (e) If the department shall refuse or fail to apply for an
41 injunction to enjoin a violation or threatened violation of any
42 provision of this article, any order or final decision of the
43 department, or any rules or regulations promulgated hereunder,
44 within ten days after receipt of a written request to do so by any
45 well operator, coal operator, operating coal seams beneath the
46 tract of land, or the coal seam owner or lessee, if any, if said
47 owner or lessee is not yet operating said coal seams beneath
48 said tract of land, or the chief of the division of water resources
49 of the department of natural resources, adversely affected by
50 such violation or threatened violation, the person making such
51 request may apply in his own behalf for an injunction to enjoin
52 such violation or threatened violation in any court in which
53 the department might have brought suit. The department shall
54 be made party defendant in such application in addition to the
55 person or persons violating or threatening to violate any pro-
56 vision of this article, any final order or decision of the de-
57 partment, or any rule or regulation promulgated hereunder.
58 The application shall ^eproceed and injunctive relief may be
59 granted in the same manner as if the application had been made
60 by the department: Except that the court may require a bond
61 or other undertaking from the plaintiff.

**§22-4-20. Declaration of oil and gas notice by owners and lessees
of coal seams.**

1 For purposes of notification under this article, any owner
2 or lessee of coal seams shall file a declaration of his interest
3 in such coal seams with the clerk of the county commission
4 in the county where such coal seams are located. Said clerk

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5 shall file and index such declaration in accordance with section
6 two, article one, chapter thirty-nine of this code, and shall index
7 the name of the owner or lessee of such coal seams in the gran-
8 tor index of the record maintained for the indexing of leases.

9 The declaration shall entitle such owner or lessee to the no-
10 tices provided in sections two, two-a, two-b and nine of this
11 article: *Provided*, That the declaring owner shall be the record
12 owner of the coal seam, and the declaring lessee shall be the
13 record lessee with his source or sources of title recorded prior
14 to recording such lessee's declaration.

15 The declaration shall be acknowledged by such owner or
16 lessee, and in the case of a lessee, may be a part of the coal
17 lease under which the lessee claims. Such declaration may be
18 in the following language:

19 "DECLARATION OF OIL AND GAS NOTICE"

20 "The undersigned hereby declares:

21 (1) The undersigned is the ('owner' or 'lessee') of one or
22 more coal seams or workable coal beds as those terms are
23 defined in section one, article four, chapter twenty-two of
24 the code of West Virginia.

25 (2) The coal seam(s) or workable coal bed(s) owned or
26 leased partly or wholly by the undersigned lie(s) under the
27 surface of lands described as follows:

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28 (Here insert a description legally adequate for a deed,
29 whether by metes and bounds or other locational descrip-
30 tion, or by title references such as a book and page legally
31 sufficient to stand in lieu of a locational description.)

32 (3) The undersigned desires to be given all notices of oil
33 and gas operations provided by sections two, two-a, two-b and
34 nine, article four, chapter twenty-two of the code of West Vir-
35 ginia, addressed as follows:

36 (Here insert the name and mailing address of the under-
37 signed owner or lessee.)

38
39

(Signature)

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40 (Here insert an acknowledgment legally adequate for a
41 deed). "

42 The benefits of the foregoing declaration shall be personal
43 to the declaring owner or lessee, and not transferable or
44 assignable in any way.

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

James L. Davis
Chairman Senate Committee

Clarence C. Thurston, Jr.
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

J. C. Dillon, Jr.
Clerk of the Senate

W. A. Blankenship
Clerk of the House of Delegates

W. A. Brantley, Jr.
President of the Senate

Donald L. Kopp
Speaker House of Delegates

The within is approved this the 27
day of April, 1977.

John D. Royle
Governor

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OFFICE OF THE GOVERNOR

APPROVED AND SIGNED BY THE GOVERNOR

Date April 27, 1977

Time 5:30 p.m.

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77 APR 27 10:13

OFFICE
SECY. OF STATE