WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1977

ENROLLED
Committee Substitute for
HOUSE BILL No. 1745

(By Mr. Latte)

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 meaning, as used in this article:
2 (a) “Deputy director” means the deputy director for oil and gas;
3 (b) “Well” means any shaft or hole sunk, drilled, bored or dug unto the earth or into underground strata for the extraction or injection or placement of any liquid or gas, or any shaft or hole sunk or used in conjunction with such extraction or injection or placement. The term “well” does not include any shaft or hole sunk, drilled, bored or dug into the earth for the sole purpose of core drilling or pumping or extracting therefrom potable, fresh or usable water for household, domestic, industrial, agricultural or public use;
4 (c) “Facility” means any facility utilized in the oil and gas industry in this state and specifically named or referred to in this article or in articles five or seven of this chapter, other than a well or well site;
5 (d) “Owner” when used with reference to any such well,
shall include any person or persons, firm, partnership, partnership association or corporation that owns, manages, operates, controls or possesses such well as principals, or as lessee or contractor, employee or agent of such principal;

(e) "Well operator" or "operator" means any person or person, firm, partnership, partnership association or corporation that proposes to or does locate, drill, operate or abandon any well as herein defined;

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

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

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

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

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

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

(l) "Gas" means all natural gas and all other fluid hydrocarbons not defined as oil in subdivision (k) of this section;

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

(n) "Coal seam" or "workable coal bed" are interchangeable terms and mean any seam of coal twenty inches or more in thickness, unless a seam of less thickness is being commercially worked, or can in the judgment of the department foreseeably be commercially worked and will require protection if wells are drilled through it;
(o) "Stimulate" means any action taken by any well operator to increase oil or gas production from any oil or gas well, including fracturing, shooting or acidizing, but 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.

The deputy director for oil and gas of the department of mines shall have authority to visit and inspect any well or well site and any other oil or gas facility in this state and may call for the assistance of any oil and gas inspector or inspectors or supervising inspector whenever such assistance is necessary in the inspection of any such well or well site or any other oil or gas facility. Similarly, all oil and gas inspectors and the supervising inspector shall have authority to visit and inspect any well or well site and any other oil or gas facility in this state. Any well operator, coal operator operating coal seams beneath the tract of land, or the coal seam owner or lessee, if any, if said owner or lessee is not yet operating said coal seams beneath said tract of land may request the deputy director to have an immediate inspection made. The operator or owner of every well or well site or any other oil or gas facility shall cooperate with the deputy director for oil and gas, all oil and gas inspectors and the supervising inspector in making inspections or obtaining information.

Oil and gas inspectors shall devote their full time and undivided attention to the performance of their duties, and they shall be responsible for the inspection of all wells or well sites or other oil or gas facilities in their respective districts as often 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.

(a) If an oil and gas inspector, upon making an inspection of a well or well site or any other oil or gas facility, finds that any provision of this article is being violated, he shall also find whether or not an imminent danger to persons engaged in
active coal mining exists. If he finds that such imminent danger
exists, he shall forthwith make an order requiring the operator
of such well or well site or other oil or gas facility to cease
further operations until such imminent danger has been abated.
If he finds that no such imminent danger exists, he shall de-
dtermine what would be a reasonable period of time within
which such violation should be totally abated. Such findings
shall contain reference to the provisions of this article which
he finds are being violated, and a detailed description of the
conditions which cause and constitute such violation.

(b) The period of time so found by such oil and gas in-
spector to be a reasonable period of time may be extended by
such inspector, or by any other oil and gas inspector duly
authorized by the deputy director for oil and gas, from time
to time, but on not more than three occasions, upon the making
of a special inspection to ascertain whether or not such viola-
tion has been totally abated. The deputy director for oil and
gas shall cause a special inspection to be made: (A) Whenever
an operator of a well or well site or any other oil or gas facil-
ity, prior to the expiration of any such period of time, requests
him to cause a special inspection to be made at such well or
well site or any other oil or gas facility; and (B) upon expira-
tion of such period of time as originally fixed or as extended,
unless the deputy director for oil and gas is satisfied that the
violation has been abated. Upon making such special inspec-
tion, such oil and gas inspector shall determine whether or
not such violation has been totally abated. If he determines
that such violation has not been totally abated, he shall de-
dtermine whether or not such period of time as originally fixed,
or as so fixed and extended, should be extended. If he deter-
mines that such period of time should be extended, he shall
determine what a reasonable extension would be. If he deter-
mines that such violation has not been totally abated, and if
such period of time as originally fixed, or as so fixed and ex-
tended, has then expired, and if he also determines that such
period of time should not be further extended, he shall there-
upon make an order requiring the operator of such well or well
site or other oil or gas facility to cease further operations of
such well, well site or facility, as the case may be. Such find-
ings and order shall contain reference to the specific provisions of this article which are being violated.

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

(d) No order shall be issued under the authority of this 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.

Any well operator, complaining coal operator, owner or lessee, if any, aggrieved by findings or an order made by an oil and gas inspector pursuant to section one-g of this article, may within fifteen days apply to the deputy director for oil and gas for annulment or revision of such order. Upon receipt of such application the deputy director for oil and gas shall make a special inspection of the well, well site or other oil and gas facility affected by such order, or cause two duly authorized oil and gas inspectors, other than the oil and gas inspector who made such order or the supervising inspector and one duly authorized oil and gas inspector other than the oil and gas inspector who made such order, to make such inspection of such well, or well site or other oil or gas facility and to report thereon to them. Upon making such special inspection himself, or upon receiving the report of such special inspection, as the case may be, the deputy director for oil and gas shall make an order which shall include his findings and shall annul, revise or affirm the order of the oil and gas inspector.

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

At any time while an order made pursuant to section one-g of this article is in effect, the operator of the well, well site or other oil or gas facility affected by such order may apply to
§22-4-1j. Judicial review of final orders of deputy director for oil and gas.

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

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

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

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

It shall be unlawful for any well to be drilled, redrilled, deepened, fractured, stimulated, plugged, pressured, con-
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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 
9   (a) The name and address of the well operator;
10   (b) The name and address of the owner of the surface lands
11      upon which the well is or may be located;
12   (c) The name and address of every coal operator operating
13      coal seams under the tract of land on which the well is or
14      may be located, or the coal seam owner of record and lessee
15      of record required to be given notice by section two, if any, if
16      said owner or lessee is not yet operating said coal seams;
17   (d) The name and address of the agent of the well operator,
18      if any such agent is required to be designated under the pro-
19      visions of this section;
20   (e) The approximate depth to which the well is to be
21      drilled;
22   (f) The proposed casing program of such well including
23      the sizes of all such casing, the depth to which all casing is
24      to be run and the extent to which such casing is to be cemented;
25   (g) The proposed method of reclamation which shall
26      comply with the requirements of section twelve-b of this
27      article; and
28   (h) Any other information which the deputy director by
29      rule or regulation may require.
30
31   If the well operator named in such application is a cor-
32   poration, partnership or a nonresident of the state of West
33   Virginia, then there shall be designated the name and addres
34   of an agent for such operator who shall be the attorney-in-fact
35   for the operator and who shall be a resident of the state of
36   West Virginia upon whom notices, orders or other com-
37   munications issued pursuant to this article or article five-a,
38   chapter twenty, may be served, and upon whom process may
39   be served. Every well operator required to designate an agent
40   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 or 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 exceeding twelve months, or
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.

Before drilling for oil or gas, or before fracturing or stimu­

ing a well on any tract of land, the well operator shall have
a plat prepared by a licensed land surveyor or registered engi­

neer 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 drill­
ing completion of a well when it is proposed that such well
be fractured and shall forward by registered or certified 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 coal seams, copies of the plat shall be forwarded by
registered or certified mail to each and every coal operator
operating said coal seams beneath said tract of land, who has
mapped the same and filed his maps with the department in
accordance with article two of this chapter, or the coal seam
owner of record and lessee of record, if any, if said owner or
lessee has recorded the declaration provided in section twenty
of this article, and if said owner or lessee is not yet operating
said coal seams beneath said tract of land. 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, owner
and lessee, if any, at their respective addresses, informing them
that such plat and notice are being mailed to them respectively
by registered or certified 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 fifteen 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 de-
partment may forthwith issue to the well operator a permit
reciting the filing of such plat, that no objections have been
made by the coal operators, owners and lessees, if any, or
found thereto by the department, and authorizing the well
operator to drill at such location, or to fracture the well. Un-
less the department has objections to such proposed location or
proposed fracturing or stimulating, such permit may be issued
prior to the expiration of such fifteen day period upon the ob-
taining by the well operator of the consent in writing of the
coal operator or operators, owners and lessees, if any, 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 by registered or
certified mail 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, redrilling, 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 therefor 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 herein, 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 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; (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 waterworks and sewerage system, 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; (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 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; (7) revenue bonds issued by a board of trustees of a sanitary district in this state for the corporate 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 approved 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 deposit 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, in other approved securities of the classes herein specified having a market value equal to or greater than the penalty of the bond, or a corporation surety bond.

When an operator has furnished a separate bond from a corporate bonding or surety company to drill, fracture or stimulate an oil or gas well and the well produces oil or gas, or both, its operator may deposit with the deputy director for oil and gas cash from the sale of the oil or gas, or both, until the total deposited is two thousand five hundred dollars. When the sum of the cash deposited is two thousand five hundred dollars, the separate bond for the well shall be released by the department. Upon receipt of such cash, the deputy director for oil and gas shall immediately deliver the same to the treasurer of the state of West Virginia. The treasurer shall hold such cash in the name of the state in trust for the purpose for which the bond was furnished and the deposit was made. The operator shall be entitled to all interest and income which may be earned on the cash deposited so long as the operator is in
full compliance with all laws, rules and regulations relating
to the drilling, redrilling, deepening, casing, plugging, abandon-
ment and reclamation of the well for which the cash was de-
posited and so long as he has furnished all reports and in-
formation as may be required by the department. If the cash
realized from the sale of oil or gas, or both, from the well is
not sufficient for the operator to deposit with the deputy
director for oil and gas the sum of two thousand five hundred
dollars within one year of the day the well started producing,
the corporate or surety company which issued the bond on the
well may notify the operator and the department of its intent
to terminate its liability under its bond. The operator then
shall have thirty days to furnish a new bond from a corporate
bonding or surety company or collateral securities, as provided
in the next preceding paragraph of this section, with the
department. If a new bond or collateral securities are fur-
nished by the operator, the liability of the corporate bonding
or surety company under the original bond shall terminate as
to any acts and operations of the operator occurring after the
effective date of the new bond or the date the collateral securi-
ties are accepted by the treasurer of the state of West Virginia.
If the operator does not furnish a new bond or collateral securi-
ties, as provided in the next preceding paragraph of this
section, with the department, he shall immediately plug, fill and
reclaim the well in accordance with all of the provisions of
law, rules and regulations applicable thereto. In such case,
the corporate or surety company which issued the original bond
shall be liable for any plugging, filling or reclamation not
performed in accordance with such laws, rules and regula-
tions.

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

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.

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

Before fracturing any well the well operator shall, by registered or certified mail, forward a notice of intention to fracture such well to the department of mines and to each and every coal operator operating coal seams beneath said tract of land, who has mapped the same and filed his maps with the department in accordance with article two of this chapter, or the coal seam owner and lessee, if any, if said owner of record or lessee of record has recorded the declaration provided in section twenty of this article, and if said owner or lessee is not yet operating said coal seams beneath said tract of land.

The notice shall be addressed to the department of mines and to each such coal operator at their respective addresses, shall contain the number of the drilling permit for such well and such other information as may be required by the department to enable the department and the coal operators to locate and identify such well and shall inform them that such notice is being mailed to them, respectively, by registered or certified mail, pursuant to the requirements of this article.

(The form for such notice of intention shall be furnished by the department of mines.) If no objections are made, or are found by the department, to such proposed fracturing within fifteen days from receipt of such notice by the department of mines, the same shall be filed and become a permanent record of such fracturing, subject to inspection at any time by any interested person, and the department
shall forthwith issue to the well operator a permit reciting the filing of such notice, that no objections have been made by the coal operators, or found thereto by the department, and authorizing the well operator to fracture such well. Unless the department has objections to such proposed fracturing, such permit shall be issued prior to the expiration of such fifteen day period upon the obtaining by the well operator of the consent in writing of the coal operator or operators, owners or lessees, if any, to whom notice of intention to fracture 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 by registered or certified mail as above to any agent or superintendent in actual charge of 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.

Before drilling a well for the introduction of liquids for the purposes provided for in section ten-a of this article or for the introduction of liquids for the disposal of sewage, industrial waste or other waste or the effluent therefrom on any tract of land, or before converting an existing well for such purposes, the well operator shall have a plat prepared by a registered engineer or licensed land surveyor 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 all adjacent tracts, the proposed or actual location of the well or wells determined by a survey, the courses and distances of such location from two permanent points of land marked on said tract and the number to be given to the well, and shall forward by registered or certified mail the original and one copy of the plat to the department of mines. In addition, the well operator shall provide the following information on the plat or by way of attachment thereto to the department in the manner and form prescribed by the department's rules and regulations:

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

In the event the tract of land on which said well proposed
to be drilled or converted for the purposes provided for in
this section is located is known to be underlaid with coal
seams, copies of the plat and all information required by this
section shall be forwarded by the operator by registered or
certified mail to each and every coal operator operating coal
seams beneath said tract of land, who has mapped the same and
filed his maps with the department in accordance with article
two of this chapter, or the coal seam owner of record and lessee
of record, if any, if said owner or lessee has recorded the de-
claration provided in section twenty of this article, and if said
owner or lessee is not yet operating said seams beneath said
tract of land. 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, owner or lessee, if any, at
their respective addresses, informing them that such plat
and notice are being mailed to them, respectively, by registered
or certified mail, pursuant to the requirements of this section.
The deputy director shall forward a copy of the plat, notice
and all other information required by this section to the chief
of the division of water resources of the department of natural
resources.

If no objections are made by any such coal operator, owner,
lessee or such chief, or are found by the department to such
proposed drilling or converting of the well or wells for the
purposes provided for in this section within thirty days from
the 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 well, subject to inspection at any time by
any interested person, and the department shall forthwith
issue to the well operator a permit reciting the filing of such
plat and notice, that no objections have been made by the
coal operators, owners and lessees, if any, or found thereto
by the department of mines or by the chief, and authorizing
the well operator to drill at such location or convert such
existing well or wells for the purposes provided for in this
section. Such permit shall be issued prior to the expiration of
such thirty day period upon the obtaining by the well operator,
of the consent in writing of the coal operator, owners and
lessees, if any, to whom copies of the plat and notices must
have been mailed as herein required and upon obtaining the
consent in writing of the chief, and upon presentation of such
written consent in writing of the chief, and upon presentation
of such written consent to the department. The notices above
provided for may be given to the coal operator by delivering
or mailing it by registered or certified mail as above to any
agent or superintendent in actual charge of the mines.

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

§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.

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

If any objection or objections are so filed, or are made by
the department, the department shall notify the well operator
of the character of the objections and by whom made and fix a
time and place, not less than fifteen days from the end of said
fifteen day period, at which such objections will be considered
of which time and place the well operator and all objecting
coal operators, owners or lessees, if any, shall be given at least
ten days' written notice by the department, by registered or
certified mail, and summoned to appear. At the time and place
so fixed the well operator and the objecting coal operators,
owners or lessees, if any, or such of them as are present or
represented, shall proceed to consider the objections. In the
case of proposed drilling, such parties present or represented
may agree upon either the location as made or so moved as to
satisfy all objections and meet the approval of the departmen-t,
and any change in the original location so agreed upon and
approved by the department shall be indicated on said plat on
file with the department, and the distance and direction of the
new location from the original location shall be shown, and as
so altered, the plat shall be filed and become a permanent
record, and in the case of proposed fracturing, such parties
present or represented may agree upon conditions under which
the well is to be fractured which will protect life and property
and which will satisfy all objections and meet the approval of
the department, at which time the plat and notice required by
section two, or the notice required by section two-a, as the case
may be, shall be filed and become a permanent record. Where-
upon the department shall forthwith issue to the well opera-
tor a drilling or fracturing permit, as the case may be, reciting
the filing of the plat and notice required by said section two, or the notice required by said section two-a, as the case may be, that at a hearing duly held a location as shown on the plat or the conditions under which the fracturing is to take place for the protection of life and property were agreed upon and approved, and that the well operator is authorized to drill at such location or to fracture at the site shown on such plat, or to fracture the well identified in the notice required by section two-a, as the case may be.

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

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

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

(3) Whether a well can be drilled safely, taking into consideration the dangers from creeps, squeezes or other disturbances due to the extraction of coal;

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

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

(1) That it refuses to issue a permit;
(2) That it will issue a permit for the proposed drilling location;
(3) That it will issue a permit for drilling location different than that requested by the well operator.

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

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

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

The department shall take into consideration upon its decision whether the well can be fractured safely, taking into consideration the dangers from creeps, squeezes or other disturbances.

At the close of the hearing, or within ten days thereafter, the department shall issue an order stating the conditions
under which the well is to be fractured, provided the well can
be fractured safely, taking into consideration the dangers from
creeps, squeezes, or other disturbances. If such fracturing can-
not be done safely, the department shall issue an order stating
with particularity the reasons for refusing to issue a permit.

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

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

When a well is proposed to be drilled or converted for the
purposes provided for in section two-b of this article, and
is above a seam or seams of coal, then the coal operator
operating said coal seams beneath the tract of land, or the
coal seam owner or lessee, if any, if said owner or lessee is
not yet operating said coal seams, may within fifteen days
from the receipt by the department of the plat and notice
required by section two of this article, file objections in
writing (forms for which will be furnished by the department
on request) to such proposed drilling or conversion.
In any case wherein a well proposed to be drilled or converted for the purposes provided for in section two-b of this article shall, in the opinion of the chief of the division of water resources of the department of natural resources, affect detrimentally the reasonable standards of purity and quality of the waters of the state, such chief shall, within thirty days from the receipt of the plats and notices required by section two-b, file with the department his objections in writing to such proposed drilling or conversion, setting out therein as definitely as is reasonably possible the ground or grounds upon which such objections are based and indicating the conditions, consistent with the provisions of this article and the rules or regulations promulgated thereunder, as may be necessary for the protection of the reasonable standards of the purity and quality of such waters under which such proposed drilling or conversion may be completed to overcome such objections, if any.

If any objection or objections are so filed, or are made by the department, the department shall notify the well operator of the character of the objections and by whom made and fix a time and place, not less than thirty days from the end of said thirty day period, at which such objections will be considered, of which time and place the well operator and all objecting coal operators, the owners or lessees, if any, or such chief, shall be given at least ten days written notice by the department, by registered or certified mail, and summoned to appear. At the time and place so fixed the well operator and the objecting coal operators, owners or lessees, if any, or such of them as are present or represented, or such chief, shall proceed to consider the objections. In the case of proposed drilling or converting of a well for the purposes provided for in section two-b, such parties present or represented may agree upon either the location as made or so moved as to satisfy all objections and meet the approval of the department, and any change in the original location so agreed upon and approved by the department shall be indicated on said plat on file with the department, and the distance and direction of the new location from the original location shall be shown, and, as so altered, the plat shall be filed and become a permanent record. In the case of proposed
conversion, such parties present or represented may agree
upon conditions under which the conversion is to take place
for the protection of life and property or for protection of
reasonable standards of purity and quality of the waters of the
state. At which time the plat and notice required by section
two-b shall be filed and become a permanent record. Where-
upon the department shall forthwith issue to the well operator
a permit to drill or convert, as the case may be, reciting the
filing of the plat and notice required by said section two-b
that at a hearing duly held a location as shown on the plat
or the conditions under which the conversion is to take place
for the protection of life and property and reasonable standards
of purity and quality of the waters of the state where agreed
upon and approved, and that the well operator is authorized
to drill at such location or to convert at the site shown on
such plat, as the case may be.

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

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

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

(3) Whether a well can be drilled safety, taking into con-
sideration the dangers from creeps, squeezes or other disturb-
ances, due to the extraction of coal;
(4) The extent to which the proposed drilling location unreasonably interferes with the safe recovery of coal, oil and gas.

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

(1) That it refuses to issue a permit;

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

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

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

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

(b) In the case, the well operator and the objecting coal operators, owners or lessees, if any, and such chief, or such as are present or represented at such hearing, are unable to agree upon the conditions under which the well is to be converted as to protect life and property, and the reasonable standards of purity and quality of the waters of the state, or upon conditions of converting that meet with the approval
of the department, then the department shall proceed to hear
the evidence and testimony in accordance with sections one
and two, article five, chapter twenty-nine-a of this code,
except where such provisions are inconsistent with this article.

The department shall take into consideration upon its
decision:

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

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

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

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

If a permit is issued, the department shall indicate the well
to be converted on the plat on file with the department and
shall number and keep an index of and docket each plat and
notice mailed to it as provided in section two-b, of this article,
entering in such docket the name of the well operator, and
the names and addresses of all persons notified, the dates of
hearing and all actions taken by the department, permits issued or refused, the papers filed and a transcript of the hearings. This shall constitute a record of the proceedings before the department and shall be open to inspection by the public.

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

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

The judgment of the circuit court shall be final unless reversed, vacated or modified on appeal to the supreme court of appeals in accordance with the provisions of section one, article 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.

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

The judgment of the circuit court shall be final unless reversed, vacated or modified on appeal to the supreme court of appeals in accordance with the provisions of section one, 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
9 The deputy director may promulgate such reasonable rules
10 and regulations in accordance with article three, chapter
11 twenty-nine-a of this code, as it may deem necessary to insure
12 that the character, depth and thickness of geological formations
13 encountered are accurately logged: Provided, That the deputy
14 director shall not require logging by the use of an electrical
15 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-
ment and such coal operator, owner or lessee, if any, 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 such coal operator, owner or lessee, if any, or (c) in the event the well to be plugged and abandoned is one on which drilling or reworking operations have been continuously progressing pursuant to authorization granted by the department, 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 plugging 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 authorized to do business in this state as surety thereon, conditioned on full compliance with all laws, rules and regulations relating to the casing, plugging, abandonment and reclamation of well and for furnishing such reports and information as may be required by the department. When a number of wells are involved, 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. 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 dealing 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.

§22-4-10. Methods of plugging well.

Upon the abandonment or cessation of the operation of any well drilled for natural gas or petroleum, or drilled or converted for the introduction of pressure, whether liquid or gas, or for the introduction of liquid for the purposes provided for in section ten-a of this article or for the disposal of sewage, industrial waste or other waste or the effluent therefrom the well operator, at the time of such abandonment or cessation, shall fill and plug the well in the following manner:
(a) Where the well does not penetrate workable coal beds, it shall either be filled with mud, clay or other nonporous material from the bottom of the well to a point twenty feet above the top of its lowest oil, gas or water-bearing stratum; or a permanent bridge shall be anchored thirty feet below its lowest oil, gas or water-bearing stratum, and from such bridge it shall be filled with mud, clay or other nonporous material to a point twenty feet above such stratum; at this point there shall be placed a plug of cement or other suitable material which will completely seal the hole. Between this sealing plug and a point twenty feet above the next higher oil, gas or water-bearing stratum, the hole shall either be filled, or bridged and filled, in the manner just described; and at such point there shall be placed another plug of cement or other suitable material which will completely seal the hole. In like manner the hole shall be filled and plugged, or bridged, filled and plugged with reference to each of its oil, gas or water-bearing strata. However, whenever such strata are not widely separated and are free from water, they may be grouped and treated as a single sand, gas or petroleum horizon, and the aforesaid filling and plugging be performed as though there were but one horizon. After the plugging of all oil, gas or water-bearing strata, as aforesaid, a final plug shall be anchored approximately ten feet below the bottom of the largest casing in the well; from this point to the surface the well shall be filled with mud, clay or other nonporous material. In case any of the oil or gas-bearing strata in a well shall have been shot, thereby creating cavities which cannot readily be filled in the manner above described, the well operator shall follow either of the following methods:

(1) Should the stratum which has been shot be the lowest one in the well, there shall be placed, at the nearest suitable point, but not less than twenty feet above the stratum, a plug of cement or other suitable material which will completely seal the hole. In the event, however, that the shooting has been done above one or more oil or gas-bearing strata in the well, plugging in the manner specified shall be done at the nearest suitable point, but not less than twenty feet below and above the stratum shot. Or (2), when such cavity shall be in the lowest oil or gas-bearing stratum in the well, a
liner shall be placed which shall extend from below the stratum to a suitable point, but not less than twenty feet above the stratum in which shooting has been done. In the event, however, that the shooting has been done above one or more oil or gas-bearing strata in the well, the liner shall be so placed that it will extend not less than twenty feet above, nor less than twenty feet below, the stratum in which shooting has been done. Following the placing of the liner in the manner here specified it shall be compactly filled with cement, mud, clay or other nonporous sealing material;

(b) Where the well has penetrated one or more workable coal beds, it shall be filled and securely plugged in the manner aforesaid, to a point fifty feet below the lowest workable coal bed. If, in the judgment of the well operator the coal operator and the department of mines, a permanent outlet to the surface is required, such outlet shall be provided in the following manner: A plug of cement, or other suitable material, shall be placed in the well at a suitable point, not less than forty feet below the lowest workable coal bed. In this plug and passing through the center of it shall be securely fastened an open pipe not less than two inches in diameter, which shall extend to the surface. At or above the surface the pipe shall be provided with a device which will permit the free passage of gas, and prevent obstruction of the same. Following the setting of the cement plug and outlet pipe as aforesaid, the hole shall be filled with cement to a point twenty feet above the lowest workable coal bed. From this point the hole shall be filled with mud, clay or other nonporous material to a point forty feet beneath the next overlying workable coal bed, if such there be, and the next succeeding sixty feet of the hole filled with cement, and similarly, in case there are more overlying workable coal beds. If, in the judgment of the well operator, the coal operator and the department of mines, no outlet to the surface is considered necessary, the plugging, filling and cementing shall be as last above described.

Where a coal protection string of casing has been cemented in and circulated to the surface, if a coal outlet pipe is not required in a well which penetrates one or more workable
coal beds, then a sixty foot cement plug shall be placed from forty feet below the casing seat. The well shall then be filled to twenty feet of surface with nonporous material, and cement plug with the monument installed in cement from twenty feet to the surface and extending thirty inches above ground level.

Where a coal protection string of casing has been cemented in and circulated to the surface, if a coal outlet pipe is required in a well which penetrates one or more workable coal beds, then a sixty foot cement plug shall be placed in the well from thirty feet to ninety feet below casing seat completely sealing the well. The outlet pipe shall be placed twenty feet below the casing seat centrally located in the casing. A cement basket shall be installed on the outlet pipe and placed ten feet above the casing seat with twenty feet of cement in the annulus between the outlet pipe and the casing. The remaining annulus shall be filled with nonporous material to ten feet of surface. The outlet pipe and monument shall then be cemented from ten feet to the surface with a bleeder pipe which will permit the free passage of gas and prevent obstructions of the same.

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

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

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 charged 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 accordance 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 impose in order to insure a strict compliance with the provisions 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.

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

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

(a) The department of mines may promulgate such reasonable rules and regulations as it may deem necessary or desirable to implement and make effective the provisions of this article and the powers and authority conferred and the duties imposed upon it under the provisions of this article and for securing uniformity of procedure in the administration of the provisions of article three, chapter twenty-nine-a of this code.

(b) Any hearing or proceeding before the department shall be in accordance with the provisions of article five, chapter
Any well operator, coal operator, owner or lessee, if any, who would be required to be given notice by section two, adversely affected by an order or final decision of the department may appeal the same in accordance with the provisions of section four, article five, chapter twenty-nine-a except where such provisions are inconsistent with this article.

§22-4-18. Injunctive relief.

(a) In addition to other remedies, and aside from various penalties provided by law, whenever it appears to the department that any person is violating or threatening to violate any provision of this article, any order or final decision of the department, or any lawful rule or regulation promulgated hereunder, the department may apply in the name of the state to the circuit court of the county in which the violations or any part thereof has occurred, is occurring or is about to occur, or the judge thereof in vacation, for an injunction against such persons and any other persons who have been, are or are about to be, involved in any practices, acts or admissions so in violation, enjoining such person or persons from any violation or violations. Such application may be made and prosecuted to conclusion, whether or not any violation or violations have resulted or shall result, in prosecution or conviction under the provisions of this article.

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

(c) The judgment of the circuit court upon application permitted by the provisions of this section, shall be final unless reversed, vacated or modified on appeal to the supreme
court of appeals. Any such appeal shall be sought in the manner and within the time provided by law for appeals from circuit courts in other civil actions.

(d) The department shall be represented in all such proceedings by the attorney general or his assistants or in such proceedings in the circuit courts by the prosecuting attorney of the several counties as well, all without additional compensation. The department, with the written approval of the attorney general, may employ special counsel to represent the department in any such proceedings.

courts of appeals. Any such appeal shall be sought in the manner and within the time provided by law for appeals from circuit courts in other civil actions.

(e) If the department shall refuse or fail to apply for an injunction to enjoin a violation or threatened violation of any provision of this article, any order or final decision of the department, or any rules or regulations promulgated hereunder, within ten days after receipt of a written request to do so by any well operator, coal operator, operating coal seams beneath the tract of land, or the coal seam owner or lessee, if any, if said owner or lessee is not yet operating said coal seams beneath said tract of land, or the chief of the division of water resources of the department of natural resources, adversely affected by such violation or threatened violation, the person making such request may apply in his own behalf for an injunction to enjoin such violation or threatened violation in any court in which the department might have brought suit. The department shall be made party defendant in such application in addition to the person or persons violating or threatening to violate any provision of this article, any final order or decision of the department, or any rule or regulation promulgated hereunder. The application shall precede and injunctive relief may be granted in the same manner as if the application had been made by the department: Except that the court may require a bond or other undertaking from the plaintiff.

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

For purposes of notification under this article, any owner or lessee of coal seams shall file a declaration of his interest in such coal seams with the clerk of the county commission in the county where such coal seams are located. Said clerk
shall file and index such declaration in accordance with section two, article one, chapter thirty-nine of this code, and shall index the name of the owner or lessee of such coal seams in the grantor index of the record maintained for the indexing of leases.

The declaration shall entitle such owner or lessee to the notices provided in sections two, two-a, two-b and nine of this article: Provided, That the declaring owner shall be the record owner of the coal seam, and the declaring lessee shall be the record lessee with his source or sources of title recorded prior to recording such lessee's declaration.

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

"DECLARATION OF OIL AND GAS NOTICE"

"The undersigned hereby declares:

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

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

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

3. The undersigned desires to be given all notices of oil and gas operations provided by sections two, two-a, two-b and nine, article four, chapter twenty-two of the code of West Virginia, addressed as follows:

(Here insert the name and mailing address of the undersigned owner or lessee.)

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

The benefits of the foregoing declaration shall be personal to the declaring owner or lessee, and not transferable or 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. Chisholm
Chairman House Committee

Originated in the House.
Takes effect ninety days from passage.

J.W. Wilcox Jr.
Clerk of the Senate

W.A. Blankenship
Clerk of the House of Delegates

J.W. Baskin Jr.
President of the Senate

Donald L. Hogan
Speaker House of Delegates

The within __________ is approved this the __________ day of __________, 1977.

Governor