

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987



ENROLLED

HOUSE BILL No. *2246*

(By Delegates *Minard and McKinley*)



Passed *March 14,* 1987

In Effect *Ninty Days from* Passage

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H. B. 2246

(By DELEGATES MINARD and MCKINLEY)

[Passed March 14, 1987; in effect ninety days from passage.]

AN ACT to amend and reenact section sixteen article one, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section seven, article eight of said chapter; to amend and reenact section three, article thirteen of said chapter; and to amend and reenact sections two, and twenty-six, article one, chapter twenty-two-b of said code, all relating to oil and gas; clarifying that permits, certifications, waivers, bonds, orders or authorizations issued by or favoring the department of mines, department of natural resources and other boards are continued; clarifying that after one discovery deep well is drilled it establishes a pool; clarifying the spacing order; clarifying the commissioner's considerations before establishing a drilling unit; continuing the oil and gas inspectors examining board following an audit by the joint committee on government operations; requiring operators to furnish performance bonds, letters of credit, and other forms of security prior to the issuance of a permit to drill oil or gas wells; requiring assignee or transferee to be bonded before such assignment or transfer.

Be it enacted by the Legislature of West Virginia:

That section sixteen, article one, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one,

as amended, be amended and reenacted; that section seven, article eight of said chapter be amended and reenacted; that section three, article thirteen of said chapter be amended and reenacted; and that sections two, and twenty-six, article one, chapter twenty-two-b of said code be amended and reenacted, all to read as follows:

CHAPTER 22. ENERGY.

ARTICLE 1. TITLE; PURPOSES; DEPARTMENT OF ENERGY.

§22-1-16. Jurisdiction vested in department; cooperation with other governments and agencies; continuation of permits, etc.

1 Except as otherwise expressly provided in this
2 chapter or in chapters twenty-two-a or twenty-two-b of
3 this code, jurisdiction over the issuance of regulations,
4 or any and all permits and other governmental author-
5 izations required or to be required in all matters
6 pertaining to the exploration, development, production,
7 storage and recovery of coal, oil and gas, and other
8 mineral resources in this state including all safety,
9 conservation, land, water, waste disposal, reclamation,
10 and environmental regulations, permits and authoriza-
11 tions of such activities called for pursuant to articles
12 five, five-a, five-d and five-f, chapter twenty of this code,
13 and the enforcement and implementation thereof is
14 vested exclusively in the department of energy. The
15 department of energy is hereby designated as the lead
16 regulatory agency for this state for all purposes of
17 federal legislation relating to such activities.

18 The department of energy shall exercise all power and
19 duties vested in the director of the department of
20 natural resources pursuant to subsection (g), section
21 seven, article five-e, chapter twenty of this code, and in
22 the administrator of the office of oil and gas, and
23 shallow gas-well review board pursuant to subsection
24 (h), section seven, article five-e, chapter twenty of this
25 code.

26 All permits, certifications, waivers, bonds, orders or
27 authorizations heretofore issued by or favoring the
28 department of mines, department of natural resources,

29 or any of the boards or commissions continued in effect
 30 by this chapter shall be continued in effect but become
 31 subject to the provisions of this chapter, chapter twenty-
 32 two-a and chapter twenty-two-b of this code. All
 33 permits, certifications, waivers, bonds, orders or
 34 authorizations heretofore issued or favoring by the
 35 department of mines or department of natural resources
 36 shall become subject to the jurisdiction of the depart-
 37 ment of energy. All permits, certifications, waivers,
 38 bonds, orders or authorizations heretofore issued by or
 39 favoring any of the boards or commissions continued in
 40 effect by the provisions of this chapter shall remain
 41 subject to the jurisdiction of those boards or commis-
 42 sions.

ARTICLE 8. OIL AND GAS CONSERVATION.

**§22-8-7. Drilling units and the pooling of interests in
 drilling units in connection with deep oil or
 gas wells.**

1 (a) *Drilling units.*

2 (1) After one discovery deep well has been drilled
 3 establishing a pool, an application to establish drilling
 4 units may be filed with the commissioner by the
 5 operator of such discovery deep well or by the operator
 6 of any lands directly and immediately affected by the
 7 drilling of such discovery deep well, or subsequent deep
 8 wells in said pool, and the commissioner shall promptly
 9 schedule a hearing on said application. Each application
 10 shall contain such information as the commissioner may
 11 prescribe by reasonable rules and regulations promul-
 12 gated by him in accordance with the provisions of
 13 section five of this article.

14 (2) Upon the filing of an application to establish
 15 drilling units, notice of the hearing shall be given by the
 16 commissioner. Each notice shall specify the date, time
 17 and place of hearing, describe the area for which a
 18 spacing order is to be entered, and contain such other
 19 information as is essential to the giving of proper notice.

20 (3) On the date specified in such notice, the commis-
 21 sioner shall hold a public hearing to determine the area

22 to be included in such spacing order and the acreage to
23 be contained by each drilling unit, the shape thereof,
24 and the minimum distance from the outside boundary
25 of the unit at which a deep well may be drilled thereon.
26 At such hearing the commissioner shall consider:

27 (i) The surface topography and property lines of the
28 lands underlaid by the pool to be included in such order;

29 (ii) The plan of deep well spacing then being em-
30 ployed or proposed in such pool for such lands;

31 (iii) The depth at which production from said pool has
32 been found;

33 (iv) The nature and character of the producing
34 formation or formations, and whether the substance
35 produced or sought to be produced is gas or oil or both;

36 (v) The maximum area which may be drained effi-
37 ciently and economically by one deep well; and

38 (vi) Any other available geological or scientific data
39 pertaining to said pool which may be of probative value
40 to the commissioner in determining the proper deep well
41 drilling units therefor.

42 To carry out the purposes of this article, the commis-
43 sioner shall, upon proper application, notice and hearing
44 as herein provided, and if satisfied after such hearing
45 that drilling units should be established, enter an order
46 establishing drilling units of a specified and approxi-
47 mately uniform size and shape for each pool subject to
48 the provisions of this section.

49 (4) When it is determined that an oil or gas pool
50 underlies an area for which a spacing order is to be
51 entered, the commissioner shall include in his order all
52 lands determined or believed to be underlaid by such
53 pool and exclude all other lands.

54 (5) No drilling unit established by the commissioner
55 shall be smaller than the maximum area which can be
56 drained efficiently and economically by one deep well:
57 *Provided*, That if at the time of a hearing to establish
58 drilling units, there is not sufficient evidence from
59 which to determine the area which can be drained

60 efficiently and economically by one deep well, the
61 commissioner may enter an order establishing tempor-
62 ary drilling units for the orderly development of the pool
63 pending the obtaining of information necessary to
64 determine the ultimate spacing for such pool.

65 (6) An order establishing drilling units shall specify
66 the minimum distance from the nearest outside boun-
67 dary of the drilling unit at which a deep well may be
68 drilled. The minimum distance provided shall be the
69 same in all drilling units established under said order
70 with necessary exceptions for deep wells drilled or being
71 drilled at the time of the filing of the application. If the
72 commissioner finds that a deep well to be drilled at ^{or} ~~at~~
73 more than the specified minimum distance from the
74 boundary of a drilling unit would not be likely to
75 produce in paying quantities or will encounter surface
76 conditions which would substantially add to the burden
77 or hazard of drilling such deep well, or that a location
78 within the area permitted by the order is prohibited by
79 the lawful order of any state agency or court, the
80 commissioner is authorized after notice and hearing to
81 make an order permitting the deep well to be drilled
82 at a location within the minimum distance prescribed
83 by the spacing order. In granting exceptions to the
84 spacing order, the commissioner may restrict the
85 production from any such deep well so that each person
86 entitled thereto in such drilling unit shall not produce
87 or receive more than his just and equitable share of the
88 production from such pool.

89 (7) An order establishing drilling units for a pool shall
90 cover all lands determined or believed to be underlaid
91 by such pool, and may be modified by the commissioner
92 from time to time, to include additional lands deter-
93 mined to be underlaid by such pool or to exclude lands
94 determined not to be underlaid by such pool. An order
95 establishing drilling units may be modified by the
96 commissioner to permit the drilling of additional deep
97 wells on a reasonably uniform pattern at a uniform
98 minimum distance from the nearest unit boundary as
99 provided above. Any order modifying a prior order shall
100 be made only after application by an interested operator

Amend. A. Kopp
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101 and notice and hearing as prescribed herein for the
102 original order: *Provided, however,* drilling units estab-
103 lished by order shall not exceed one hundred sixty acres
104 for an oil well or six hundred forty acres for a gas well.

105 (8) After the date of the notice of hearing called to
106 establish drilling units, no additional deep well shall be
107 commenced for production from the pool until the order
108 establishing drilling units has been made, unless the
109 commencement of the deep well is authorized by order
110 of the commissioner.

111 (9) The commissioner shall, within forty-five days
112 after the filing of an application to establish drilling
113 units for a pool subject to the provisions of this section,
114 either enter an order establishing such drilling units or
115 dismiss the application.

116 (10) As part of the order establishing a drilling unit,
117 the commissioner shall prescribe just and reasonable
118 terms and conditions upon which the royalty interests
119 in the unit shall, in the absence of voluntary agreement,
120 be deemed to be integrated without the necessity of a
121 subsequent order integrating the royalty interests.

122 (b) *Pooling of interests in drilling units.*

123 (1) When two or more separately owned tracts are
124 embraced within a drilling unit, or when there are
125 separately owned interests in all or a part of a drilling
126 unit, the interested persons may pool their tracts or
127 interests for the development and operation of the
128 drilling unit. In the absence of voluntary pooling and
129 upon application of any operator having an interest in
130 the drilling unit, and after notice and hearing, the
131 commissioner shall enter an order pooling all tracts or
132 interests in the drilling unit for the development and
133 operation thereof and for sharing production therefrom.
134 Each such pooling order shall be upon terms and
135 conditions which are just and reasonable, and in no
136 event shall drilling be initiated on the tract of an
137 unleased royalty owner without his written consent.

138 (2) All operations, including, but not limited to, the
139 commencement, drilling or operation of a deep well,

140 upon any portion of a drilling unit for which a pooling
141 order has been entered, shall be deemed for all purposes
142 the conduct of such operations upon each separately
143 owned tract in the drilling unit by the several owners
144 thereof. That portion of the production allocated to a
145 separately owned tract included in a drilling unit shall,
146 when produced, be deemed for all purposes to have been
147 actually produced from such tract by a deep well drilled
148 thereon.

149 (3) Any pooling order under the provisions of this
150 subsection (b) shall authorize the drilling and operation
151 of a deep well for the production of oil or gas from the
152 pooled acreage; shall designate the operator to drill and
153 operate such deep well; shall prescribe the time and
154 manner in which all owners of operating interests in the
155 pooled tracts or portions of tracts may elect to partic-
156 ipate therein; shall provide that all reasonable costs and
157 expenses of drilling, completing, equipping, operating,
158 plugging and abandoning such deep well shall be borne,
159 and all production therefrom shared, by all owners of
160 operating interests in proportion to the net oil or gas
161 acreage in the pooled tracts owned or under lease to
162 each owner; and shall make provisions for payment of
163 all reasonable costs thereof, including a reasonable
164 charge for supervision and for interest on past-due
165 accounts, by all those who elect to participate therein.

166 (4) No drilling or operation of a deep well for the
167 production of oil or gas shall be permitted upon or
168 within any tract of land unless the operator shall have
169 first obtained the written consent and easement there-
170 for, duly acknowledged and placed of record in the office
171 of the county clerk, for valuable consideration of all
172 owners of the surface of such tract of land, which
173 consent shall describe with reasonable certainty, the
174 location upon such tract, of the location of such proposed
175 deep well, a certified copy of which consent and
176 easement shall be submitted by the operator to the
177 commission. *E.C.*

178 (5) Upon request, any such pooling order shall provide
179 just and equitable alternatives whereby an owner of an
180 operating interest who does not elect to participate in

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181 the risk and cost of the drilling of a deep well may elect:

182 (i) Option 1. To surrender his interest or a portion
183 thereof to the participating owners on a reasonable basis
184 and for a reasonable consideration, which, if not agreed
185 upon, shall be determined by the commissioner; or

186 (ii) Option 2. To participate in the drilling of the deep
187 well on a limited or carried basis on terms and
188 conditions which, if not agreed upon, shall be deter-
189 mined by the commissioner to be just and reasonable.

190 (6) In the event a nonparticipating owner elects
191 Option 2, and an owner of any operating interest in any
192 portion of the pooled tract shall drill and operate, or pay
193 the costs of drilling and operating, a deep well for the
194 benefit of such nonparticipating owner as provided in
195 the pooling order, then such operating owner shall be
196 entitled to the share of production from the tracts or
197 portions thereof pooled accruing to the interest of such
198 nonparticipating owner, exclusive of any royalty or
199 overriding royalty reserved in any leases, assignments
200 thereof or agreements relating thereto, of such tracts or
201 portions thereof, or exclusive of one eighth of the
202 production attributable to all unleased tracts or portions
203 thereof, until the market value of such nonparticipating
204 owner's share of the production, exclusive of such
205 royalty, overriding royalty or one eighth of production,
206 equals double the share of such costs payable by or
207 charged to the interest of such nonparticipating owner.

208 (7) If a dispute shall arise as to the costs of drilling
209 and operating a deep well, the commissioner shall
210 determine and apportion the costs, within ninety days
211 from the date of written notification to the commissioner
212 of the existence of such dispute.

ARTICLE 13. OIL AND GAS INSPECTORS' EXAMINING BOARD.

§22-13-3. Oil and gas inspectors' examining board created; composition; appointment, term and compensation of members; meetings; powers and duties generally; continuation following audit.

1 (a) There is hereby continued an oil and gas inspec-

2 tors' examining board consisting of five members who,
3 except for the public representative on such board, shall
4 be appointed by the governor, by and with the advice
5 and consent of the Senate. Members may be removed
6 only for the same causes and like manner as elective
7 state officers. One member of the board who shall be the
8 representative of the public, shall be a professor in the
9 petroleum engineering department of the school of
10 mines at West Virginia University appointed by the
11 dean of said school; two members shall be persons who
12 by reason of previous training and experience may
13 reasonably be said to represent the viewpoint of
14 independent oil and gas operators; and two members
15 shall be persons who by reason of previous training and
16 experience may reasonably be said to represent the
17 viewpoint of major oil and gas producers.

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

23 The members of the board, except the public repre-
24 sentative, shall be appointed for overlapping terms of
25 eight years, except that the original appointments shall
26 be for terms of two, four, six and eight years, respec-
27 tively. Any member whose term expires may be
28 reappointed by the governor.

29 Each member of the board shall receive seventy-five
30 dollars per diem while actually engaged in the perfor-
31 mance of the work of the board, and shall receive
32 mileage at the rate of not more than fifteen cents for
33 each mile actually traveled going from the home of the
34 member to the place of the meeting of the board and
35 returning therefrom, which shall be paid out of the state
36 treasury upon a requisition upon the state auditor,
37 properly certified by such members of the board.

38 The public member shall serve as chairman of the
39 board.

40 Members of the board, before performing any duty,
41 shall take and subscribe to the oath required by section

42 five, article four of the constitution of West Virginia.

43 The board shall meet at such times and places as shall
44 be designated by the chairman. It shall be the duty of
45 the chairman to call a meeting of the board on the
46 written request of two members, or on the written
47 request of said director or the commissioner. Notice of
48 each meeting shall be given in writing to each member
49 by the secretary at least five days in advance of the
50 meeting. Three voting members shall constitute a
51 quorum for the transaction of business.

52 (b) In addition to other powers and duties expressly
53 set forth elsewhere in this article, the board shall:

54 (1) Establish, and from time to time revise, forms of
55 application for employment as an oil and gas inspector
56 and supervising inspector and forms for written
57 examinations to test the qualifications of candidates,
58 with such distinctions, if any, in the forms for oil and
59 gas inspector and supervising inspector as the board
60 may from time to time deem necessary or advisable;

61 (2) Adopt and promulgate reasonable rules and
62 regulations relating to the examination, qualification
63 and certification of candidates for appointment, and
64 relating to hearings for removal of inspectors or the
65 supervising inspector, required to be held by this article.
66 All of such rules and regulations shall be printed and
67 a copy thereof furnished by the secretary of the board
68 to any person upon request;

69 (3) Conduct, after public notice of the time and place
70 thereof, examinations of candidates for appointment. By
71 unanimous agreement of all members of the board, one
72 or more members of the board or an employee of the
73 department of energy may be designated to give to a
74 candidate the written portion of the examination;

75 (4) Prepare and certify to said director and the
76 commissioner a register of qualified eligible candidates
77 for appointment as oil and gas inspectors or as super-
78 vising inspectors, with such differentiation, if any,
79 between the certification of candidates for oil and gas
80 inspectors and for supervising inspectors as the board

81 may from time to time deem necessary or advisable. The
82 register shall list all qualified eligible candidates in the
83 order of their grades, the candidate with the highest
84 grade appearing at the top of the list. After each
85 meeting of the board held to examine such candidates
86 and at least annually, the board shall prepare and
87 submit to the said director and the commissioner a
88 revised and corrected register of qualified eligible
89 candidates for appointment, deleting from such revised
90 register all persons (a) who are no longer residents of
91 West Virginia, (b) who have allowed a calendar year to
92 expire without, in writing, indicating their continued
93 availability for such appointment, (c) who have been
94 passed over for appointment for three years, (d) who
95 have become ineligible for appointment since the board
96 originally certified that such persons were qualified and
97 eligible for appointment, or (e) who, in the judgment of
98 at least three members of the board, should be removed
99 from the register for good cause;

100 (5) Cause the secretary of the board to keep and
101 preserve the written examination papers, manuscripts,
102 grading sheets and other papers of all applicants for
103 appointment for such period of time as may be estab-
104 lished by the board. Specimens of the examinations
105 given, together with the correct solution of each
106 question, shall be preserved permanently by the
107 secretary of the board;

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

110 (7) Hear and determine proceedings for the removal
111 of inspectors or the supervising inspector in accordance
112 with the provisions of this article;

113 (8) Hear and determine appeals of inspectors or the
114 supervising inspector from suspension orders made by
115 said director pursuant to the provisions of section two,
116 article one of chapter twenty-two-b of this code:
117 *Provided*, That in order to appeal from any order of
118 suspension, an aggrieved inspector or supervising
119 inspector shall file such appeal in writing with the oil
120 and gas inspectors' examining board not later than ten

121 days after receipt of the notice of suspension. On such
122 appeal the board shall affirm the action of said director
123 unless it be satisfied from a clear preponderance of the
124 evidence that said director has acted arbitrarily;

125 (9) Make an annual report to the governor concerning
126 the administration of oil and gas inspection personnel in
127 the state service; making such recommendations as the
128 board considers to be in the public interest; and

129 (10) Render such advice and assistance to the director
130 of the division of oil and gas as he shall from time to
131 time determine necessary or desirable in the perfor-
132 mance of his duties.

133 (c) After having conducted a performance and fiscal
134 audit through its joint committee on government
135 operations, pursuant to section nine, article ten, chapter
136 four of this code, the Legislature hereby finds and
137 declares that the oil and gas inspectors' examining
138 board within the department of energy should be
139 continued and reestablished. Accordingly, notwithstand-
140 ing the provisions of section four, article ten, chapter
141 four of this code, the oil and gas inspectors' examining
142 board within the department of energy shall continue to
143 exist until the first day of July, one thousand nine
144 hundred ninety-three.

CHAPTER 22B. OIL AND GAS.

ARTICLE 1. DIVISION OF OIL AND GAS; OIL AND GAS WELLS; ADMINISTRATION; ENFORCEMENT.

§22B-1-2. Director — Powers and duties generally; departmental records open to public; inspectors.

1 (a) The director of the division of oil and gas shall
2 have as his duty the supervision of the execution and
3 enforcement of matters related to oil and gas set out in
4 this article and in articles three and four of this chapter,
5 subject to review and approval of the commissioner.

6 (b) The director of the division of oil and gas is
7 authorized to enact rules and regulations necessary to
8 effectuate the above stated purposes, subject to review
9 and approval by the commissioner.

10 (c) The director shall have full charge of the oil and
11 gas matters set out in this article and in articles three
12 and four of this chapter, subject always to the direct
13 supervision and control of the commissioner of the
14 department of energy. In addition to all other powers
15 and duties conferred upon him, the director shall have
16 the power and duty to:

17 (1) Supervise and direct the activities of the division
18 of oil and gas and see that the purposes set forth in
19 subsections (a) and (b) of this section are carried out;

20 (2) Employ a supervising oil and gas inspector and oil
21 and gas inspectors upon approval by the commissioner;

22 (3) Supervise and direct such oil and gas inspectors
23 and supervising inspector in the performance of their
24 duties;

25 (4) Suspend for good cause any oil and gas inspector
26 or supervising inspector without compensation for a
27 period not exceeding thirty days in any calendar year;

28 (5) Prepare report forms to be used by oil and gas
29 inspectors or the supervising inspector in making their
30 findings, orders and notices, upon inspections made in
31 accordance with this chapter;

32 (6) Employ a hearing officer and such clerks, steno-
33 graphers and other employees, as may be necessary to
34 carry out his duties and the purposes of the division of
35 oil and gas and fix their compensation;

36 (7) Hear and determine applications made by owners,
37 well operators and coal operators for the annulment or
38 revision of orders made by oil and gas inspectors or the
39 supervising inspector, and to make inspections, in
40 accordance with the provisions of this article and
41 articles three and four of this chapter;

42 (8) Cause a properly indexed permanent and public
43 record to be kept of all inspections made by himself or
44 by oil and gas inspectors or the supervising inspector;

45 (9) Make annually a full and complete written report
46 to the commissioner as he may from time to time
47 request, so that the commissioner can complete the

48 preparation of the commissioner's annual report to the
49 governor of the state;

50 (10) Conduct such research and studies as the com-
51 missioner shall deem necessary to aid in protecting the
52 health and safety of persons employed within or at
53 potential or existing oil or gas production fields within
54 this state, to improve drilling and production methods
55 and to provide for the more efficient protection and
56 preservation of oil and gas-bearing rock strata and
57 property used in connection therewith;

58 (11) Perform any and all acts necessary to carry out
59 and implement the state requirements established by 92
60 Statutes at Large 3352, et seq., the "Natural Gas Policy
61 Act of 1978," which are to be performed by a designated
62 state jurisdictional agency regarding determinations
63 that wells within the state qualify for a maximum
64 lawful price under certain categories of natural gas as
65 set forth by the provisions of the said "Natural Gas
66 Policy Act of 1978";

67 (12) Collect a filing and processing fee of forty dollars
68 for each well, for which a determination of qualification
69 to receive a maximum lawful price under the provisions
70 of the "Natural Gas Policy Act of 1978" is sought from
71 the director; all revenues from such fees to be placed in
72 the general revenue fund of the state;

73 (13) Collect a permit fee of two hundred fifty dollars
74 for each permit application filed after the tenth day of
75 June, one thousand nine hundred and eighty-three:
76 *Provided*, That no permit application fee shall be
77 required when an application is submitted solely for the
78 plugging or replugging of a well. All application fees
79 required hereunder shall be in addition to any other fees
80 required by the provisions of this article;

81 (14) Perform all other duties which are expressly
82 imposed upon him by the provisions of this chapter, as
83 well as duties assigned to him by the commissioner;

84 (15) Perform all duties as the permit issuing authority
85 for the state in all matters pertaining to the exploration,
86 development, production, storage and recovery of this

87 state's oil and gas in accordance with section thirteen,
88 article one, chapter twenty-two of this code;

89 (16) Adopt rules and regulations in accordance with
90 section thirteen, article one, chapter twenty-two of this
91 code with respect to the issuance, denial, retention,
92 suspension or revocation of permits, authorizations and
93 requirements of this chapter, which rules and regula-
94 tions shall assure that the regulations, permits and
95 authorizations issued by the director are adequate to
96 satisfy the purposes of this chapter and chapter twenty-
97 two of this code particularly with respect to the
98 consolidation of the various state and federal programs
99 which place permitting requirements on the explora-
100 tion, development, production, storage and recovery of
101 this state's oil and gas: *Provided*, That notwithstanding
102 any provisions of this chapter or chapter twenty-two of
103 this code to the contrary, the water resources board shall
104 have the sole authority pursuant to section three-a,
105 article five-a of chapter twenty of this code to promul-
106 gate rules and regulations setting standards of water
107 quality applicable to waters of the state;

108 (17) Perform such acts as may be necessary or
109 appropriate to secure to this state the benefits of federal
110 legislation establishing programs relating to the
111 exploration, development, production, storage and
112 recovery of this state's oil and gas, which programs are
113 assumable by the state.

114 (d) The director shall have authority to visit and
115 inspect any well or well site and any other oil or gas
116 facility in this state and may call for the assistance of
117 any oil and gas inspector or inspectors or supervising
118 inspector whenever such assistance is necessary in the
119 inspection of any such well or well site or any other oil
120 or gas facility. Similarly, all oil and gas inspectors and
121 the supervising inspector shall have authority to visit
122 and inspect any well or well site and any other oil or
123 gas facility in this state. Any well operator, coal
124 operator operating coal seams beneath the tract of land,
125 or the coal seam owner or lessee, if any, if said owner
126 or lessee is not yet operating said coal seams beneath
127 said tract of land may request the director to have an

128 immediate inspection made. The operator or owner of
129 every well or well site or any other oil or gas facility
130 shall cooperate with the director, all oil and gas
131 inspectors and the supervising inspector in making
132 inspections or obtaining information.

133 (e) Oil and gas inspectors shall devote their full time
134 and undivided attention to the performance of their
135 duties, and they shall be responsible for the inspection
136 of all wells or well sites or other oil or gas facilities in
137 their respective districts as often as may be required in
138 the performance of their duties.

139 (f) All records of the division shall be open to the
140 public.

§22B-1-26. Performance bonds; corporate surety or other security.

1 (a) No permit shall be issued pursuant to this article
2 unless a bond as described in subsection (d) of this
3 section which is required for a particular activity by this
4 article is or has been furnished as provided in this
5 section.

6 (b) A separate bond as described in subsection (d) of
7 this section may be furnished for a particular oil or gas
8 well, or for a particular well for the introduction of
9 liquids for the purposes provided in section twenty-five
10 of this article. A separate bond as described in subsec-
11 tion (d) of this section shall be furnished for each well
12 drilled or converted for the introduction of liquids for
13 the disposal of pollutants or the effluent therefrom.
14 Every such bond shall be in the sum of ten thousand
15 dollars, payable to the state of West Virginia, condi-
16 tioned on full compliance with all laws, rules and
17 regulations relating to the drilling, redrilling, deepen-
18 ing, casing and stimulating of oil and gas wells (or, if
19 applicable, with all laws, rules and regulations relating
20 to drilling or converting wells for the introduction of
21 liquids for the purposes provided for in section twenty-
22 five of this article or for the introduction of liquids for
23 the disposal of pollutants or the effluent therefrom) and
24 to the plugging, abandonment and reclamation of wells
25 and for furnishing such reports and information as may

26 be required by the director.

27 (c) When an operator makes or has made application
28 for permits to drill or stimulate a number of oil and gas
29 wells or to drill or convert a number of wells for the
30 introduction of liquids for the purposes provided in
31 section twenty-five of this article, the operator may in
32 lieu of furnishing a separate bond furnish a blanket
33 bond in the sum of fifty thousand dollars, payable to the
34 state of West Virginia, and conditioned as aforesaid in
35 subsection (b) of this section.

36 (d) The form of the bond required by this article shall
37 be approved by the director and may include, at the
38 option of the operator, surety bonding, collateral
39 bonding (including cash and securities) letterss of credit,
40 establishment of an escrow account, self-bonding or a
41 combination of these methods. If collateral bonding is
42 used, the operator may elect to deposit cash, or collateral
43 securities or certificates as follows: bonds of the United
44 States or its possessions, of the federal land bank, or the
45 homeowners' loan corporation; full faith and credit
46 general obligation bonds of the state of West Virginia,
47 or other states, and of any county, district or municipal-
48 ity of the State of West Virginia or other states; or
49 certificates of deposit in a bank in this state, which
50 certificates shall be in favor of the division. The cash
51 deposit or market value of such securities or certificates
52 shall be equal to or greater than the amount of the bond.
53 The director shall, upon receipt of any such deposit of
54 cash, securities or certificates, promptly place the same
55 with the treasurer of the state of West Virginia whose
56 duty it shall be to receive and hold the same in the name
57 of the state in trust for the purpose of which the deposit
58 is made when the permit is issued. The operator shall
59 be entitled to all interest and income earned on the
60 collateral securities filed by such operator. The operator
61 making the deposit shall be entitled from time to time
62 to receive from the state treasurer, upon the written
63 approval of the director, the whole or any portion of any
64 cash, securities or certificates so deposited, upon
65 depositing with him in lieu thereof, cash or other
66 securities or certificates of the classes herein specified

67 having value equal to or greater than the amount of the
68 bond.

69 (e) When an operator has furnished a separate bond
70 from a corporate bonding or surety company to drill,
71 fracture or stimulate an oil or gas well and the well
72 produces oil or gas or both, its operator may deposit
73 with the director cash from the sale of the oil or gas or
74 both until the total deposited is ten thousand dollars.
75 When the sum of the cash deposited is ten thousand
76 dollars, the separate bond for the well shall be released
77 by the director. Upon receipt of such cash, the director
78 shall immediately deliver the same to the treasurer of
79 the state of West Virginia. The treasurer shall hold such
80 cash in the name of the state in trust for the purpose
81 for which the bond was furnished and the deposit was
82 made. The operator shall be entitled to all interest and
83 income which may be earned on the cash deposited so
84 long as the operator is in full compliance with all laws,
85 rules and regulations relating to the drilling, redrilling,
86 deepening, casing, plugging, abandonment and reclama-
87 tion of the well for which the cash was deposited and
88 so long as he has furnished all reports and information
89 as may be required by the director. If the cash realized
90 from the sale of oil or gas or both from the well is not
91 sufficient for the operator to deposit with the director
92 the sum of ten thousand dollars within one year of the
93 day the well started producing, the corporate or surety
94 company which issued the bond on the well may notify
95 the operator and the director of its intent to terminate
96 its liability under its bond. The operator then shall have
97 thirty days to furnish a new bond from a corporate
98 bonding or surety company or collateral securities or
99 other forms of security, as provided in the next
100 preceding paragraph of this section with the director.
101 If a new bond or collateral securities or other forms of
102 security are furnished by the operator, the liability of
103 the corporate bonding or surety company under the
104 original bond shall terminate as to any acts and
105 operations of the operator occurring after the effective
106 date of the new bond or the date the collateral securities
107 or other forms of security are accepted by the treasurer
108 of the state of West Virginia. If the operator does not

109 furnish a new bond or collateral securities or other
110 forms of security, as provided in the next preceding
111 paragraph of this section, with the director, he shall
112 immediately plug, fill and reclaim the well in accor-
113 dance with all of the provisions of law, rules and
114 regulations applicable thereto. In such case, the corpo-
115 rate or surety company which issued the original bond
116 shall be liable for any plugging, filling or reclamation
117 not performed in accordance with such laws, rules and
118 regulations.

119 (f) Any separate bond furnished for a particular well
120 prior to the effective date of this chapter shall continue
121 to be valid for all work on the well permitting prior to
122 the effective date of this chapter; but no permit shall
123 hereafter be issued on such a particular well without a
124 bond complying with the provisions of this section. Any
125 blanket bond furnished prior to the effective date of this
126 chapter shall be replaced with a new blanket bond
127 conforming to the requirements of this section, at which
128 time the prior bond shall be discharged by operation of
129 law; and if the director determines that any operator has
130 not furnished a new blanket bond, the director shall
131 notify the operator by certified mail, return receipt
132 requested, of the requirement for a new blanket bond;
133 and failure to submit a new blanket bond within sixty
134 days after receipt of the notice from the director shall
135 work a forfeiture under subsection (i) of this section of
136 the blanket bond furnished prior to the effective date of
137 this chapter.

138 (g) Any such bond shall remain in force until released
139 by the director and the director shall release the same
140 when he is satisfied the conditions thereof have been
141 fully performed. Upon the release of any such bond, any
142 cash or collateral securities deposited shall be returned
143 by the director to the operator who deposited same.

144 (h) Whenever the right to operate a well is assigned
145 or otherwise transferred, the assignor or transferor shall
146 notify the department of the name and address of the
147 assignee or transferee by certified mail, return receipt
148 requested, not later than five days after the date of the
149 assignment or transfer. No assignment or transfer by

150 the owner shall relieve the assignor or transferor of the
151 obligations and liabilities unless and until the assignee
152 or transferee files with the department the well name
153 and the permit number of the subject well, the county
154 and district in which the subject well is located, the
155 names and addresses of the assignor or transferor, and
156 assignee or transferee, a copy of the instrument of
157 assignment or transfer accompanied by the applicable
158 bond, cash, collateral security or other forms of security,
159 described in section twelve, fourteen twenty-three or
160 twenty-six, of this article, and the name and address of
161 the assignee's or transferee's designated agent if
162 assignee or transferee would be required to designate
163 such an agent under section six of this article, if
164 assignee or transferee were an applicant for a permit
165 under said section six. Every well operator required to
166 designate an agent under this section shall within five
167 days after the termination of such designation notify the
168 department of such termination and designate a new
169 agent.

170 Upon compliance with the requirements of this section
171 by assignor or transferor an assignee or transferee, the
172 director shall release assignor or transferor from all
173 duties and requirements of this article, and the deputy
174 director shall given written notice of release unto
175 assignor or transferor of any bond and return unto
176 assignor or transferor any cash or collateral securities
177 deposited pursuant to section twelve, fourteen, twenty-
178 three or twenty-six of this article.

179 (i) If any of the requirements of this article or rules
180 and regulations promulgated pursuant thereto or the
181 orders of the director have not been complied with
182 within the time limit set by the violation notice as
183 defined in sections three, four and five of this article,
184 the performance bond shall then be forfeited.

185 (j) When any bond is forfeited pursuant to the
186 provisions of this article or rules and regulations
187 promulgated pursuant thereto, the director shall give
188 notice to the attorney general who shall collect the
189 forfeiture without delay.

190 (k) All forfeitures shall be deposited in the treasury
191 of the state of West Virginia in the special reclamation
192 fund as defined in section twenty-nine of this article.

James A. ...
...

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

Bruce O. Williams
Chairman Senate Committee

Lyle Settes
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Todd C. Walker
Clerk of the Senate

Donald L. Kopp
Clerk of the House of Delegates

Dan Tomlin
President of the Senate

Robert C. Bell
Speaker of the House of Delegates

The within *Approved* this the *2nd*
day of *April*, 1987.

Arch A. Shivers, Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/27/57

Time 2:19 p.m.