WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1987

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ENROLLED

HOUSE BILL No. 2246...

(By Delegates Minard and McKinley)

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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.

Except as otherwise expressly provided in this chapter or in chapters twenty-two-a or twenty-two-b of this code, jurisdiction over the issuance of regulations, or any and all permits and other governmental authorizations required or to be required in all matters pertaining to the exploration, development, production, storage and recovery of coal, oil and gas, and other mineral resources in this state including all safety, conservation, land, water, waste disposal, reclamation, and environmental regulations, permits and authorizations of such activities called for pursuant to articles five, five-a, five-d and five-f, chapter twenty of this code, and the enforcement and implementation thereof is vested exclusively in the department of energy. The department of energy is hereby designated as the lead regulatory agency for this state for all purposes of federal legislation relating to such activities.

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

All permits, certifications, waivers, bonds, orders or authorizations heretofore issued by or favoring the department of mines, department of natural resources,
or any of the boards or commissions continued in effect by this chapter shall be continued in effect but become subject to the provisions of this chapter, chapter twenty-two-a and chapter twenty-two-b of this code. All permits, certifications, waivers, bonds, orders or authorizations heretofore issued or favoring by the department of mines or department of natural resources shall become subject to the jurisdiction of the department of energy. All permits, certifications, waivers, bonds, orders or authorizations heretofore issued by or favoring any of the boards or commissions continued in effect by the provisions of this chapter shall remain subject to the jurisdiction of those boards or commissions.

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.

(a) Drilling units.

(1) After one discovery deep well has been drilled establishing a pool, an application to establish drilling units may be filed with the commissioner by the operator of such discovery deep well or by the operator of any lands directly and immediately affected by the drilling of such discovery deep well, or subsequent deep wells in said pool, and the commissioner shall promptly schedule a hearing on said application. Each application shall contain such information as the commissioner may prescribe by reasonable rules and regulations promulgated by him in accordance with the provisions of section five of this article.

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

(3) On the date specified in such notice, the commissioner shall hold a public hearing to determine the area
to be included in such spacing order and the acreage to
be contained by each drilling unit, the shape thereof,
and the minimum distance from the outside boundary
of the unit at which a deep well may be drilled thereon.
At such hearing the commissioner shall consider:

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

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

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

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

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

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

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

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

(5) No drilling unit established by the commissioner
shall be smaller than the maximum area which can be
drained efficiently and economically by one deep well:
Provided, That if at the time of a hearing to establish
drilling units, there is not sufficient evidence from
which to determine the area which can be drained
efficiently and economically by one deep well, the commissioner may enter an order establishing temporary drilling units for the orderly development of the pool pending the obtaining of information necessary to determine the ultimate spacing for such pool.

(6) An order establishing drilling units shall specify the minimum distance from the nearest outside boundary of the drilling unit at which a deep well may be drilled. The minimum distance provided shall be the same in all drilling units established under said order with necessary exceptions for deep wells drilled or being drilled at the time of the filing of the application. If the commissioner finds that a deep well to be drilled at or more than the specified minimum distance from the boundary of a drilling unit would not be likely to produce in paying quantities or will encounter surface conditions which would substantially add to the burden or hazard of drilling such deep well, or that a location within the area permitted by the order is prohibited by the lawful order of any state agency or court, the commissioner is authorized after notice and hearing to make an order permitting the deep well to be drilled at a location within the minimum distance prescribed by the spacing order. In granting exceptions to the spacing order, the commissioner may restrict the production from any such deep well so that each person entitled thereto in such drilling unit shall not produce or receive more than his just and equitable share of the production from such pool.

(7) An order establishing drilling units for a pool shall cover all lands determined or believed to be underlaid by such pool, and may be modified by the commissioner from time to time, to include additional lands determined to be underlaid by such pool or to exclude lands determined not to be underlaid by such pool. An order establishing drilling units may be modified by the commissioner to permit the drilling of additional deep wells on a reasonably uniform pattern at a uniform minimum distance from the nearest unit boundary as provided above. Any order modifying a prior order shall be made only after application by an interested operator.
and notice and hearing as prescribed herein for the original order: Provided, however, drilling units established by order shall not exceed one hundred sixty acres for an oil well or six hundred forty acres for a gas well.

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

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

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

(b) Pooling of interests in drilling units.

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

(2) All operations, including, but not limited to, the commencement, drilling or operation of a deep well,
upon any portion of a drilling unit for which a pooling
order has been entered, shall be deemed for all purposes
the conduct of such operations upon each separately
owned tract in the drilling unit by the several owners
thereof. That portion of the production allocated to a
separately owned tract included in a drilling unit shall,
when produced, be deemed for all purposes to have been
actually produced from such tract by a deep well drilled
thereon.

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

(4) No drilling or operation of a deep well for the
production of oil or gas shall be permitted upon or
within any tract of land unless the operator shall have
first obtained the written consent and easement there-
for, duly acknowledged and placed of record in the office
of the county clerk, for valuable consideration of all
owners of the surface of such tract of land, which
consent shall describe with reasonable certainty, the
location upon such tract, of the location of such proposed
deep well, a certified copy of which consent and
easement shall be submitted by the operator to the
commissioner.

(5) Upon request, any such pooling order shall provide
just and equitable alternatives whereby an owner of an
operating interest who does not elect to participate in
the risk and cost of the drilling of a deep well may elect:

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

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

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

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

(a) There is hereby continued an oil and gas inspec-
tors' examining board consisting of five members who, except for the public representative on such board, shall be appointed by the governor, by and with the advice and consent of the Senate. Members may be removed only for the same causes and like manner as elective state officers. One member of the board who shall be the representative of the public, shall be a professor in the petroleum engineering department of the school of mines at West Virginia University appointed by the dean of said school; two members shall be persons who by reason of previous training and experience may reasonably be said to represent the viewpoint of independent oil and gas operators; and two members shall be persons who by reason of previous training and experience may reasonably be said to represent the viewpoint of major oil and gas producers.

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

The members of the board, except the public representative, shall be appointed for overlapping terms of eight years, except that the original appointments shall be for terms of two, four, six and eight years, respectively. Any member whose term expires may be reappointed by the governor.

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

The public member shall serve as chairman of the board.

Members of the board, before performing any duty, shall take and subscribe to the oath required by section
five, article four of the constitution of West Virginia.

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

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

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

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

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

(4) Prepare and certify to said director and the commissioner a register of qualified eligible candidates for appointment as oil and gas inspectors or as supervising inspectors, with such differentiation, if any, between the certification of candidates for oil and gas inspectors and for supervising inspectors as the board
may from time to time deem necessary or advisable. The register shall list all qualified eligible candidates in the order of their grades, the candidate with the highest grade appearing at the top of the list. After each meeting of the board held to examine such candidates and at least annually, the board shall prepare and submit to the said director and the commissioner a revised and corrected register of qualified eligible candidates for appointment, deleting from such revised register all persons (a) who are no longer residents of West Virginia, (b) who have allowed a calendar year to expire without, in writing, indicating their continued availability for such appointment, (c) who have been passed over for appointment for three years, (d) who have become ineligible for appointment since the board originally certified that such persons were qualified and eligible for appointment, or (e) who, in the judgment of at least three members of the board, should be removed from the register for good cause;

(5) Cause the secretary of the board to keep and preserve the written examination papers, manuscripts, grading sheets and other papers of all applicants for appointment for such period of time as may be established by the board. Specimens of the examinations given, together with the correct solution of each question, shall be preserved permanently by the secretary of the board;

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

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

(8) Hear and determine appeals of inspectors or the supervising inspector from suspension orders made by said director pursuant to the provisions of section two, article one of chapter twenty-two-b of this code: Provided, That in order to appeal from any order of suspension, an aggrieved inspector or supervising inspector shall file such appeal in writing with the oil and gas inspectors' examining board not later than ten...
days after receipt of the notice of suspension. On such appeal the board shall affirm the action of said director unless it be satisfied from a clear preponderance of the evidence that said director has acted arbitrarily;

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

(10) Render such advice and assistance to the director of the division of oil and gas as he shall from time to time determine necessary or desirable in the performance of his duties.

(c) After having conducted a performance and fiscal audit through its joint committee on government operations, pursuant to section nine, article ten, chapter four of this code, the Legislature hereby finds and declares that the oil and gas inspectors' examining board within the department of energy should be continued and reestablished. Accordingly, notwithstanding the provisions of section four, article ten, chapter four of this code, the oil and gas inspectors' examining board within the department of energy shall continue to exist until the first day of July, one thousand 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.

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

(b) The director of the division of oil and gas is authorized to enact rules and regulations necessary to effectuate the above stated purposes, subject to review and approval by the commissioner.
(c) The director shall have full charge of the oil and gas matters set out in this article and in articles three and four of this chapter, subject always to the direct supervision and control of the commissioner of the department of energy. In addition to all other powers and duties conferred upon him, the director shall have the power and duty to:

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

2. Employ a supervising oil and gas inspector and oil and gas inspectors upon approval by the commissioner;

3. Supervise and direct such oil and gas inspectors and supervising inspector in the performance of their duties;

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

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

6. Employ a hearing officer and such clerks, stenographers and other employees, as may be necessary to carry out his duties and the purposes of the division of oil and gas and fix their compensation;

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

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

9. Make annually a full and complete written report to the commissioner as he may from time to time request, so that the commissioner can complete the
(10) Conduct such research and studies as the commissioner shall deem necessary to aid in protecting the health and safety of persons employed within or at potential or existing oil or gas production fields within this state, to improve drilling and production methods and to provide for the more efficient protection and preservation of oil and gas-bearing rock strata and property used in connection therewith;

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

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

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

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

(15) Perform all duties as the permit issuing authority for the state in all matters pertaining to the exploration, development, production, storage and recovery of this
state's oil and gas in accordance with section thirteen, article one, chapter twenty-two of this code;

(16) Adopt rules and regulations in accordance with section thirteen, article one, chapter twenty-two of this code with respect to the issuance, denial, retention, suspension or revocation of permits, authorizations and requirements of this chapter, which rules and regulations shall assure that the regulations, permits and authorizations issued by the director are adequate to satisfy the purposes of this chapter and chapter twenty-two of this code particularly with respect to the consolidation of the various state and federal programs which place permitting requirements on the exploration, development, production, storage and recovery of this state's oil and gas: Provided, That notwithstanding any provisions of this chapter or chapter twenty-two of this code to the contrary, the water resources board shall have the sole authority pursuant to section three-a, article five-a of chapter twenty of this code to promulgate rules and regulations setting standards of water quality applicable to waters of the state;

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

(d) The director 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 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 director, all oil and gas
inspectors and the supervising inspector in making
inspections or obtaining information.

(e) 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.

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

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

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

(b) A separate bond as described in subsection (d) of
this section may be furnished for a particular oil or gas
well, or for a particular well for the introduction of
liquids for the purposes provided in section twenty-five
of this article. A separate bond as described in subsec-
tion (d) of this section shall be furnished for each well
drilled or converted for the introduction of liquids for
the disposal of pollutants or the effluent therefrom.
Every such bond shall be in the sum of ten thousand
dollars, payable to the state of West Virginia, condi-
tioned on full compliance with all laws, rules and
regulations relating to the drilling, redrilling, deepen-
ing, casing and stimulating of oil and gas wells (or, if
applicable, with all laws, rules and regulations relating
to drilling or converting wells for the introduction of
liquids for the purposes provided for in section twenty-
five of this article or for the introduction of liquids for
the disposal of pollutants or the effluent therefrom) and
to the plugging, abandonment and reclamation of wells
and for furnishing such reports and information as may
be required by the director.

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

(d) The form of the bond required by this article shall be approved by the director and may include, at the option of the operator, surety bonding, collateral bonding (including cash and securities) letters of credit, establishment of an escrow account, self-bonding or a combination of these methods. If collateral bonding is used, the operator may elect to deposit cash, or collateral securities or certificates as follows: bonds of the United States or its possessions, of the federal land bank, or the homeowners’ loan corporation; full faith and credit general obligation bonds of the state of West Virginia, or other states, and of any county, district or municipality of the State of West Virginia or other states; or certificates of deposit in a bank in this state, which certificates shall be in favor of the division. The cash deposit or market value of such securities or certificates shall be equal to or greater than the amount of the bond. The director shall, upon receipt of any such deposit of cash, securities or certificates, promptly place the same with the treasurer of the state of West Virginia whose duty it shall be to receive and hold the same in the name of the state in trust for the purpose of which the deposit is made when the permit is issued. The operator shall be entitled to all interest and income earned on the collateral securities filed by such operator. The operator making the deposit shall be entitled from time to time to receive from the state treasurer, upon the written approval of the director, the whole or any portion of any cash, securities or certificates so deposited, upon depositing with him in lieu thereof, cash or other securities or certificates of the classes herein specified.
having value equal to or greater than the amount of the
bond.

(e) 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 director cash from the sale of the oil or gas or
both until the total deposited is ten thousand dollars.
When the sum of the cash deposited is ten thousand
dollars, the separate bond for the well shall be released
by the director. Upon receipt of such cash, the director
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, abandonment and reclama-
tion of the well for which the cash was deposited and
so long as he has furnished all reports and information
as may be required by the director. 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 director
the sum of ten thousand 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 director 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 or
other forms of security, as provided in the next
preceding paragraph of this section with the director.
If a new bond or collateral securities or other forms of
security are furnished 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 securities
or other forms of security are accepted by the treasurer
of the state of West Virginia. If the operator does not
furnish a new bond or collateral securities or other forms of security, as provided in the next preceding paragraph of this section, with the director, 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 regulations.

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

(g) Any such bond shall remain in force until released by the director and the director shall release the same when he 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 director to the operator who deposited same.

(h) Whenever the right to operate a well is assigned or otherwise transferred, the assignor or transferor shall notify the department of the name and address of the assignee or transferee by certified mail, return receipt requested, not later than five days after the date of the assignment or transfer. No assignment or transfer by
the owner shall relieve the assignor or transferor of the
obligations and liabilities unless and until the assignee
or transferee files with the department the well name
and the permit number of the subject well, the county
and district in which the subject well is located, the
names and addresses of the assignor or transferor, and
assignee or transferee, a copy of the instrument of
assignment or transfer accompanied by the applicable
bond, cash, collateral security or other forms of security,
described in section twelve, fourteen twenty-three or
twenty-six, of this article, and the name and address of
the assignee’s or transferee’s designated agent if
assignee or transferee would be required to designate
such an agent under section six of this article, if
assignee or transferee were an applicant for a permit
under said section six. Every well operator required to
designate an agent under this section shall within five
days after the termination of such designation notify the
department of such termination and designate a new
agent.

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

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

(j) When any bond is forfeited pursuant to the
provisions of this article or rules and regulations
promulgated pursuant thereto, the director shall give
notice to the attorney general who shall collect the
forfeiture without delay.
(k) All forfeitures shall be deposited in the treasury of the state of West Virginia in the special reclamation fund as defined in section twenty-nine of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

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

Governor