WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 1992

ENROLLED

HOUSE BILL No. 4632

(By Delegates Carper and Michael)

Passed March 4, 1992
In Effect Ninety Days From Passage

SECRETARY OF STATE
1992 APR 1 PM 4:41
RECEIVED
AN ACT to amend and reenact section two, article eight, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section one, article one, chapter twenty-two-b, all relating to excluding gas vented or released from mine areas and adjacent coal seams from the definition of waste.

Be it enacted by the Legislature of West Virginia:

That section two, article eight, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section one, article one, chapter twenty-two-b be amended and reenacted, all to read as follows:

CHAPTER 22. ENVIRONMENTAL RESOURCES.

ARTICLE 8. OIL AND GAS CONSERVATION.

§22-8-2. Definitions.

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

3 (1) “Commission” means the oil and gas conservation commission and “commissioner” means the oil and gas conservation commissioner as provided for in section four of this article;

7 (2) “Director” means the director for the division of
oil and gas provided for in section eleven, article one, chapter twenty-two of this code;

(3) "Person" means any natural person, corporation, partnership, receiver, trustee, executor, administrator, guardian, fiduciary or other representative of any kind, and includes any government or any political subdivision or any agency thereof;

(4) "Operator" means any owner of the right to develop, operate and produce oil and gas from a pool and to appropriate the oil and gas produced therefrom, either for himself or for himself and others; in the event that there is no oil and gas lease in existence with respect to the tract in question, the owner of the oil and gas rights therein shall be considered as "operator" to the extent of seven eighths of the oil and gas in that portion of the pool underlying the tract owned by such owner, and as "royalty owner" as to one-eighth interest in such oil and gas; and in the event the oil is owned separately from the gas, the owner of the substance being produced or sought to be produced from the pool shall be considered as "operator" as to such pool;

(5) "Royalty owner" means any owner of oil and gas in place, or oil and gas rights, to the extent that such owner is not an operator as defined in subdivision (4) of this section;

(6) "Independent producer" means a person who is actively engaged in the production of oil and gas in West Virginia, but whose gross revenue from such production in West Virginia does not exceed five hundred thousand dollars per year;

(7) "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 reservoir;

(8) "Gas" means all natural gas and all other fluid hydrocarbons not defined as oil in subdivision (7) of this section;
(9) "Pool" means an underground accumulation of petroleum in a single and separate natural reservoir (ordinarily a porous sandstone or limestone). It is characterized by a single natural-pressure system so that production of petroleum from one part of the pool affects the reservoir pressure throughout its extent. A pool is bounded by geologic barriers in all directions, such as geologic structural conditions, impermeable strata, and water in the formations, so that it is effectively separated from any other pools that may be presented in the same district or on the same geologic structure;

(10) "Well" means any shaft or hole sunk, drilled, bored or dug into the earth or underground strata for the extraction of oil or gas;

(11) "Shallow well" means any well drilled and completed in a formation above the top of the uppermost member of the "Onondaga Group"; Provided, That in drilling a shallow well the operator may penetrate into the "Onondaga Group" to a reasonable depth, not in excess of twenty feet, in order to allow for logging and completion operations, but in no event may the "Onondaga Group" formation be otherwise produced, perforated or stimulated in any manner;

(12) "Deep well" means any well, other than a shallow well, drilled and completed in a formation at or below the top of the uppermost member of the "Onondaga Group";

(13) "Drilling unit" means the acreage on which one well may be drilled;

(14) "Waste" means and includes: (A) Physical waste, as that term is generally understood in the oil and gas industry; (B) the locating, drilling, equipping, operating or producing of any oil or gas well in a manner that causes, or tends to cause, a reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations, or that causes or tends to cause unnecessary or excessive surface loss of oil or gas; or (C) the drilling of more deep wells than are reasonably required to recover efficiently and econom-
ically the maximum amount of oil and gas from a pool. Waste does not include gas vented or released from any mine areas as defined in section one, article one-a, chapter twenty-two-a of this code or from adjacent coal seams which are the subject of a current permit issued under article two of chapter twenty-two-a of this code: Provided, That nothing in this exclusion is intended to address ownership of the gas;

(15) “Correlative rights” means the reasonable opportunity of each person entitled thereto to recover and receive without waste the oil and gas in and under his tract or tracts, or the equivalent thereof; and

(16) “Just and equitable share of production” means, as to each person, an amount of oil or gas or both substantially equal to the amount of recoverable oil and gas in that part of a pool underlying his tract or tracts.

(b) Unless the context clearly indicates otherwise, the use of the word “and” and the word “or” shall be interchangeable, as, for example, “oil and gas” shall mean oil or gas or both.

CHAPTER 22B. OIL AND GAS.

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

§22B-1-1. Definitions.

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

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

(b) “Cement” means hydraulic cement properly mixed with water;

(c) “Chairman” means the chairman of the West Virginia shallow gas well review board as provided for in section four, article seven, chapter twenty-two of this code;

(d) “Chief” means chief of the division of water resources of the department of natural resources;
(e) "Coal operator" means any person or persons, firm, partnership, partnership association or corporation that proposes to or does operate a coal mine;

(f) "Coal seam" and "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;

(g) "Commissioner" means commissioner of the department of energy;

(h) "Deep well" means any well other than a shallow well, drilled and completed in a formation at or below the top of the uppermost member of the "Onondaga Group";

(i) "Division" means, for purposes of this article and articles three and four of this chapter, the division of oil and gas of the department of energy;

(j) "Director" means, for the purposes of this article and articles two, three and four of this chapter, the director of the division of oil and gas of the department of energy;

(k) "Expanding cement" means any cement approved by the division of oil and gas which expands during the hardening process, including, but not limited to, regular oil field cements with the proper additives;

(l) "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 article three or four of this chapter, other than a well or well site;

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

(n) "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;

(o) "Owner" when used with reference to any well,
shall include any person or persons, firm, partnership,
partnership association or corporation that owns,
manages, operates, controls or possesses such well as
principal, or as lessee or contractor, employee or agent
of such principal;

(p) "Owner" when used with reference to any coal
seam, shall include any person or persons who own, lease
or operate such coal seam;

(q) "Person" means any natural person, corporation,
firm, partnership, partnership association, venture,
receiver, trustee, executor, administrator, guardian,
fiduciary or other representative of any kind, and
includes any government or any political subdivision or
any agency thereof;

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

(s) "Review board" means the West Virginia shallow
gas well review board as provided for in section four,
article seven, chapter twenty-two of this code;

(t) "Safe mining through of a well" means the mining
of coal in a workable coal bed up to a well which
penetrates such workable coal bed and through such
well so that the casing or plug in the well bore where
the well penetrates the workable coal bed is severed;

(u) "Shallow well" means any gas well drilled and
completed in a formation above the top of the uppermost
member of the "Onondaga Group": Provided, That in
drilling a shallow well the operator may penetrate into
the "Onondaga Group" to a reasonable depth, not in
excess of twenty feet, in order to allow for logging and
completion operations, but in no event may the "Onon-
daga Group" formation be otherwise produced, perfo-
rated or stimulated in any manner;

(v) "Stimulate" means any action taken by a well
operator to increase the inherent productivity of an oil
or gas well, including, but not limited to, fracturing, shooting or acidizing, but excluding cleaning out, bailing or workover operations;

(w) “Waste” means (i) physical waste, as the term is generally understood in the oil and gas industry; (ii) the locating, drilling, equipping, operating or producing or any oil or gas well in a manner that causes, or tends to cause a substantial reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations, or that causes or tends to cause a substantial or unnecessary or excessive surface loss of oil or gas; or (iii) the drilling of more deep wells than are reasonably required to recover efficiently and economically the maximum amount of oil and gas from a pool; (iv) substantially inefficient, excessive or improper use, or the substantially unnecessary dissipation of, reservoir energy, it being understood that nothing in this chapter shall be construed to authorize any agency of the state to impose mandatory spacing of shallow wells except for the provisions of section eight, article eight, chapter twenty-two of this code and the provisions of article seven, chapter twenty-two of this code; (v) inefficient storing of oil or gas: Provided, That storage in accordance with a certificate of public convenience issued by the federal energy regulatory commission shall be conclusively presumed to be efficient and (vi) other underground or surface waste in the production or storage of oil, gas or condensate, however caused. Waste does not include gas vented or released from any mine areas as defined in section one, article one-a, chapter twenty-two-a of this code or from adjacent coal seams which are the subject of a current permit issued under article two of chapter twenty-two-a of this code: Provided, however, That nothing in this exclusion is intended to address ownership of the gas;

(x) “Well” means any shaft or hole sunk, drilled, bored or dug into 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, indus-
trial, agricultural or public use;

(y) “Well work” means the drilling, redrilling,
deepening, stimulating, pressuring by injection of any
fluid, converting from one type of well to another,
combining or physically changing to allow the migration
of fluid from one formation to another or plugging or
replugging of any well;

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

(aa) “Pollutant” shall have the same meaning as
provided in subsection (x), section two, article five-a,
chapter twenty of this code; and

(bb) “Waters of this state” shall have the same
meaning as the term “waters” as provided in subsection
(e), section two, article five-a, chapter twenty of this
code.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

The within is approved this the ___

day of ___ 1992.

[Signature]
Governor
PRESENTED TO THE
GOVERNOR

Date 3/6/82
Time 4:00 pm