

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1992



ENROLLED


HOUSE BILL No. 4632

(By Delegates Carper and Michael)



Passed March 6, 1992

In Effect Ninety Days (From Passage

®  C 641

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE
1992 APR -1 PM 4:41

RECEIVED

ENROLLED
H. B. 4632

(By DELEGATES CARPER AND MICHAEL)

[Passed March 6, 1992; in effect ninety days from passage.]

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
- 2 a different meaning, as used in this article:
- 3 (1) "Commission" means the oil and gas conservation
- 4 commission and "commissioner" means the oil and gas
- 5 conservation commissioner as provided for in section
- 6 four of this article;
- 7 (2) "Director" means the director for the division of

8 oil and gas provided for in section eleven, article one,
9 chapter twenty-two of this code;

10 (3) "Person" means any natural person, corporation,
11 partnership, receiver, trustee, executor, administrator,
12 guardian, fiduciary or other representative of any kind,
13 and includes any government or any political subdivi-
14 sion or any agency thereof;

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

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

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

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

44 (8) "Gas" means all natural gas and all other fluid
45 hydrocarbons not defined as oil in subdivision (7) of this
46 section;

47 (9) "Pool" means an underground accumulation of
48 petroleum in a single and separate natural reservoir
49 (ordinarily a porous sandstone or limestone). It is
50 characterized by a single natural-pressure system so
51 that production of petroleum from one part of the pool
52 affects the reservoir pressure throughout its extent. A
53 pool is bounded by geologic barriers in all directions,
54 such as geologic structural conditions, impermeable
55 strata, and water in the formations, so that it is
56 effectively separated from any other pools that may be
57 presented in the same district or on the same geologic
58 structure;

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

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

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

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

77 (14) "Waste" means and includes: (A) Physical waste,
78 as that term is generally understood in the oil and gas
79 industry; (B) the locating, drilling, equipping, operating
80 or producing of any oil or gas well in a manner that
81 causes, or tends to cause, a reduction in the quantity of
82 oil or gas ultimately recoverable from a pool under
83 prudent and proper operations, or that causes or tends
84 to cause unnecessary or excessive surface loss of oil or
85 gas; or (C) the drilling of more deep wells than are
86 reasonably required to recover efficiently and econom-

87 ically the maximum amount of oil and gas from a pool.
88 Waste does not include gas vented or released from any
89 mine areas as defined in section one, article one-a,
90 chapter twenty-two-a of this code or from adjacent coal
91 seams which are the subject of a current permit issued
92 under article two of chapter twenty-two-a of this code:
93 *Provided*, That nothing in this exclusion is intended to
94 address ownership of the gas;

95 (15) "Correlative rights" means the reasonable oppor-
96 tunity of each person entitled thereto to recover and
97 receive without waste the oil and gas in and under his
98 tract or tracts, or the equivalent thereof; and

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

103 (b) Unless the context clearly indicates otherwise, the
104 use of the word "and" and the word "or" shall be
105 interchangeable, as, for example, "oil and gas" shall
106 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.

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

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

6 (b) "Cement" means hydraulic cement properly mixed
7 with water;

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

12 (d) "Chief" means chief of the division of water
13 resources of the department of natural resources;

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

17 (f) "Coal seam" and "workable coal bed" are inter-
18 changeable terms and mean any seam of coal twenty
19 inches or more in thickness, unless a seam of less
20 thickness is being commercially worked, or can in the
21 judgment of the department foreseeably be commer-
22 cially worked and will require protection if wells are
23 drilled through it;

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

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

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

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

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

41 (l) "Facility" means any facility utilized in the oil and
42 gas industry in this state and specifically named or
43 referred to in this article or in article three or four of
44 this chapter, other than a well or well site;

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

48 (n) "Oil" means natural crude oil or petroleum and
49 other hydrocarbons, regardless of gravity, which are
50 produced at the well in liquid form by ordinary
51 production methods and which are not the result of

52 condensation of gas after it leaves the underground
53 reservoirs;

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

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

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

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

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

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

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

88 (v) "Stimulate" means any action taken by a well
89 operator to increase the inherent productivity of an oil

90 or gas well, including, but not limited to, fracturing,
91 shooting or acidizing, but excluding cleaning out,
92 bailing or workover operations;

93 (w) "Waste" means (i) physical waste, as the term is
94 generally understood in the oil and gas industry; (ii) the
95 locating, drilling, equipping, operating or producing or
96 any oil or gas well in a manner that causes, or tends
97 to cause a substantial reduction in the quantity of oil or
98 gas ultimately recoverable from a pool under prudent
99 and proper operations, or that causes or tends to cause
100 a substantial or unnecessary or excessive surface loss of
101 oil or gas; or (iii) the drilling of more deep wells than
102 are reasonably required to recover efficiently and
103 economically the maximum amount of oil and gas from
104 a pool; (iv) substantially inefficient, excessive or
105 improper use, or the substantially unnecessary dissipa-
106 tion of, reservoir energy, it being understood that
107 nothing in this chapter shall be construed to authorize
108 any agency of the state to impose mandatory spacing of
109 shallow wells except for the provisions of section eight,
110 article eight, chapter twenty-two of this code and the
111 provisions of article seven, chapter twenty-two of this
112 code; (v) inefficient storing of oil or gas: *Provided*, That
113 storage in accordance with a certificate of public
114 convenience issued by the federal energy regulatory
115 commission shall be conclusively presumed to be
116 efficient and (vi) other underground or surface waste in
117 the production or storage of oil, gas or condensate,
118 however caused. Waste does not include gas vented or
119 released from any mine areas as defined in section one,
120 article one-a, chapter twenty-two-a of this code or from
121 adjacent coal seams which are the subject of a current
122 permit issued under article two of chapter twenty-two-
123 a of this code: *Provided, however*, That nothing in this
124 exclusion is intended to address ownership of the gas;

125 (x) "Well" means any shaft or hole sunk, drilled, bored
126 or dug into the earth or into underground strata for the
127 extraction or injection or placement of any liquid or gas,
128 or any shaft or hole sunk or used in conjunction with
129 such extraction or injection or placement. The term
130 "well" does not include any shaft or hole sunk, drilled,

131 bored or dug into the earth for the sole purpose of core
132 drilling or pumping or extracting therefrom potable,
133 fresh or usable water for household, domestic, indus-
134 trial, agricultural or public use;

135 (y) "Well work" means the drilling, redrilling,
136 deepening, stimulating, pressuring by injection of any
137 fluid, converting from one type of well to another,
138 combining or physically changing to allow the migration
139 of fluid from one formation to another or plugging or
140 replugging of any well;

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

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

148 (bb) "Waters of this state" shall have the same
149 meaning as the term "waters" as provided in subsection
150 (e), section two, article five-a, chapter twenty of this
151 code.

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

Romer Sleck

Chairman Senate Committee

Ernest C. Moore

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Darrell E. Adams

Clerk of the Senate

Donald G. Kopp

Clerk of the House of Delegates

Kurt Buntette

President of the Senate

Robert C. Byrd

Speaker of the House of Delegates

The within is approved this the *15th*
day of *April* 1992.

Yaston Caperton

Governor

PRESENTED TO THE

GOVERNOR

Date 3/25/92

Time 4:40 pm