

HB 4622 S

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2006



ENROLLED

House Bill No. 4622

(By Delegates Swartzmiller, Anderson, Stemple and Ashley)



Passed March 11, 2006

In Effect Ninety Days from Passage

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

E N R O L L E D

H. B. 4622

(BY DELEGATES SWARTZMILLER, ANDERSON,
STEMPLE AND ASHLEY)

[Passed March 11, 2006; in effect ninety days from passage.]

AN ACT to amend and reenact §22-6-26 of the Code of West Virginia, 1931, as amended; and to amend and reenact §22-21-6 and §22-21-8 of said code, all relating to oil and gas well and methane gas well performance bonds; reducing bond amounts; and increasing certain permit fees.

Be it enacted by the Legislature of West Virginia:

That §22-6-26 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §22-21-6 and §22-21-8 of said code be amended and reenacted, all to read as follows:

ARTICLE 6. OFFICE OF OIL AND GAS; OIL AND GAS WELLS; ADMINISTRATION; ENFORCEMENT.

§22-6-26. Performance bonds; corporate surety or other security.

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

5 (b) A separate bond as described in subsection (d) of this
6 section may be furnished for a particular oil or gas well, or for
7 a particular well for the introduction of liquids for the purposes
8 provided in section twenty-five of this article. A separate bond
9 as described in subsection (d) of this section shall be furnished
10 for each well drilled or converted for the introduction of liquids
11 for the disposal of pollutants or the effluent therefrom. Each of
12 these bonds shall be in the sum of five thousand dollars,
13 payable to the State of West Virginia, conditioned on full
14 compliance with all laws, rules relating to the drilling,
15 redrilling, deepening, casing and stimulating of oil and gas
16 wells (or, if applicable, with all laws, rules relating to drilling
17 or converting wells for the introduction of liquids for the
18 purposes provided in section twenty-five of this article or for
19 the introduction of liquids for the disposal of pollutants or the
20 effluent therefrom) and to the plugging, abandonment and
21 reclamation of wells and for furnishing such reports and
22 information as may be required by the director.

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

31 (d) The form of the bond required by this article shall be
32 approved by the director and may include, at the option of the
33 operator, surety bonding, collateral bonding (including cash and
34 securities) letters of credit, establishment of an escrow account,
35 self-bonding or a combination of these methods. If collateral
36 bonding is used, the operator may elect to deposit cash, or
37 collateral securities or certificates as follows: Bonds of the
38 United States or its possessions, of the federal land bank, or the

39 homeowners' loan corporation; full faith and credit general
40 obligation bonds of the State of West Virginia, or other states,
41 and of any county, district or municipality of the State of West
42 Virginia or other states; or certificates of deposit in a bank in
43 this state, which certificates shall be in favor of the division.
44 The cash deposit or market value of such securities or certifi-
45 cates shall be equal to or greater than the amount of the bond.
46 The director shall, upon receipt of any such deposit of cash,
47 securities or certificates, promptly place the same with the
48 treasurer of the State of West Virginia whose duty it shall be to
49 receive and hold the same in the name of the state in trust for
50 the purpose of which the deposit is made when the permit is
51 issued. The operator shall be entitled to all interest and income
52 earned on the collateral securities filed by such operator. The
53 operator making the deposit shall be entitled from time to time
54 to receive from the State Treasurer, upon the written approval
55 of the director, the whole or any portion of any cash, securities
56 or certificates so deposited, upon depositing with the Treasurer
57 in lieu thereof, cash or other securities or certificates of the
58 classes herein specified having value equal to or greater than
59 the amount of the bond.

60 (e) When an operator has furnished a separate bond from a
61 corporate bonding or surety company to drill, fracture or
62 stimulate an oil or gas well and the well produces oil or gas or
63 both, its operator may deposit with the director cash from the
64 sale of the oil or gas or both until the total deposited is five
65 thousand dollars. When the sum of the cash deposited is five
66 thousand dollars, the separate bond for the well shall be
67 released by the director. Upon receipt of such cash, the director
68 shall immediately deliver the same to the Treasurer of the State
69 of West Virginia. The Treasurer shall hold such cash in the
70 name of the state in trust for the purpose for which the bond
71 was furnished and the deposit was made. The operator shall be
72 entitled to all interest and income which may be earned on the
73 cash deposited so long as the operator is in full compliance with

74 all laws, rules relating to the drilling, redrilling, deepening,
75 casing, plugging, abandonment and reclamation of the well for
76 which the cash was deposited and so long as the operator has
77 furnished all reports and information as may be required by the
78 director. If the cash realized from the sale of oil or gas or both
79 from the well is not sufficient for the operator to deposit with
80 the director the sum of ten thousand dollars within one year of
81 the day the well started producing, the corporate or surety
82 company which issued the bond on the well may notify the
83 operator and the director of its intent to terminate its liability
84 under its bond. The operator then shall have thirty days to
85 furnish a new bond from a corporate bonding or surety com-
86 pany or collateral securities or other forms of security, as
87 provided in the next preceding paragraph of this section with
88 the director. If a new bond or collateral securities or other
89 forms of security are furnished by the operator, the liability of
90 the corporate bonding or surety company under the original
91 bond shall terminate as to any acts and operations of the
92 operator occurring after the effective date of the new bond or
93 the date the collateral securities or other forms of security are
94 accepted by the Treasurer of the State of West Virginia. If the
95 operator does not furnish a new bond or collateral securities or
96 other forms of security, as provided in the next preceding
97 paragraph of this section, with the director, the operator shall
98 immediately plug, fill and reclaim the well in accordance with
99 all of the provisions of law and rules applicable thereto. In such
100 case, the corporate or surety company which issued the original
101 bond shall be liable for any plugging, filling or reclamation not
102 performed in accordance with such laws and rules.

103 (f) Any separate bond furnished for a particular well prior
104 to the effective date of this chapter shall continue to be valid for
105 all work on the well permitting prior to the eleventh day of July,
106 one thousand nine hundred eighty-five; but no permit shall
107 hereafter be issued on such a particular well without a bond
108 complying with the provisions of this section. Any blanket

109 bond furnished prior to the eleventh day of July, one thousand
110 nine hundred eighty-five shall be replaced with a new blanket
111 bond conforming to the requirements of this section, at which
112 time the prior bond shall be discharged by operation of law; and
113 if the director determines that any operator has not furnished a
114 new blanket bond, the director shall notify the operator by
115 certified mail, return receipt requested, of the requirement for
116 a new blanket bond; and failure to submit a new blanket bond
117 within sixty days after receipt of the notice from the director
118 shall work a forfeiture under subsection (i) of this section of the
119 blanket bond furnished prior to the eleventh day of July, one
120 thousand nine hundred eighty-five.

121 (g) Any such bond shall remain in force until released by
122 the director and the director shall release the same upon
123 satisfaction that the conditions thereof have been fully per-
124 formed. Upon the release of any such bond, any cash or
125 collateral securities deposited shall be returned by the director
126 to the operator who deposited same.

127 (h) Whenever the right to operate a well is assigned or
128 otherwise transferred, the assignor or transferor shall notify the
129 department of the name and address of the assignee or trans-
130 feree by certified mail, return receipt requested, not later than
131 five days after the date of the assignment or transfer. No
132 assignment or transfer by the owner shall relieve the assignor
133 or transferor of the obligations and liabilities unless and until
134 the assignee or transferee files with the department the well
135 name and the permit number of the subject well, the county and
136 district in which the subject well is located, the names and
137 addresses of the assignor or transferor, and assignee or trans-
138 feree, a copy of the instrument of assignment or transfer
139 accompanied by the applicable bond, cash, collateral security
140 or other forms of security, described in section twelve, fourteen,
141 twenty-three or twenty-six of this article, and the name and
142 address of the assignee's or transferee's designated agent if
143 assignee or transferee would be required to designate such an
144 agent under section six of this article, if assignee or transferee

145 were an applicant for a permit under said section six. Every
146 well operator required to designate an agent under this section
147 shall within five days after the termination of such designation
148 notify the department of such termination and designate a new
149 agent.

150 Upon compliance with the requirements of this section by
151 assignor or transferor and assignee or transferee, the director
152 shall release assignor or transferor from all duties and require-
153 ments of this article, and the deputy director shall give written
154 notice of release unto assignor or transferor of any bond and
155 return unto assignor or transferor any cash or collateral securi-
156 ties deposited pursuant to section twelve, fourteen, twenty-three
157 or twenty-six of this article.

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

163 (j) When any bond is forfeited pursuant to the provisions of
164 this article or rules promulgated pursuant thereto, the director
165 shall give notice to the Attorney General who shall collect the
166 forfeiture without delay.

167 (k) All forfeitures shall be deposited in the Treasury of the
168 State of West Virginia in the special reclamation fund as
169 defined in section twenty-nine of this article.

ARTICLE 21. COALBED METHANE WELLS AND UNITS.

**§22-21-6. Permit required for coalbed methane well; permit fee;
application; soil erosion control plan; penalties.**

1 (a) It is unlawful for any person to commence, operate,
2 deepen or stimulate any coalbed methane well, to conduct any
3 horizontal drilling of a well commenced from the surface for
4 the purpose of commercial production of coalbed methane, or

5 to convert any existing well, vent hole or other hole to a
6 coalbed methane well, including in any case site preparation
7 work which involves any disturbance of land, without first
8 securing from the chief a permit pursuant to this article.

9 (b) Every permit application filed under this section shall
10 be verified and shall contain the following:

11 (1) The names and addresses of (i) the well operator, (ii) the
12 agent required to be designated under subsection (e) of this
13 section, and (iii) every person or entity whom the applicant
14 must notify under any section of this article;

15 (2) The name and address of each coal operator and each
16 coal owner of record or providing a record declaration of notice
17 pursuant to section thirty-six, article six of this chapter of any
18 coal seam which is (i) to be penetrated by a proposed well, (ii)
19 within seven hundred fifty horizontal feet of any portion of the
20 proposed well bore; or (iii) within one hundred vertical feet of
21 the designated completion coal seams of the proposed well,
22 except that in the case of an application to convert a ventilation
23 hole to a gob well, the name and address only of such owner or
24 operator of the seams to be penetrated by a proposed well shall
25 be necessary;

26 (3) The well name or such other identification as the chief
27 may require;

28 (4) The approximate depth to which the well is to be
29 drilled, deepened or converted, the coal seams (stating the depth
30 and thickness of each seam) in which the well will be com-
31 pleted for production, and any other coal seams (including the
32 depth and thickness of each seam) which will be penetrated by
33 the well;

34 (5) A description of any means to be used to stimulate the
35 well;

36 (6) If the proposed well will require casing or tubing to be
37 set, the entire casing program for the well, including the size of
38 each string of pipe, the starting point and depth to which each
39 string is to be set, and the extent to which each such string is to
40 be cemented;

41 (7) If the proposed operation is to convert an existing well,
42 as defined in section one, article six of this chapter, or to
43 convert a vertical ventilation hole to a coalbed methane well, all
44 information required by this section, all formations from which
45 production is anticipated, and any plans to plug any portion of
46 the well;

47 (8) Except for a gob well or vent hole proposed to be
48 converted to a well, if the proposed coalbed methane well will
49 be completed in some but not all coal seams for production, a
50 plan and design for the well which will protect all workable
51 coal seams which will be penetrated by the well;

52 (9) If the proposed operations will include horizontal
53 drilling of a well commenced on the surface, a description of
54 such operations, including both the vertical and horizontal
55 alignment and extent of the well from the surface to total depth;

56 (10) Any other relevant information which the chief may
57 require by rule.

58 (c) Each application for a coalbed methane well permit
59 shall be accompanied by the following:

60 (1) The applicable bond prescribed by section eight of this
61 article;

62 (2) A permit application fee of six hundred fifty dollars;

63 (3) The erosion and sediment control plan required under
64 subsection (d) of this section;

65 (4) The consent and agreement of the coal owner as
66 required by section seven and, if applicable, section twenty of
67 this article;

68 (5) A plat prepared by a licensed land surveyor or regis-
69 tered engineer showing the district and county in which the drill
70 site is located, the name of the surface owner of the drill site
71 tract, the acreage of the same, the names of the surface owners
72 of adjacent tracts, the names of all coal owners underlying the
73 drill site tract, the proposed or actual location of the well
74 determined by a survey, the courses and distances of such
75 location from two permanent points or landmarks on said tract,
76 the location of any other existing or permitted coalbed methane
77 well or any oil or gas well located within two thousand five
78 hundred feet of the drill site, the number to be given the coalbed
79 methane well, the proposed date for completion of drilling, the
80 proposed date for any stimulation of the well, and if horizontal
81 drilling of a well commenced on the surface is proposed, the
82 vertical and horizontal alignment and extent of the well;

83 (6) A certificate by the applicant that the notice require-
84 ments of section nine of this article have been satisfied by the
85 applicant. Such certification may be by affidavit of personal
86 service, or the return receipt card, or other postal receipt, for
87 certified mailing.

88 (d) An erosion and sediment control plan shall accompany
89 each application for a permit. Such plan shall contain methods
90 of stabilization and drainage, including a map of the project
91 area indicating the amount of acreage disturbed. The erosion
92 and sediment control plan shall meet the minimum require-
93 ments of the West Virginia erosion and sediment control
94 manual as adopted and from time to time amended by the office
95 of oil and gas in consultation with the several soil conservation
96 districts pursuant to the control program established in this state
97 through section 208 of the federal Water Pollution Control Act

98 Amendments of 1972 [33 U.S.C. 1288]. The erosion and
99 sediment control plan shall become part of the terms and
100 conditions of a permit and the provisions of the plan shall be
101 carried out where applicable in operations under the permit. The
102 erosion and sediment control plan shall set out the proposed
103 method of reclamation which shall comply with the require-
104 ments of section thirty, article six of this chapter.

105 (e) The well operator named in such application shall
106 designate the name and address of an agent for such operator
107 who shall be the attorney-in-fact for the operator and who shall
108 be a resident of the state of West Virginia, upon whom notices,
109 orders or other communications issued pursuant to this article
110 may be served, and upon whom process may be served. Every
111 well operator required to designate an agent under this section
112 shall within five days after the termination of such designation
113 notify the office of such termination and designate a new agent.

114 (f) The well owner or operator shall install the permit
115 number as issued by the chief in a legible and permanent
116 manner to the well upon completion of any permitted work. The
117 dimensions, specifications and manner of installation shall be
118 in accordance with the rules of the chief.

119 (g) The chief shall deny the issuance of a permit if he or she
120 determines that the applicant has committed a substantial
121 violation of a previously issued permit, including the erosion
122 and sediment control plan, or a substantial violation of one or
123 more of the rules promulgated hereunder, and has failed to
124 abate or seek review of the violation. In the event that the chief
125 finds that a substantial violation has occurred with respect to
126 existing operations and that the operator has failed to abate or
127 seek review of the violation in the time prescribed, he or she
128 may suspend the permit on which said violation exists, after
129 which suspension the operator shall forthwith cease all work
130 being conducted under the permit until the chief reinstates the

131 permit, at which time the work may be continued. The chief
132 shall make written findings of any such determination made by
133 him or her and may enforce the same in the circuit courts of this
134 state and the operator may appeal such suspension pursuant to
135 the provisions of section twenty-five of this article. The chief
136 shall make a written finding of any such determination.

137 (h) Any person who violates any provision of this section
138 shall be guilty of a misdemeanor, and, upon conviction thereof,
139 shall be fined not more than five thousand dollars, or be
140 imprisoned in the county jail not more than twelve months, or
141 both fined and imprisoned.

§22-21-8. Performance bonds; corporate surety or other security.

1 (a) No permit shall be issued pursuant to this article unless
2 a bond is or has been furnished as provided in this section.

3 (b) A separate bond may be furnished for a particular
4 coalbed methane well in the sum of five thousand dollars,
5 payable to the State of West Virginia, conditioned on full
6 compliance with all laws and rules relating to the drilling,
7 operation and stimulation of such wells, to the plugging,
8 abandonment and reclamation thereof, and for furnishing such
9 reports and information as may be required by the chief.

10 (c) When an operator makes or has made application for
11 permits to drill, operate or stimulate more than one coalbed
12 methane well or a combination of coalbed methane wells and
13 wells regulated under article one, chapter twenty-two-b of this
14 code, the operator may in lieu of furnishing a separate bond
15 furnish a blanket bond in the sum of fifty thousand dollars,
16 payable to the State of West Virginia, and conditioned as stated
17 in subsection (b) of this section.

18 (d) All bonds submitted hereunder shall have a corporate
19 bonding or surety company authorized to do business in the

20 State of West Virginia as surety thereon, or in lieu of a corpo-
21 rate surety, the operator may elect to deposit with the chief
22 cash, collateral securities or any combination thereof as
23 provided in subsection (d), section twenty-six, article six of this
24 chapter.

25 (e) For purposes of bonding requirements, a coalbed
26 methane well shall be treated as a well, as defined and regulated
27 in article one, chapter twenty-two-b of this code, and the
28 provisions of subsections (e), (g), (h), (i) and (j) of section
29 twenty-six thereof shall apply.

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



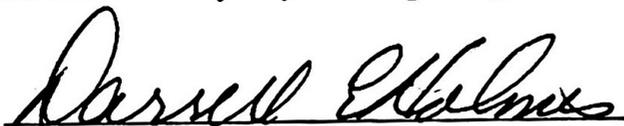
Chairman Senate Committee



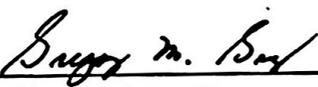
Chairman House Committee

Originating in the House.

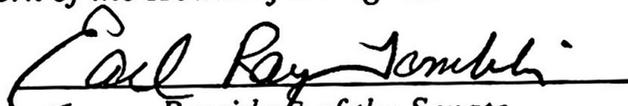
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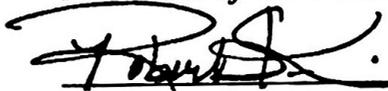
Clerk of the Senate



Clerk of the House of Delegates

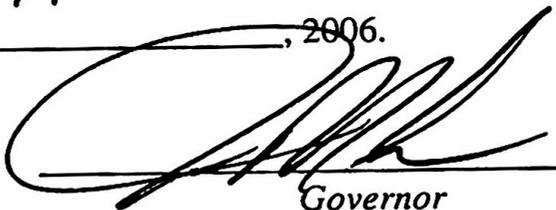


President of the Senate



Speaker of the House of Delegates

The within is appended this the 3rd
day of April, 2006.



Governor

PRESENTED TO THE
GOVERNOR

MAR 27 2006

Time 4:15 pm