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
ENROLLED

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 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 subsection (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. Each of these bonds shall be in the sum of five thousand dollars, payable to the State of West Virginia, conditioned on full compliance with all laws, rules relating to the drilling, redrilling, deepening, casing and stimulating of oil and gas wells (or, if applicable, with all laws, rules relating to drilling or converting wells for the introduction of liquids for the purposes provided 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 certifi-
cates 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 the Treasurer
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 five
thousand dollars. When the sum of the cash deposited is five
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 relating to the drilling, redrilling, deepening, casing, plugging, abandonment and reclamation of the well for which the cash was deposited and so long as the operator 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, the operator shall immediately plug, fill and reclaim the well in accordance with all of the provisions of law and rules 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 and rules.

(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 eleventh day of July, one thousand nine hundred eighty-five; 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 eleventh day of July, one thousand
nine hundred eighty-five 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 eleventh day of July, one
thousand nine hundred eighty-five.

(g) Any such bond shall remain in force until released by
the director and the director shall release the same upon
satisfaction that the conditions thereof have been fully per-
formed. 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 trans-
feree 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 trans-
feree, 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 and assignee or transferee, the director shall release assignor or transferor from all duties and requirements of this article, and the deputy director shall give 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 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 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.

ARTICLE 21. COALBED METHANE WELLS AND UNITS.

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

(a) It is unlawful for any person to commence, operate, deepen or stimulate any coalbed methane well, to conduct any horizontal drilling of a well commenced from the surface for the purpose of commercial production of coalbed methane, or
to convert any existing well, vent hole or other hole to a
coalbed methane well, including in any case site preparation
work which involves any disturbance of land, without first
securing from the chief a permit pursuant to this article.

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

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

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

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

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

(5) A description of any means to be used to stimulate the
well;
(6) If the proposed well will require casing or tubing to be set, the entire casing program for the well, including the size of each string of pipe, the starting point and depth to which each string is to be set, and the extent to which each such string is to be cemented;

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

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

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

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

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

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

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

(3) The erosion and sediment control plan required under subsection (d) of this section;
(4) The consent and agreement of the coal owner as required by section seven and, if applicable, section twenty of this article;

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

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

(d) An erosion and sediment control plan shall accompany each application for a permit. Such plan shall contain methods of stabilization and drainage, including a map of the project area indicating the amount of acreage disturbed. The erosion and sediment control plan shall meet the minimum requirements of the West Virginia erosion and sediment control manual as adopted and from time to time amended by the office of oil and gas in consultation with the several soil conservation districts pursuant to the control program established in this state through section 208 of the federal Water Pollution Control Act
Amendments of 1972 [33 U.S.C. 1288]. The erosion and sediment control plan shall become part of the terms and conditions of a permit and the provisions of the plan shall be carried out where applicable in operations under the permit. The erosion and sediment control plan shall set out the proposed method of reclamation which shall comply with the requirements of section thirty, article six of this chapter.

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

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

(g) The chief shall deny the issuance of a permit if he or she determines that the applicant has committed a substantial violation of a previously issued permit, including the erosion and sediment control plan, or a substantial violation of one or more of the rules promulgated hereunder, and has failed to abate or seek review of the violation. In the event that the chief finds that a substantial violation has occurred with respect to existing operations and that the operator has failed to abate or seek review of the violation in the time prescribed, he or she may suspend the permit on which said violation exists, after which suspension the operator shall forthwith cease all work being conducted under the permit until the chief reinstates the
permit, at which time the work may be continued. The chief shall make written findings of any such determination made by him or her and may enforce the same in the circuit courts of this state and the operator may appeal such suspension pursuant to the provisions of section twenty-five of this article. The chief shall make a written finding of any such determination.

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

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

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

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

(c) When an operator makes or has made application for permits to drill, operate or stimulate more than one coalbed methane well or a combination of coalbed methane wells and wells regulated under article one, chapter twenty-two-b of this code, 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 stated in subsection (b) of this section.

(d) All bonds submitted hereunder shall have a corporate bonding or surety company authorized to do business in the
State of West Virginia as surety thereon, or in lieu of a corporate surety, the operator may elect to deposit with the chief cash, collateral securities or any combination thereof as provided in subsection (d), section twenty-six, article six of this chapter.

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

In 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 is approved this the 30th day of April, 2006.

Governor
PRESENTED TO THE
GOVERNOR

MAR 27 2006

Time

[Signature]