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OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED
COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 280

(SENATORS COLE (MR. PRESIDENT), BOLEY, FERNS, MULLINS,
NOHE, SYPOLT, PREZIOSO, FACEMIRE, D. HALL, WILLIAMS,
KESSLER, PALUMBO AND BEACH, *original sponsors*)

[Passed January 28, 2015; in effect from passage.]

AN ACT to amend and reenact §22-6A-7 of the Code of West Virginia, 1931, as amended, relating to allowing transfer of well work permits upon prior written approval of the Secretary of the Department of Environmental Protection; providing for forms prescribed by the secretary; requiring transferee to give notice of transfer; requiring transferee to update their emergency point of contact; and providing for permit transfer fee.

Be it enacted by the Legislature of West Virginia:

That §22-6A-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 6A. NATURAL GAS HORIZONTAL WELL CONTROL ACT.

§22-6A-7. Horizontal well permit required; permit fee; application; soil erosion control plan; well site safety plan; site construction plan; water management plan; permit fee; installation of permit number; suspension and transfer of a permit.

1 (a) It is unlawful for any person to commence any well
2 work, including site preparation work which involves any
3 disturbance of land, for a horizontal well without first
4 securing from the secretary a well work permit pursuant to
5 this article.

6 (b) Every permit application filed under this section shall
7 be on a form as may be prescribed by the secretary, shall be
8 verified and shall contain the following information:

9 (1) The names and addresses of: (i) The well operator; (ii)
10 the agent required to be designated under subsection (h) of
11 this section; and (iii) every person whom the applicant shall
12 notify under any section of this article, together with a
13 certification and evidence that a copy of the application and
14 all other required documentation has been delivered to all
15 such persons;

16 (2) The names and addresses of every coal operator
17 operating coal seams under the tract of land on which the
18 well is or may be located, and the coal seam owner of record
19 and lessee of record required to be given notice by
20 subdivision (6), subsection (a), section five of this article, if
21 any, if the owner or lessee is not yet operating the coal seams;

22 (3) The number of the well or other identification the
23 secretary may require;

24 (4) The well work for which a permit is requested;

25 (5) The approximate total depth to which the well is to be
26 drilled or deepened, or the actual depth if the well has been
27 drilled; the proposed angle and direction of the well; the
28 actual depth or the approximate depth at which the well to be
29 drilled deviates from vertical, the angle and direction of the
30 nonvertical well bore until the well reaches its total target

31 depth or its actual final depth; and the length and direction of
32 any actual or proposed horizontal lateral or well bore;

33 (6) Each formation in which the well will be completed
34 if applicable;

35 (7) A description of any means used to stimulate the well;

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

41 (9) If the proposed well work is to convert an existing
42 well, all information required by this section, all formations
43 from which production is anticipated and any plans to plug
44 any portion of the well;

45 (10) If the proposed well work is to plug or replug the
46 well, all information necessary to demonstrate compliance
47 with the legislative rules promulgated by the secretary in
48 accordance with section thirteen of this article;

49 (11) If the proposed well work is to stimulate a horizontal
50 well, all information necessary to demonstrate compliance
51 with the requirements of subdivision (7), subsection (a),
52 section five of this article;

53 (12) The erosion and sediment control plan required
54 under subsection (c) of this section for applications for
55 permits to drill;

56 (13) A well site safety plan to address proper safety
57 measures to be employed for the protection of persons on the
58 site as well as the general public. The plan shall encompass

59 all aspects of the operation, including the actual well work for
60 which the permit was obtained, completion activities and
61 production activities, and shall provide an emergency point
62 of contact for the well operator. The well operator shall
63 provide a copy of the well site safety plan to the local
64 emergency planning committee established pursuant to
65 section seven, article five-a, chapter fifteen of this code for
66 the emergency planning district in which the well work will
67 occur at least seven days before commencement of well work
68 or site preparation work that involves any disturbance of
69 land;

70 (14) A certification from the operator that: (i) It has
71 provided the owners of the surface described in subdivisions
72 (1), (2) and (4), subsection (b), section ten of this article, the
73 information required by subsections (b) and (c), section
74 sixteen of this article; (ii) that the requirement was deemed
75 satisfied as a result of giving the surface owner notice of
76 entry to survey pursuant to subsection (a), section ten of this
77 article; or (iii) the notice requirements of subsection (b),
78 section sixteen of this article were waived in writing by the
79 surface owner; and

80 (15) Any other relevant information which the secretary
81 may reasonably require.

82 (c) (1) An erosion and sediment control plan shall
83 accompany each application for a well work permit under this
84 article. The plan shall contain methods of stabilization and
85 drainage, including a map of the project area indicating the
86 amount of acreage disturbed. The erosion and sediment
87 control plan shall meet the minimum requirements of the
88 West Virginia Erosion and Sediment Control Manual as
89 adopted and from time to time amended by the department.
90 The erosion and sediment control plan shall become part of
91 the terms and conditions of any well work permit that is

92 issued pursuant to this article and the provisions of the plan
93 shall be carried out where applicable in the operation. The
94 erosion and sediment control plan shall set out the proposed
95 method of reclamation which shall comply with the
96 requirements of section fourteen of this article.

97 (2) For well sites that disturb three acres or more of surface,
98 excluding pipelines, gathering lines and roads, the erosion and
99 sediment control plan submitted in accordance with this section
100 shall be certified by a registered professional engineer.

101 (d) For well sites that disturb three acres or more of
102 surface, excluding pipelines, gathering lines and roads, the
103 operator shall submit a site construction plan that shall be
104 certified by a registered professional engineer and contains
105 information that the secretary may require by rule.

106 (e) In addition to the other requirements of this section, if
107 the drilling, fracturing or stimulating of the horizontal well
108 requires the use of water obtained by withdrawals from waters
109 of this state in amounts that exceed two hundred ten thousand
110 gallons during any thirty-day period, the application for a well
111 work permit shall include a water management plan, which may
112 be submitted on an individual well basis or on a watershed
113 basis, and which shall include the following information:

114 (1) The type of water source, such as surface or
115 groundwater, the county of each source to be used by the
116 operation for water withdrawals and the latitude and
117 longitude of each anticipated withdrawal location;

118 (2) The anticipated volume of each water withdrawal;

119 (3) The anticipated months when water withdrawals will
120 be made;

121 (4) The planned management and disposition of
122 wastewater after completion from fracturing, refracturing,
123 stimulation and production activities;

124 (5) A listing of the anticipated additives that may be used in
125 water utilized for fracturing or stimulating the well. Upon well
126 completion, a listing of the additives that were actually used in
127 the fracturing or stimulating of the well shall be submitted as
128 part of the completion log or report required by subdivision
129 (14), subsection (a), section five of this article;

130 (6) For all surface water withdrawals, a water
131 management plan that includes the information requested in
132 subdivisions (1) through (5) of this subsection and the
133 following:

134 (A) Identification of the current designated and existing
135 water uses, including any public water intakes within one
136 mile downstream of the withdrawal location;

137 (B) For surface waters, a demonstration, using methods
138 acceptable to the secretary, that sufficient in-stream flow will
139 be available immediately downstream of the point of
140 withdrawal. A sufficient in-stream flow is maintained when
141 a pass-by flow that is protective of the identified use of the
142 stream is preserved immediately downstream of the point of
143 withdrawal; and

144 (C) Methods to be used for surface water withdrawal to
145 minimize adverse impact to aquatic life; and

146 (7) This subsection is intended to be consistent with and
147 does not supersede, revise, repeal or otherwise modify
148 articles eleven, twelve or twenty-six of this chapter and does
149 not revise, repeal or otherwise modify the common law
150 doctrine of riparian rights in West Virginia law.

151 (f) An application may propose and a permit may approve
152 two or more activities defined as well work; however, a
153 separate permit shall be obtained for each horizontal well
154 drilled.

155 (g) The application for a permit under this section shall
156 be accompanied by the applicable bond as required by section
157 fifteen of this article, the applicable plat required by
158 subdivision (6), subsection (a), section five of this article and
159 a permit fee of \$10,000 for the initial horizontal well drilled
160 at a location and a permit fee of \$5,000 for each additional
161 horizontal well drilled on a single well pad at the same
162 location.

163 (h) The well operator named in the application shall
164 designate the name and address of an agent for the operator
165 who is the attorney-in-fact for the operator and who is a
166 resident of the State of West Virginia upon whom notices,
167 orders or other communications issued pursuant to this article
168 or article eleven of this chapter may be served, and upon
169 whom process may be served. Every well operator required
170 to designate an agent under this section shall, within five days
171 after the termination of the designation, notify the secretary
172 of the termination and designate a new agent.

173 (i) The well owner or operator shall install the permit
174 number as issued by the secretary and a contact telephone
175 number for the operator in a legible and permanent manner to
176 the well upon completion of any permitted work. The
177 dimensions, specifications and manner of installation shall be
178 in accordance with the rules of the secretary.

179 (j) The secretary may waive the requirements of this
180 section and sections eight, ten, eleven and twenty-four of this
181 article in any emergency situation if the secretary considers
182 the action necessary. In that case the secretary may issue an

183 emergency permit which is effective for not more than thirty
184 days, unless reissued by the secretary.

185 (k) The secretary shall deny the issuance of a permit if the
186 secretary determines that the applicant has committed a
187 substantial violation of a previously issued permit for a
188 horizontal well, including the applicable erosion and
189 sediment control plan associated with the previously issued
190 permit, or a substantial violation of one or more of the rules
191 promulgated under this article, and in each instance has failed
192 to abate or seek review of the violation within the time
193 prescribed by the secretary pursuant to the provisions of
194 subdivisions (1) and (2), subsection (a), section five of this
195 article and the rules promulgated hereunder, which time may
196 not be unreasonable.

197 (l) If the secretary finds that a substantial violation has
198 occurred and that the operator has failed to abate or seek
199 review of the violation in the time prescribed, the secretary
200 may suspend the permit on which the violation exists, after
201 which suspension the operator shall forthwith cease all well
202 work being conducted under the permit. However, the
203 secretary may reinstate the permit without further notice, at
204 which time the well work may be continued. The secretary
205 shall make written findings of the suspension and may
206 enforce the same in the circuit courts of this state. The
207 operator may appeal a suspension pursuant to the provisions
208 of subdivision (23), subsection (a), section five of this article.
209 The secretary shall make a written finding of any such
210 determination.

211 (m) Any well work permit issued in accordance with this
212 section may be transferred with the prior written approval of
213 the secretary upon his or her finding that the proposed
214 transferee meets all requirements for holding a well work
215 permit, notwithstanding any other provision of this article or

216 rule adopted pursuant to this article. Application for the
217 transfer of any well work permit shall be upon forms
218 prescribed by the secretary and submitted with a permit
219 transfer fee of \$500.00. Within ninety days of the receipt of
220 approval by the secretary, the transferee shall give notice of
221 the transfer to those persons entitled to notice in subsection
222 (b), section ten of this article by personal service or by
223 registered mail or by any method of delivery that requires a
224 receipt or signature confirmation, and shall further update the
225 emergency point of contact provided pursuant to subdivision
226 (13), subsection (b) of this section.

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

Mark R. Raymond
.....
Chairman Senate Committee

A. B. Hill
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Clark S. Lamm
.....
Clerk of the Senate

Steve J. Arvink
.....
Clerk of the House of Delegates

Milt Pile
.....
President of the Senate

Christy C. Pitts
.....
Speaker of the House of Delegates

The within *is approved* this the *4th*
Day of *February*, 2015.

Earl Ray Tomblin
.....
Governor

PRESENTED TO THE GOVERNOR

FEB 2 2015

Time 2:19 pm