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HOUSE BILL NO. 1248

Offered January 24, 2000

A BILL to amend and reenact §§ 45.1-361.12 and 45.1-361.29 of the Code of Virginia, relating to the Virginia Gas and Oil Act; permit applications.

Patron—Kilgore

Referred to Committee on Mining and Mineral Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 45.1-361.12 and 45.1-361.29 of the Code of Virginia are amended and reenacted as follows:

§ 45.1-361.12. Distance limitations of certain wells.

A. If the well operator and the objecting coal owners present or represented at the hearing to consider the objections to the proposed drilling unit or location are unable to agree upon a drilling unit or location for a new well within 2,500 linear feet of the location of an existing well or a well for which a permit application is on file, then the permit or drilling unit shall be ~~refused~~ *granted unless the Board determines, after consideration of the factors enumerated in subsections B and C of § 45.1-361.11, that the drilling unit or location will unreasonably interfere with the safe recovery of coal, oil, gas, or coalbed methane gas as proposed. The Board may modify the drilling unit or location, after consideration of the factors enumerated in subsections B and C of § 45.1-361.11, to permit the safe recovery of coal, oil, gas, and coalbed methane gas.*

B. The minimum distance limitations established by this section shall not apply if the proposed well will be drilled through an existing or planned pillar of coal required for protection of a preexisting well drilled to any depth, and the proposed well will neither require enlargement of the pillar nor otherwise have an adverse effect on existing or planned coal mining operations.

§ 45.1-361.29. Permit required; gas, oil, or geophysical operations; coalbed methane gas wells; environmental assessment.

A. No person shall commence any ground disturbing activity for a well, gathering pipeline, geophysical exploration or associated activity, facilities or structures without first having obtained from the Director a permit to conduct such activity. Every permit application or permit modification application filed with the Director shall be verified by the permit applicant and shall contain all data, maps, plats, plans and other information as required by regulation or the Director.

B. For permits issued on July 1, 1996, or thereafter, new permits issued by the Director shall be issued only for the following activities: geophysical operations, drilling, casing, equipping, stimulating, producing, reworking initially productive zones and plugging a well, or gathering pipeline construction and operation. Applications for new permits to conduct geophysical operations shall be accompanied by an application fee of \$100. Applications for all other new permits shall be accompanied by an application fee of \$200.

C. For permits issued prior to July 1, 1996, prior to commencing any reworking, deepening or plugging of the well, or other activity not previously approved on the permitted site, a permittee shall first obtain a permit modification from the Director. All applications for permit modifications shall be accompanied by a permit modification fee of \$100. For permits issued on July 1, 1996, or thereafter, prior to commencing any new zone completions a permittee shall first obtain a permit modification from the Director.

D. All permits and operations provided for under this section shall conform to the rules, regulations and orders of the Director and the Board. When permit terms or conditions required or provided for under Article 3 (§ 45.1-361.27 et seq.) of this chapter are in conflict with any provision of a conservation order issued pursuant to the provisions of Article 2 (§ 45.1-361.13 et seq.) of this chapter, the terms of the permit shall control. In this event, the operator shall return to the Board for reconsideration of a conservation order in light of the conflicting permit. Every permittee shall be responsible for all operations, activity or disturbances associated with the permitted site.

E. No permit or permit modification shall be issued by the Director until he has received from the applicant a written certification that (i) all notice requirements of this article have been complied with, together with proof thereof, and (ii) the applicant has the right to conduct the operations as set forth in the application and operations plan.

F. A permit shall be required to drill any coalbed methane gas well or to convert any methane drainage borehole into a coalbed methane gas well. In addition to the other requirements of this section, every permit application for a coalbed methane gas well shall include:

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60 1. The method that the coalbed methane gas well operator will use to stimulate the well.

61 2. a. A signed consent from the coal operator of each coal seam which is located within 750
62 horizontal feet of the proposed well location (i) which the applicant proposes to stimulate or (ii) which
63 is within 100 vertical feet above or below a coal bearing stratum which the applicant proposes to
64 stimulate. *The consent required by this section shall not be required where the coal seam is a stratum of*
65 *coal deeper than 750 feet below drainage. For the purposes of this subdivision, "drainage" shall mean*
66 *the lowest surface elevation within 750 horizontal feet of the proposed well location.*

67 b. The consent required by this section may be (i) contained in a lease or other such agreement; (ii)
68 contained in an instrument of title; or (iii) in any case where a coal operator cannot be located or
69 identified and the operator has complied with § 45.1-361.19, provided by a pooling order entered
70 pursuant to § 45.1-361.21 or § 45.1-361.22 and provided such order contains a finding that the ~~operator~~
71 ~~applicant~~ has exercised due diligence in attempting to identify and locate the coal operator. The consent
72 required by this section shall be deemed to be granted for any tract where title to the coal is held by
73 multiple owners if the applicant has obtained consent to stimulate from the ~~co-tenants~~ coal owners
74 holding majority interest in the tract and none of the ~~nonconsenting coal co-tenants~~ has owners have
75 leased the tract for coal development. *The consent required by this section shall be deemed to be*
76 *granted for the area within 750 horizontal feet of the well location where title to the coal is held by*
77 *multiple owners if the applicant has obtained consent to stimulate the tracts comprising the majority of*
78 *the acreage located within 750 horizontal feet of the proposed well location and if none of the*
79 *nonconsenting coal owners have leased the tract for coal development.* The requirement of signed
80 consent contained in this section shall in no way be considered to impair, abridge or affect any
81 contractual rights or objections arising out of a coalbed methane gas contract or coalbed methane gas
82 lease entered into prior to January 1, 1990, between the applicant and any coal operator, and any
83 extensions or renewals thereto, and the existence of such lease or contractual arrangement and any
84 extensions or renewals thereto shall constitute a waiver of the requirement for the applicant to file an
85 additional signed consent.

86 c. *The consent required by this section may be provided by an order of the Board in any case where*
87 *the Board finds that (i) the applicant has exercised due diligence in attempting to obtain the consent of*
88 *the coal operator; (ii) the coal operator has withheld its consent; and (iii) the proposed method of*
89 *stimulation will not render the coal seam unworkable or impair mine safety. The order of the Board*
90 *required by this section may impose such reasonable conditions on the method of stimulation as the*
91 *Board finds necessary to protect mine safety and prevent the coal seam from becoming unworkable.*
92 *Every application seeking the consent provided for by this subdivision shall include a request for*
93 *hearing before the Board and an affidavit that shall include (i) a statement that a coal owner or*
94 *operator has refused to provide written authorization to stimulate the well; (ii) a statement detailing the*
95 *efforts undertaken to obtain such authorization; (iii) a statement describing any known reasons for the*
96 *refusal; and (iv) a statement or other information necessary to provide prima facie evidence that the*
97 *proposed method of stimulation will not render the coal seam unworkable or impair mine safety.*

98 d. Upon receipt of a request and an affidavit as set forth in subdivision F 2 c of this section, the
99 Board shall consider the proposed stimulation. If other objections or notices are filed requiring a
100 hearing before the Board, the request hereunder may be considered by the Board along with other
101 matters related to the application.

102 e. If consent of a coal operator described in subdivision F 2 a of this section has been withheld
103 based on reasons related to safety, the Director shall, concurrent with submission of the request and
104 affidavit to the Board, review the application as to issues of mine safety and submit a recommendation
105 to the Board within thirty days.

106 3. The unit map, if any, approved by the Board.

107 G. No permit required by this chapter for activities to be conducted within an area of Tidewater
108 Virginia where drilling is authorized under subsection B of § 62.1-195.1 shall be granted until the
109 environmental impact assessment required by § 62.1-195.1 has been conducted and the assessment has
110 been reviewed by the Department.

111 H. The operator of any coalbed methane well drilled within 250 feet of a cemetery shall comply with
112 a written request of any person owning an interest in a private cemetery or the authorized agent of a
113 public cemetery that the operator of such well suspend operations for a period from two hours before to
114 two hours after any burial service that takes place on the surface area of such cemetery. However, if the
115 well operator or a mine operator determines that suspension of such operations will have an adverse
116 effect on the safety of the well operations or mining operations, the operator shall be under no
117 obligation to comply with the request, and operation of the well shall continue.