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HOUSE BILL NO. 1941

Offered January 10, 2001

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A BILL to amend and reenact §§ 45.1-361.12, 45.1-361.21, and 45.1-361.29 of the Code of Virginia, relating to the Virginia Gas and Oil Act; distance limits and 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, 45.1-361.21, and 45.1-361.29 of the Code of Virginia is amended and reenacted as follows:

§ 45.1-361.12. Distance limitations of wells other than coalbed methane gas wells.

A. *For wells other than coalbed methane gas wells*, 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.

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.

§ 45.1-361.21. Pooling of interests in drilling units.

A. The Board, upon application from any gas or oil owner, shall enter an order pooling all interests in the drilling unit for the development and operation thereof when:

1. Two or more separately owned tracts are embraced in a drilling unit;

2. There are separately owned interests in all or part of any such drilling unit and those having interests have not agreed to pool their interests; or

3. There are separately owned tracts embraced within the minimum statewide spacing requirements prescribed in § 45.1-361.17.

However, no pooling order shall be entered until the notice and hearing requirements of this article have been satisfied.

B. Subject to any contrary provision contained in a gas or oil lease respecting the property, gas or oil operations incident to the drilling of a well on any portion of a unit covered by a pooling order shall be deemed to be the conduct of such operations on each tract in the unit. The portion of production allocated to any tract covered by a pooling order shall be in the same proportion as the acreage of that tract bears to the total acreage of the unit.

C. All pooling orders entered by the Board pursuant to the provisions of this section shall:

1. Authorize the drilling and operation of a well, ~~including the stimulation of all coal seams in the case of a coalbed methane well when authorized pursuant to clause (iii) of subdivision 2 b of subsection F of § 45.1-361.29,~~ subject to the permit provisions contained in Article 3 (§ 45.1-361.27 et seq.) of this chapter;

2. Include the time and date when such order expires;

3. Designate the gas or oil owner who is authorized to drill and operate the well; provided, however, that except in the case of coalbed methane gas wells, the designated operators must have the right to conduct operations or have the written consent of owners with the right to conduct operations on at least twenty-five percent of the acreage included in the unit;

4. Prescribe the conditions under which gas or oil owners may become participating operators or exercise their rights of election under subdivision 7 of this subsection;

5. Establish the sharing of all reasonable costs, including a reasonable supervision fee, between participating operators so that each participating operator pays the same percentage of such costs as his acreage bears to the total unit acreage;

6. Require that nonleasing gas or oil owners be provided with reasonable access to unit records submitted to the Director or Inspector;

7. Establish a procedure for a gas or oil owner who received notice of the hearing and who does not decide to become a participating operator may elect either to (i) sell or lease his gas or oil ownership to a participating operator, (ii) enter into a voluntary agreement to share in the operation of the well at a rate of payment mutually agreed to by the gas or oil owner and the gas or oil operator authorized to

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59 drill the well, or (iii) share in the operation of the well as a nonparticipating operator on a carried basis
60 after the proceeds allocable to his share equal the following:

- 61 a. In the case of a leased tract, 300 percent of the share of such costs allocable to his interest; or
62 b. In the case of an unleased tract, 200 percent of the share of such costs allocable to his interest.

63 D. Any gas or oil owner whose identity and location remain unknown at the conclusion of a hearing
64 concerning the establishment of a pooling order for which public notice was given shall be deemed to
65 have elected to lease his interest to the gas or oil operator at a rate to be established by the Board. The
66 Board shall cause to be established an escrow account into which the unknown lessor's share of
67 proceeds shall be paid and held for his benefit. Such escrowed proceeds shall be deemed to be
68 unclaimed property and shall be disposed of pursuant to the provisions of the Uniform Disposition of
69 Unclaimed Property Act (§ 55-210.1 et seq.).

70 E. Any person who does not make an election under the pooling order shall be deemed to have
71 leased his gas or oil interest to the gas or oil well operator as the pooling order may provide.

72 F. Should a gas or oil owner be a person under a disability, the applicant for a pooling order may
73 petition the appropriate circuit court to appoint a guardian ad litem pursuant to the provisions of
74 § 8.01-261 for purposes of making the election provided for by this section.

75 G. Any royalty or overriding royalty reserved in any lease which is deducted from a nonparticipating
76 operator's share of production shall not be subject to charges for operating costs but shall be separately
77 calculated and paid to the royalty owner.

78 H. The Board shall resolve all disputes arising among gas or oil operators regarding the amount and
79 reasonableness of well operation costs. The Board shall, by regulation, establish allowable types of costs
80 which may be shared in pooled gas or oil operations.

81 § 45.1-361.29. Permit required; gas, oil, or geophysical operations; coalbed methane gas wells;
82 environmental assessment.

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

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

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

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

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

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

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

115 2. a. A signed consent from the coal operator of each coal seam which is located within 750
116 horizontal feet of the proposed well location (i) which the applicant proposes to stimulate or (ii) which
117 is within 100 vertical feet above or below a coal bearing stratum which the applicant proposes to
118 stimulate.

119 b. The consent required by this section may be (i) contained in a lease or other such agreement; (ii)
120 contained in an instrument of title; or (iii) in any case where a coal operator cannot be located or

121 identified and the operator has complied with ~~§ 45.1-361.19~~, provided by a pooling order entered
122 pursuant to ~~§ 45.1-361.21~~ or ~~§ 45.1-361.22~~ and provided such order contains a finding that the operator
123 has exercised due diligence in attempting to identify and locate the coal operator. The consent required
124 by this section shall be deemed to be granted for any tract where title to the coal is held by multiple
125 owners if the applicant has obtained consent to stimulate from the co-tenants holding majority interest in
126 the tract and none of the coal co-tenants has leased the tract for coal development. The requirement of
127 signed consent contained in this section shall in no way be considered to impair, abridge or affect any
128 contractual rights or objections arising out of a coalbed methane gas contract or coalbed methane gas
129 lease entered into prior to January 1, 1990, between the applicant and any coal operator, and any
130 extensions or renewals thereto, and the existence of such lease or contractual arrangement and any
131 extensions or renewals thereto shall constitute a waiver of the requirement for the applicant to file an
132 additional signed consent.

133 3. 2. The unit map, if any, approved by the Board.

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

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