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HOUSE BILL NO. 1218

Offered January 26, 1998

A *BILL to amend and reenact § 45.1-361.29 of the Code of Virginia and to amend the Code of Virginia by adding in Article 3 of Chapter 22.1 of Title 45.1 a section numbered 45.1-361.43, relating to coalbed methane well development.*

Patrons—Stump, Phillips and Tate; Senator: Reasor

Referred to Committee on Mining and Mineral Resources

Be it enacted by the General Assembly of Virginia:

1. That § 45.1-361.29 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 3 of Chapter 22.1 of Title 45.1 a section numbered 45.1-361.43 as follows:

§ 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:

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

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

b. The consent required by this section may be (i) contained in a lease or other such agreement; (ii) contained in an instrument of title; or (iii) in any case where a coal operator cannot be located or identified and the operator has complied with § 45.1-361.19, provided by a pooling order entered pursuant to § 45.1-361.21 or § 45.1-361.22 and provided such order contains a finding that the operator has exercised due diligence in attempting to identify and locate the coal operator. The consent required by this section shall be deemed to be granted for any tract where title to the coal is held by multiple owners if the applicant has obtained consent to stimulate from the co-tenants holding majority interest in

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60 the tract and none of the coal co-tenants has leased the tract for coal development. The requirement of
61 signed consent contained in this section shall in no way be considered to impair, abridge or affect any
62 contractual rights or objections arising out of a coalbed methane gas contract or coalbed methane gas
63 lease entered into prior to January 1, 1990, between the applicant and any coal operator, and any
64 extensions or renewals thereto, and the existence of such lease or contractual arrangement and any
65 extensions or renewals thereto shall constitute a waiver of the requirement for the applicant to file an
66 additional signed consent.

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

68 4. A survey which shall show whether structures or renewable resource lands exist within the
69 proposed permit and stimulation area and adjacent area and whether subsidence, if it occurred, could
70 cause material damage or diminution or reasonably foreseeable use of such structures or renewable
71 resource lands. If the survey shows no such structure or renewable resource lands exist, and no
72 subsidence could be caused in the event of strata subsidence, and if the Board agrees with such
73 conclusion, no further information need be provided in the application under this section. In the event
74 the survey shows that such structures or renewable resource lands exist, or that subsidence could cause
75 material damage or diminution of value or foreseeable use of the land, or if the Board determines that
76 such damage or diminution could occur, the application shall include a subsidence control plan which
77 shall contain the following information:

78 a. A description of the method of developing the wells and the stimulating or fracturing process to
79 be used on strata for release of the gas, including the proposed sequence and timing of the development
80 and any reworking or re-stimulation.

81 b. A map of the drilling unit which describes the location and extent of areas in which
82 planned-subsidence development and stimulation methods will be used and which includes all areas
83 where the measures will be taken to prevent or minimize subsidence and subsidence-related damage;
84 and to correct subsidence-related material damage.

85 c. A description of the physical conditions, such as depth of cover, seams to be stimulated, extent of
86 known underground mine workings in all strata, natural channels, surface and ground water courses,
87 dwellings and other structures, and the likelihood or extent of subsidence and subsidence-related
88 damage.

89 d. A description of monitoring, if any, needed to determine the commencement and degree of
90 subsidence so that, when appropriate, other measures can be taken to prevent, reduce, or correct
91 material damage.

92 e. Except for those areas where planned subsidence is projected to be used, a detailed description of
93 the subsidence control measures that will be taken to prevent or minimize subsidence and
94 subsidence-related damage, including, but not limited to: (i) alternative methods of stimulation and (ii)
95 taking measures on the surface to prevent material damage or lessening of the value or reasonably
96 foreseeable use of the surface.

97 f. A description of the anticipated effects of planned subsidence, if any.

98 g. A description of the measures to be taken to mitigate or remedy any subsidence-related material
99 damage to, or diminution in value or reasonably foreseeable use of, land, water resources, or structures
100 or facilities.

101 5. Proof that at least six months prior to proposed commencement of well drilling, stimulation, or
102 fracturing of strata, the applicant mailed notice to all owners and occupants of surface property and
103 structures within the drilling unit which may be affected by such activities or subsidence. The
104 notification shall include identification of specific areas in which drilling, stimulation, or fracturing will
105 take place; anticipated dates that specific area will be affected; and a notice that the applicant's
106 subsidence control plan may be examined at the Board's office.

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. For the purposes of this section, "renewable resource lands" means areas which contribute
112 significantly to the long-range productivity of water supply or of food or fiber products, and includes
113 aquifers and aquifer recharge areas.

114 § 45.1-361.43. Measures to prevent subsidence.

115 Every holder of a permit issued under this article shall either adopt measures consistent with known
116 technology which prevent subsidence from causing material damage to the extent technologically and
117 economically feasible and maintain the value and reasonably foreseeable use of surface lands; or adopt
118 well development and stimulation technology which provides for planned subsidence in a predictable
119 and controlled manner. The permittee shall correct any material damage resulting from subsidence
120 caused to surface lands and waters, to the extent technologically and economically feasible, by restoring
121 the land to a condition capable of maintaining the value and reasonably foreseeable uses which it was

122 *capable of supporting before subsidence and either (i) correct material damage resulting from*
123 *subsidence caused to any structures or facilities by repairing the damage or (ii) compensate the owner*
124 *of such structures or facilities in the full amount of the diminution in value resulting from the*
125 *subsidence. Repair of damage includes rehabilitation, restoration, or replacement of damaged structures*
126 *or facilities. If subsidence causes material damage to any of the features or facilities covered by this*
127 *section, the Board may suspend well development under or adjacent to such features or facilities until*
128 *the subsidence control plan is modified to ensure prevention of further material damage to such features*
129 *or facilities.*