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HOUSE BILL NO. 1679

Offered January 11, 2017
Prefiled January 6, 2017

A BILL to amend and reenact § 45.1-361.29 of the Code of Virginia, relating to well permit applications; disclosure of trade secrets.

Patrons—Robinson and Morefield

Referred to Committee on Agriculture, Chesapeake and Natural 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 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 $130. Applications for all other new permits shall be accompanied by an application fee of $260.

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 $130. 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 the tract and none of the coal co-tenants has leased the tract for coal development. The requirement of signed consent contained in this section shall in no way be considered to impair, abridge or affect any

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contractual rights or objections arising out of a coalbed methane gas contract or coalbed methane gas lease entered into prior to January 1, 1990, between the applicant and any coal operator, and any extensions or renewals thereto, and the existence of such lease or contractual arrangement and any extensions or renewals thereto shall constitute a waiver of the requirement for the applicant to file an additional signed consent.

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

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

H. The applicant for a permit for a gathering pipeline, oil or gas well, or coal bed methane well shall identify in the permit application any cemetery, as identified on a U.S.G.S. topographic map or located by routine field review, within 100 feet of the permitted activity.

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

J. The Department may require an application for a well, a supplement thereto, and a well completion report to include chemical ingredient names, the chemical abstracts numbers for chemical ingredients, or the amount or concentration of chemicals or ingredients, used to stimulate a well provided there is an exclusion from mandatory disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) applicable to the extent that such information meets the definition of a trade secret set forth in the Uniform Trade Secrets Act (§ 59.1-336 et seq.). The applicant or permittee, as applicable, shall provide, or cause the trade secret claimant to provide, the required trade secret information to the Department. The Director may disclose information regarding the specific identity of a chemical, the concentration of a chemical, or both the specific identity and concentration of a chemical, claimed to be a trade secret to additional Department staff or any relevant state or local government official to the extent that such disclosure is necessary to assist the Department in responding to an emergency resulting in an order pursuant to subsection D of § 45.1-361.27. No such Department staff or state or local official shall disseminate the information further. Any information so disclosed to Department staff or state or local officials shall at all times be considered confidential and shall not be construed as publicly available. If the Director discloses such information to any state or local government official, then the Director shall notify the party that submitted the trade secret information of that disclosure as soon as practicable. No order issued pursuant to § 45.1-361.27 shall include trade secret information.