Coal & Energy Commission-1980 (10): Material related to work of Oil and Gas Subcommittee of Coal & Energy Commission, including photocopies of Oil & Gas statutes of Oklahoma and West Virginia, and drafts of bills and amendments regarding oil and gas conservation in Virginia.
A BILL to amend and reenact § 45.1-106 of the Code of Virginia, to amend the Code of Virginia by adding in Chapter 12 of Title 45 an article numbered 2.1 consisting of sections numbered 45.1-113.1 through 45.1-113.11, and to further amend the Code of Virginia by amending and reenacting § 2.1-20.4, all relating to conservation and regulation of oil and gas.

Be it enacted by the General Assembly of Virginia:

1. That § 45.1-106 is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 12 of Title 45 an article numbered 2.1 consisting of sections numbered 45.1-113.1 through 45.1-113.11, and by amending and reenacting § 2.1-30.4 as follows:

§ 45.1-106. Definitions.—As used in §§ 45.1-106 through 45.1-144 unless the context clearly indicates otherwise:

(a) "Casing" means a string or strings of pipe commonly placed set in wells drilled for petroleum and natural gas;

(b) "Casing-head gas" means any gas or vapor, or both gas and vapor, indigenous to an oil stratum and produced from such stratum with oil;

(c) "Cement" means hydraulic cement;

(d) "Chief" means the Chief Mine Inspector or his designated assistant unless the context indicates otherwise;

(e) "Coal operator" means any person or persons, firm, partnership association or corporation that proposes to or does operate a coal mine;

(f) "Commission" means the Oil and Gas Conservation Commission;

(g) "Commissioner" means the Commissioner of the Department of Labor and Industry;

(fl) "Correlative rights" means the rights of each owner of oil and gas interests in a single pool to have a fair and reasonable opportunity to obtain and produce his just and equitable share of the oil and gas in such pool, without being required to drill unnecessary wells or incur other unnecessary expense to recover or receive such oil or gas or its equivalent;

(fa) "Deep Well" (See under Well);

(g) "Division" means the Division of Mines;

(gl) "Drilling Unit" means a drilling unit established
under the procedures set forth in § 45.1-113.5 of this article;

(h) "Gas" means the natural gas including casing-head gas
obtained from gas or combination wells regardless of its chemical
analysis;

(h1) "Just and equitable share of production" means, as to
each person, an amount of oil or gas or both substantially equal
to the amount of recoverable oil and gas in that part of a pool
underlying his tract or tracts;

(i) "Log" or "well log" means the written record progressive-
ly describing all strata, water, oil or gas encountered in drilling,
depth and thickness of each bed or seam of coal drilled through,
quantity of oil, volumes of gas, pressures, rate of fill-up, fresh
and salt water-bearing horizons and depths, cavings strata, casing
records, etc., as is usually recorded in the normal procedure of
drilling; also includes the electrical survey records or logs;

(j) "Mine" means an underground or surface excavation or
development with or without any shafts, slopes, drifts or tunnels
for the extraction of coal, minerals or nonmetallic materials,
commonly designated as mineral resources (excluding petroleum and
natural gas), containing the same with hoisting or haulage equip-
ment and appliances for the extraction of the said mineral
resources; and embraces any and all of the land or property of the
mining plant, and the surface and underground, that is used or con-
tributes directly or indirectly to the mining property, concentra-
tion or handling of said mineral resources;

(k) "Mine operator" means any person or persons, firm,
partnership, partnership association or corporation that proposes
to or does operate a mine;

(l) "Mud-laden fluid" means any approved mixture of water
and clay or other material as the term is commonly used in the
industry;

(m) "Natural gas" (see Gas);

(n) "Oil" means crude petroleum oil or petroleum;

(nl) "Onondaga Horizon" means the top of the Onondaga forma-
tion, except in those areas in which the Onondaga formation is not
present, and in such areas the term shall be understood to mean either
(1) the top of the stratigraphic horizon first appearing in the
interval of the missing Onondaga formation, or (2) the surface where
strata older than the top of the Onondaga are exposed at the
surface;

(o)(1) "Operator means any person who, duly authorized, is
in charge of the development of a lease, drilling activities or
the operator of a producing well, (2) For purposes of
Article 2.1 of this chapter "operator" means any owner of the
right to develop, operate and produce oil and gas from a pool and
to appropriate the oil and gas produced therefrom, either for him-
self or for himself and others; in the event that there is no oil
and gas lease in existence with respect to the tract in question,
the owner of the oil and gas rights therein shall be considered as
"operator" to the extent of seven-eighths of the oil and gas in
that portion of the pool underlying the tract owned by such owner,
and as "royalty owner" as to one-eighth interest in such oil and
gas; and in the event the oil is owned separately from the gas,
the owner of the substance being produced or sought as to such pool;

(p) "Person" means any natural person, firm, partnership,
partnership association, association, company, corporation,
receiver, trustee, guardian, executor, administrator, fiduciary
or representative of any kind;
(q) "Petroleum" means the natural untreated oil obtained
from an oil well;
(r) "Pillar" means a solid block of coal or ore or other
material, left unmined to support the overlying strata in a mine;
(s) "Pipeline" means any pipes above or below the ground used
or to be used for the transportation of oil or gas;
(t) "Plan" or "map" means a map, drawing or print showing the
location of a well or wells, mines, quarries;
(u) "Plug" means the stopping of the flow of water, gas or
oil in connection with the abandoning of a producing or non-
productive well;

(u) "Pool" means an underlying reservoir containing a common
accumulation of crude petroleum oil or natural gas or both. Each
zone of a general structure which is completely separated from any
other zone in the structure is covered by the term "pool" as used
in this chapter.
(v) "Porosity" means the-state-of-or-quality-of-being-porous;
the-absorbent-capacity-of-the-material-or-the-volume-of-liquid-held
by-the-pores a measure of the pore space, in a given quantity of
bulk rock, expressed as a percentage;
(vl) "Project area" means the well and any other disturbed
area, including roads and off-site disposal, associated with the
well;
(v2) "Royalty owner" means any owner of oil or gas in place
or oil or gas rights, subject to a lease covering such oil or gas
in place or oil or gas rights. "Royalty owner" also means any
owner of an interest in an oil or gas lease which entitles him to
share in the production of the oil or gas under such lease or the
proceeds therefrom without obligating him to pay any costs under
such lease. "Royalty owner" also means the owner of any interest
in the oil or gas in place, or oil or gas rights, who has not
executed an oil and gas lease, to the extent that such owner is
not designated an "operator" under subsection (o) of this section;
(v3) "Shallow well" (See under Well);
(w) "Shot" or "shooting" means exploding nitroglycerine or
other high explosive in a hole, to shatter the rock and increase
the flow of oil or gas;
(wl) "Spoil" means any overburden or other material removed
from its natural state in the process of preparing or utilizing a
well location;
(x) "Tubing" means the conduit through which oil or gas is
removed from a well;
(y) "Waste," in addition to its ordinary meaning, means
"physical waste" as that term is generally understood in the oil
and gas industry;
(z) "Well" means any excavation or hole drilled or bored into
the earth, for the purpose of exploring for or producing, extracting
or injecting any gas, petroleum or other liquid, but excluding holes
drilling or bored, to produce fresh water to be used as such, or
vertical mine ventilation holes, and for purposes of Article 2.1 of
this chapter (1) "deep well" means a well drilled to a depth
greater than five thousand feet or to the top of the uppermost
member of the Onondaga horizon, whichever is deeper, except that it
does not mean wells which penetrate the Onondaga horizon if such
penetration does not exceed 100 feet, does not result in production
from the Onondaga or deeper horizons and is for the purpose of
logging or stratigraphic testing or to permit the fracturing and
completion of a horizon situated above the top of the Onondaga
horizon, and (2) "shallow well" means any well other than a deep
well;
(aa) "Well operator" means any person or persons, firm,
partnership, partnership association or corporation that proposes
to or does locate, drill, operate or abandon any well as herein
defined;
(bb) "Workable coal bed" means a coal bed in fact being
operated commercially, or which, in the judgment of the Chief, can,
and that is reasonably to be expected will be so operated, and
which, when operated, will require protection if wells are drilled
through it.

Article 2.1
Oil and Gas Conservation
§ 45.1-113.1. Declaration of public policy; legislative
findings.- (a) It is hereby declared to be the public policy of
this Commonwealth and in the public interest to:
(1) Foster, encourage and promote exploration for and development, production, utilization and conservation of oil and gas resources;
(2) Prohibit waste of oil and gas resources and unnecessary surface loss of oil and gas and their constituents;
(3) Encourage the maximum recovery of oil and gas, while preserving capital, and
(4) Safeguard, protect and enforce the correlative rights of operators and royalty owners in a pool or oil or gas to the end that each such operator and royalty owner may obtain his just and equitable share of production from such pool of oil or gas.

(b) The General Assembly hereby determines and finds that oil and natural gas found in Virginia in shallow sands or strata have geological and other characteristics different than those found in deeper formations; and that in order to encourage the maximum recovery of oil and gas from all productive formations, it is in the public interest to enact new statutory provisions relating to the production and conservation of oil and gas from deep wells, as defined in this article.

§ 45.1-113.2. Applicability; exclusions; construction. -(a) Except as provided in subsection (b) of this section, the provisions of this article shall apply to all lands located in this Commonwealth whether publicly or privately owned or administered;
(b) This article shall not apply to or affect:
(1) Shallow wells;
(2) Any well commenced or completed prior to the effective date of this article, unless such well is, after completion (whether such completion is prior or subsequent to the effective date of this article), deepened subsequent to the effective date of this article to a formation at or below the top of the "Onondaga Horizon" or at a depth greater than five thousand feet, whichever is deeper;
(3) Gas storage operations or any well employed to inject gas into or withdraw gas from a gas storage reservoir or any well employed for storage observation; or
(c) The provisions of this article shall not be construed to grant to the commission authority or power to:
(1) Limit production or output, except to prorate production for the protection of correlative rights pursuant to any order issued under § 45.1-113.5 of this article; or
(2) Fix prices of oil or gas.

§ 45.1-113.3. Oil and gas conservation commission; membership; qualifications; appointments and terms; vacancies; meetings; compensation.- (a) There is hereby created the "Virginia Oil and Gas Conservation Commission" which shall be composed of
three members.

(b) One of the members shall be the Chief of the Division of Mineral Resources and one shall be the Chief Oil and Gas Inspector of the Division of Mines and Quarries. The third member shall be appointed by the governor.

(c) The Chief Oil and Gas Inspector of the Division of Mines and Quarries shall be the chairman of the commission. The commission shall meet at such times and places as shall be designated by the chairman. The chairman shall call a meeting of the commission upon the written request of another member of the commission.

Notification of each meeting shall be given in writing to each member by the chairman at least five days in advance of the meeting. Any two members, one of which may be the chairman, shall constitute a quorum for the transaction of any business as herein provided for. A majority of the commission shall be required to determine any issue brought before it.

§ 45.1-113.4. Powers and duties of the commission.—(a) The commission shall have the power and duty to execute and carry out the provisions of this article in the manner provided herein.

(b) The commission is authorized to make such investigations and inspections of records and facilities as it deems necessary and proper to discharge its duties and perform its functions under this article.

(c) Without limiting its general authority, the commission is hereby granted specific authority:

(1) To regulate the spacing of deep wells to achieve the purposes of this article;

(2) Upon proper application and notice to enter spacing and pooling orders and to provide for the unification of interests within a drilling unit.

(3) To classify pools as oil or gas or associated pools, or wells as oil or gas wells, for purposes material to the interpretation or administration of this article under the definitions set out in § 45.1-106.

(4) To make and enforce reasonable rules and regulations and orders reasonably necessary to prevent waste, protect correlative rights, govern the practice and procedure before the Commission and otherwise administer the provisions of this article.

(5) To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of any books, records, maps, charts, diagrams and other pertinent documents, and administer oaths and affirmations to such witnesses whenever, in the judgment of the commission, it is necessary to do so for the effective discharge of its duties under the provisions of this article.
§ 45.1-113.5. Drilling units for deep oil and gas wells.-(a)
To prevent waste of oil or gas, to avoid the drilling of unnecessary
wells, or to protect correlative rights, the commission, upon its
own notice or upon application of any operator, after notice and
hearing as herein provided, shall have the power to establish or
modify drilling units covering any pool. Drilling units when
established or modified shall to the extent reasonably possible
be of uniform size and shape for the entire pool.

(b) In establishing or modifying a drilling unit, the acreage
to be embraced within each unit and the shape thereof shall be
determined by the commission from the evidence introduced at the
hearing but shall be of an area that can be efficiently and eco-
nomically drained by one well. If at the time of a hearing to
establish drilling units, there is not sufficient evidence from
which to determine the area which can be drained efficiently and
economically by one deep well, the commission may enter an order
establishing provisional drilling units for the orderly development
of the pool pending the obtaining of information necessary to
determine the ultimate spacing for such pool.

(c) On the date specified in the notice, the commission shall
hold a public hearing to determine the area to be included in the
order and the acreage to be embraced within each unit and the shape
thereof and the area within which deep wells may be drilled on such
units. Evidence of the following facts may be considered by the
commission in entering its order:

(1) The surface topography and property lines of the lands
underlaid by the pool.

(2) The plan of well spacing then being employed or proposed
in such pool.

(3) The depth at which production from said pool has been
found.

(4) The nature and character of the producing formation or
formations, and whether the substances produced or sought to be
produced are gas or oil.

(5) The maximum area which may be drained efficiently and
economically by one well.

(6) Any other available geological or scientific data
pertaining to said pool, which may be of probative value to the
Commission in determining the proper spacing and well drilling unit
thereafter, with due and relative allowance for the correlative rights
and obligations of the operators' and royalty owners' interests
therein.

(d) An order establishing or modifying drilling units shall
specify the minimum distance from the nearest outside boundary of
the drilling unit at which a deep well may be drilled. The minimum
distance provided shall be the same in all drilling units established
or modified under said order with necessary exceptions for deep wells
drilled or being drilled at the time of the filing of the application.
If the commission finds that a deep well to be drilled in compliance
with the specified minimum distance would not be likely to produce
in paying quantities or will encounter surface conditions which would
substantially add to the burden or hazard of drilling such deep
well, or that a location within the area permitted by the order is
prohibited by the lawful order of any state agency or court, the
commission is authorized after notice and hearing to make an order
permitting the deep well to be drilled at a location within the
minimum distance prescribed by the spacing order, with such con-
ditions restricting production from any such well as to provide
that no operator or royalty owner shall produce or receive more
than his just and equitable share of the production.

(e) An order establishing or modifying drilling units for
a pool shall cover all lands determined by the commission to be
underlaid by such pool, and may be modified by the commission from
time to time (i) to include additional areas determined to be
underlaid by such pool or to delete areas determined not to be
underlaid by such pool, and (ii) to change the size of one or more
drilling units, and if production has already commenced from a well
on a drilling unit prior to the order changing its size, then the
commission shall not issue an order for that particular drilling unit
until it has received an agreement from all operators and royalty
owners with an interest in the drilling unit permitting the commission
to act on the evidence adduced in support of the application.

(f) The commission shall within 45 days after issuing a notice
of hearing to establish or modify drilling units for a pool either
enter an order establishing or modifying such units or dismiss the
application.

(g) After the issue date of a notice of hearing called to
establish or modify drilling units, no additional deep well shall be
commenced for production from the pool until the order establishing
or modifying drilling units has been made, unless the commencement
of the deep well is authorized by order of the commission.

§ 45.1-113.6. Pooling of interests in drilling units.—(a)
When two or more separately owned tracts are embraced within a
drilling unit, or when there are separately owned interests in all
or a part of the drilling unit, then operators owning such interests
may pool their interests for the development and operation of the
drilling unit by voluntary agreement including the exercise of
pooling and unitization rights granted in any oil and gas lease.
In the absence of voluntary pooling, the Commission, upon the application of any operators, may enter an order pooling all interests in the drilling unit for the development and operation thereof. Each such pooling order shall be made after notice and hearing and shall be upon terms and conditions that are just and reasonable. Such hearing may in the discretion of the Commissioner be conducted in conjunction with or ancillary to the hearing to create drilling units as set forth in § 45.1-113.5. Operations incident to the drilling of a well upon any portion of a unit covered by a pooling order shall be deemed for all purposes to be the conduct of such operations upon each separately owned tract in the unit by the several owners thereof. That portion of the production allocated or applicable to any tract included in a unit covered by a pooling order shall be in the same proportion which the acreage in that tract included in the unit bears to the total acreage included in the unit, and shall when produced, be deemed for all purposes to have been produced from each such tract by a well drilled thereon.

(b) Any pooling order under the provisions of this section shall authorize the drilling and operation of a deep well for the production of oil or gas from the pooled acreage; shall designate the operator to drill and operate such deep well; shall prescribe the time and manner in which all other operators may elect to participate therein; shall provide that all reasonable costs and expenses of drilling, completing, equipping, operating, plugging and abandoning such deep well shall be borne, and all production therefrom shared, by all operators in the proportion which acreage in the pooled tracts owned or under lease to each operator bears to the total acreage in the unit; and shall make provisions for payment of all reasonable costs thereof, including a reasonable charge for the supervision and for interest on past-due accounts, by all those who elect to participate therein. In the event of a dispute as to such costs the commission shall determine the proper costs.

(c) If requested, each such pooling order shall provide just and equitable alternatives whereby an operator who does not elect to participate in the risk and cost of the drilling and operation, or operation, of a well may elect to surrender his leasehold interest to the participating operators on some reasonable basis and for a reasonable consideration which, if not agreed upon, shall be determined by the commission, or may elect to participate in the drilling and operation, or operation, of the well on a limited or carried basis under the following conditions: in the event any operator in any portion of the pooled tract shall drill and
operate, or pay the costs of drilling and operating, a deep well for the benefit of such nonparticipating operator as provided in the pooling order, then such operator shall be entitled to the share of production from the tracts or portions thereof pooled accruing to the interest of such nonparticipating operator, exclusive of any royalty or overriding royalty reserved in any leases, assignments thereof or agreements relating thereto, of such tracts or portions thereof, or exclusive of one-eighth of the production attributable to all unleased tracts or portions thereof, until the market value of such share equals three times the share of such costs payable by or charged to the interest of such nonparticipating owner.

§ 45.1-113.7. Validity of unit agreements.—No agreement between or among operators, entered into pursuant to the provisions of this article or with a view to or for the purpose of bringing about the unitized development or operation of such properties, shall be held to violate the statutory or common law of this Commonwealth prohibiting monopolies or acts, arrangements, contracts, combinations or conspiracies in restraint of trade or commerce.

§ 45.1-113.8. Rules and regulations.—(a) The commission shall prescribe rules and regulations governing practice and procedure before the commission in accordance with the Administrative Process Act (Chapter 1.1:1 of Title 9 of the Code of Virginia).

§ 45.1-113.9. Court review.—Any person adversely affected by a decision of the commission after a hearing held pursuant to this act shall be entitled to judicial review pursuant to the provisions of the Administrative Process Act.

§ 45.1-113.10. Power of the Conservation Commission to restrain violations.—In the event any person violates or threatens to violate the provisions of §§ 45.1-113.1 through 45.1-113.9 of this chapter, the Oil and Gas Conservation Commission may maintain suit to restrain such violation in the same manner as provided in § 45.1-141.

§ 45.1-113.11. Standing of persons other than the commission to bring action for violation where the commission does not act.—If the commission shall refuse to fail to apply for an injunction to enjoin a violation or threatened violation of any provision of this article, any reasonable rule and regulation promulgated by the commission thereunder or any order or final decision of the commission, within ten days after receipt of a written request to do so by any person who is or will be adversely affected by such violation or threatened violation, the person making such request shall have standing to bring a bill in equity as set forth in § 45.1-142. The commission shall be made a party in such action in addition to the person or persons violating or threatening to violate any provision of this article, any reasonable rule and regulation promulgated
by the commission thereunder or any order or final decision of the commission.

CHAPTER 2.1

Compensation and Expenses of Commissions, Boards, etc.

§ 2.1-20.4. Bodies receiving compensation.—A. Notwithstanding any other provision of law to the contrary, the following commissions, boards, etc. shall be those which receive compensation from State funds pursuant to § 2.1-20.3:

- Accountancy, State Board of
- Agriculture and Consumer Services, Board of
- Air Pollution Control Board, State
- Airports Authority, Virginia
- Apprenticeship Council
- Architects, Professional Engineers and Land Surveyors, State Board of
- Athletic Commission, Virginia
- Audiology and Speech Pathology, Virginia Board of Examiners for Aviation Commission, Virginia
- Barber Examiners, Board of
- Behavioral Sciences, Virginia Board of
- Building Code Technical Review Board, State
- Certification of Librarians, Board for
- Certification of Water and Wastewater Work Operations, Board of
- Collection Agency Board, Virginia
- College Building Authority
- Commerce, Board of
- Commercial Driver Training Schools, Board of
- Conservation and Economic Development, Board of
- Contractors, State Registration Board for
- Corrections, Board of
- Criminal Justice, Council on
- Criminal Justice Services Commission
- Deaf, Council for the
- Dentistry, Virginia Board of
- Development Disabilities Planning Council, Virginia
- Drug and Alcoholism Counselor Certification Committees
- Education, State Board of
- Education Loan Authority, Virginia—Board of Directors
- Elections, State Board of
- Environment, Council on the
- Examiners in the Division of Mines, Board of
- Fire Services Commission, Virginia State
- Funeral Directors and Embalmers, Virginia Board of
- Game and Inland Fisheries, Commission of
Health, State Board of
Health Coordinating Council, Statewide
Health Regulatory Boards, Commission of
Hearing Aid Dealers and Fitters, Virginia Board of
Higher Education, State Council of
Highway and Transportation Commission, State
Housing and Community Development, Board of
Local Government, Commission on
Marine Resources Commission
Medical Complaint Investigation Committee
Medicine, Virginia State Board of
Mental Health and Mental Retardation Board, State
Milk Commission
Nursing, Virginia State Board of
Nursing Home Administrators, State Board of Examiners for
Oil and Gas Conservation Commission
Opticians, Virginia State Board of
Optometry, Virginia Board of
Outdoor Recreation, Commission on
Pharmacy, State Board of
Physical Therapy, Advisory Committee on
Pilots, Board of Commissioners to Examine
Port Authority, Board of Commissioners of the Virginia
Professional Counselors, Virginia Board of
Professional Hairdressers, Virginia State Board of Examiners of
Psychology, Virginia Board of
Public School Authority, Virginia
Purchases and Supply Appeals Board
Real Estate Commission, Virginia
Rehabilitative School Authority
Safety and Health Codes Commission
Sanitarian Examiners, State Board of
Seed Potato Commission
Social Workers, Virginia Board of
Surface Mining Review, Board of
Treasury Board
Veterinary Medicine. Virginia Board of
Virginia Supplemental Retirement System, Board of Trustees
Visually Handicapped, Virginia Commission for the
Water Control Board, State
Welfare, Board of

B. Individual members of boards, commissions, committees, councils, and other similar bodies appointed at the State level and receiving compensation for their services on January one, nineteen
AMENDMENTS

(1) On Page 6, Line 31, delete "associated pools" and substitute "both".
1 hundred eighty, but who will not receive compensation under the
2 provisions of this article, shall continue to receive compensation
3 at the January one, nineteen hundred eighty rate until such member's
4 current term expires.
(2) On Page 6, Line 39-44, delete all of subdivision (5) and substitute as follows:

(5) To collect data, make investigations and inspections, examine properties, leases, papers, books and records, administer oaths and affirmations and take testimony from witnesses, hold hearings, provide for the keeping of records and making reports and to take such actions as appear to him reasonably necessary to carry out the provisions of this article.
AMENDMENTS

(3) On Page 8, Lines 23 through 28, delete subdivision (ii) as written and substitute:

"(ii) to change the size or shape of one or more drilling units, or to permit the drilling of an additional well or wells thereon."
AMENDMENTS

(4) On Page 9, Line 2, delete "may" and substitute "shall".
AMENDMENTS

(5) On Page 10, Line 22, add to 45.1-113.8 the following language:

(b) The Commission shall not promulgate any substantive rule or regulation or hold any hearing without first publishing a notice of such regulation or hearing in a newspaper of general circulation published at the State Capitol at least fourteen days in advance of any hearing relating to such rules or regulations or other hearing which the Commission shall hold.

In addition to the time, place and nature of the proceedings, such notices shall include a brief statement as to the subject, substance, issues, basis, and purpose or possible terms of the regulation under consideration as well as a reference to the legal authority of the agency to act and the place at which any tentative draft thereof will be available for public inspection. Such tentative draft shall include a copy of all reporting forms which the agency anticipates to be incorporated into or to be used in administering the proposed regulation.

The Commission may, in addition to such notice, publish similar notices in newspapers in localities which may be particularly affected as well as by news releases and other media as will best serve the purpose and subject involved.

(c) In the case of any hearing held pursuant to §§ 45.1-113.5 or § 45.1-113.6 of this article, the Commission in addition to providing notice in the manner described in subsection (b) of this section, shall give notice of such hearing by mail to each operator of record identified, by the applicant or the Commission, as having an interest in the oil and gas underlying the tracts which are the subject of the hearing, Provided that: The failure, to identify any person as an operator having an interest or to provide notice by mail to such operator, if not a willful or knowing failure on the part of any applicant or the Commission shall not constitute a basis for the rescission of any order issued pursuant to the provisions of §§ 45.1-113.5 or 45.1-113.6 of this Article.
A BILL to amend and reenact § 45.1-106 of the Code of Virginia, to amend the Code of Virginia by adding in Chapter 12 of Title 45 an article numbered 2.1 consisting of sections numbered 45.1-113.1 through 45.1-113.11, and to further amend the Code of Virginia by amending and reenacting § 2.1-20.4, all relating to conservation and regulation of oil and gas.

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   (a) "Casing" means a string or strings of pipe commonly placed set in wells drilled for petroleum and natural gas;

   (b) "Casing-head gas" means any gas or vapor, or both gas and vapor, indigenous to an oil stratum and produced from such stratum with oil;

   (c) "Cement" means hydraulic cement;

   (d) "Chief" means the Chief Mine Inspector or his designated assistant unless the context indicates otherwise;

   (e) "Coal operator" means any person or persons, firm, partnership association or corporation that proposes to or does operate a coal mine;

   (el) "Commission" means the Oil and Gas Conservation Commission;

   (f) "Commissioner" means the Commissioner of the Department of Labor and Industry;

   (fl) "Correlative rights" means the rights of each owner of oil and gas interests in a single pool to have a fair and reasonable opportunity to obtain and produce his just and equitable share of the oil and gas in such pool, without being required to drill unnecessary wells or incur other unnecessary expense to recover or receive such oil or gas or its equivalent;

   (fa) "Deep Well" (See under Well);

   (g) "Division" means the Division of Mines;

   (gl) "Drilling Unit" means a drilling unit established
under the procedures set forth in § 45.1-113.5 of this article;
(h) "Gas" means the natural gas including casing-head gas
obtained from gas or combination wells regardless of its chemical
analysis;
(hl) "Just and equitable share of production" means, as to
each person, an amount of oil or gas or both substantially equal
to the amount of recoverable oil and gas in that part of a pool
underlying his tract or tracts;
(i) "Log" or "well log" means the written record progressively
describing all strata, water, oil or gas encountered in drilling,
development with or without any shafts, slopes, drifts or tunnels
for the extraction of coal, minerals or nonmetallic materials,
commonly designated as mineral resources (excluding petroleum and
natural gas), containing the same with hoisting or haulage equip-
ment and appliances for the extraction of the said mineral
resources; and embraces any and all of the land or property of the
mining plant, and the surface and underground, that is used or con-
tributes directly or indirectly to the mining property, concentra-
tion or handling of said mineral resources;
(k) "Mine operator" means any person or persons, firm,
partnership, partnership association or corporation that proposes
to or does operate a mine;
(m) "Mud-laden fluid" means any approved mixture of water
and clay or other material as the term is commonly used in the
industry;
(n) "Oil" means crude petroleum oil or petroleum;
(nl) "Onondaga Horizon" means the top of the Onondaga forma-
tion, except in those areas in which the Onondaga formation is not
present, and in such areas the term shall be understood to mean either
(1) the top of the stratigraphic horizon first appearing in the
interval of the missing Onondaga formation, or (2) the surface where
strata older than the top of the Onondaga are exposed at the
surface;
(o)(1) "Operator means any person who, duly authorized, is
in charge of the development of a lease, drilling activities or
the operator of a producing well, (2) For purposes of
Article 2.1 of this chapter "operator" means any owner of the
right to develop, operate and produce oil and gas from a pool and
to appropriate the oil and gas produced therefrom, either for him-
self or for himself and others; in the event that there is no oil
and gas lease in existence with respect to the tract in question,
the owner of the oil and gas rights therein shall be considered as
"operator" to the extent of seven-eighths of the oil and gas in
that portion of the pool underlying the tract owned by such owner,
and as "royalty owner" as to one-eighth interest in such oil and
gas; and in the event the oil is owned separately from the gas,
the owner of the substance being produced or sought as to such pool;

(p) "Person" means any natural person, firm, partnership,
partnership association, association, company, corporation,
receiver, trustee, guardian, executor, administrator, fiduciary
or representative of any kind;

(q) "Petroleum" means the natural untreated oil obtained
from an oil well;

(r) "Pillar" means a solid block of coal or ore or other
material, left unmined to support the overlying strata in a mine;

(s) "Pipeline" means any pipes above or below the ground used
or to be used for the transportation of oil or gas;

(t) "Plat" or "map" means a map, drawing or print showing the
location of a well or wells, mines, quarries;

(u) "Plug" means the stopping of the flow of water, gas or
oil in connection with the abandoning of a producing or non-
productive well;

(ul) "Pool" means an underlying reservoir containing a common
accumulation of crude petroleum oil or natural gas or both. Each
zone of a general structure which is completely separated from any
other zone in the structure is covered by the term "pool" as used
in this chapter.

(v) "Porosity" means the-state-of-er-quality-of-being-permea-
the-absorbent-capacity-of-the-material-or-the-volume-of-liquid-held
by-the-pores a measure of the pore space, in a given quantity of
bulk rock, expressed as a percentage;

(vl) "Project area" means the well and any other disturbed
area, including roads and off-site disposal, associated with the
well;

(v2) "Royalty owner" means any owner of oil or gas in place
or oil or gas rights, subject to a lease covering such oil or gas
in place or oil or gas rights. "Royalty owner" also means any
owner of an interest in an oil or gas lease which entitles him to
share in the production of the oil or gas under such lease or the
proceeds therefrom without obligating him to pay any costs under
such lease. "Royalty owner" also means the owner of any interest
in the oil or gas in place, or oil or gas rights, who has not
executed an oil and gas lease, to the extent that such owner is
not designated an "operator" under subsection (o) of this section;
(v3) "Shallow well" (See under Well);
(w) "Shot" or "shooting" means exploding nitroglycerine or
other high explosive in a hole, to shatter the rock and increase
the flow of oil or gas;
(w1) "Spoil" means any overburden or other material removed
from its natural state in the process of preparing or utilizing a
well location;
(x) "Tubing" means the conduit through which oil or gas is
removed from a well;
(y) "Waste," in addition to its ordinary meaning, means
"physical waste" as that term is generally understood in the oil
and gas industry;
(z) "Well" means any excavation or hole drilled or bored into
the earth, for the purpose of exploring for or producing, extracting
or injecting any gas, petroleum or other liquid, but excluding holes
drilling or bored, to produce fresh water to be used as such, or
vertical mine ventilation holes, and for purposes of Article 2.1 of
this chapter (1) "deep well" means a well drilled to a depth
greater than five thousand feet or to the top of the uppermost
member of the Onondaga horizon, whichever is deeper, except that it
does not mean wells which penetrate the Onondaga horizon if such
penetration does not exceed 100 feet, does not result in production
from the Onondaga or deeper horizons and is for the purpose of
logging or stratigraphic testing or to permit the fracturing and
completion of a horizon situated above the top of the Onondaga
horizon, and (2) "shallow well" means any well other than a deep
well;
(aa) "Well operator" means any person or persons, firm,
partnership, partnership association or corporation that proposes
to or does locate, drill, operate or abandon any well as herein
defined;
(bb) "Workable coal bed" means a coal bed in fact being
operated commercially, or which, in the judgment of the Chief, can,
and that is reasonably to be expected will be so operated, and
which, when operated, will require protection if wells are drilled
through it.

Article 2.1
Oil and Gas Conservation
§ 45.1-113.1. Declaration of public policy; legislative
findings.- (a) It is hereby declared to be the public policy of
this Commonwealth and in the public interest to:
(1) Foster, encourage and promote exploration for and
development, production, utilization and conservation of oil and
gas resources;
(2) Prohibit waste of oil and gas resources and unnecessary
surface loss of oil and gas and their constituents;
(3) Encourage the maximum recovery of oil and gas, while
preserving capital, and
(4) Safeguard, protect and enforce the correlative rights of
operators and royalty owners in a pool or oil or gas to the end
that each such operator and royalty owner may obtain his just and
equitable share of production from such pool of oil or gas.
(b) The General Assembly hereby determines and finds that oil
and natural gas found in Virginia in shallow sands or strata have
geological and other characteristics different than those found
in deeper formations; and that in order to encourage the maximum
recovery of oil and gas from all productive formations, it is
in the public interest to enact new statutory provisions relating
to the production and conservation of oil and gas from deep wells,
as defined in this article.
§ 45.1-113.2. Applicability; exclusions; construction. -(a)
Except as provided in subsection (b) of this section, the pro-
visions of this article shall apply to all lands located in this
Commonwealth whether publicly or privately owned or administered;
(b) 'This article shall not apply to or affect:
(1) Shallow wells;
(2) Any well commenced or completed prior to the effective
date of this article, unless such well is, after completion (whether
such completion is prior or subsequent to the effective date of this
article), deepened subsequent to the effective date of this article
to a formation at or below the top of the "Onondaga Horizon" or at
a depth greater than five thousand feet, whichever is deeper;
(3) Gas storage operations or any well employed to inject gas
into or withdraw gas from a gas storage reservoir or any well
employed for storage observation; or
(c) The provisions of this article shall not be construed
to grant to the commissioner authority or power to:
(1) Limit production or output, except to prorate production
for the protection of correlative rights pursuant to any order
issued under § 45.1-113.5 of this article; or
(2) Fix prices of oil or gas.
§ 45.1-113.3. Oil and gas conservation commission;
membership; qualifications; appointments and terms; vacancies;
meetings; compensation.- (a) There is hereby created the "Virginia
Oil and Gas Conservation Commission" which shall be composed of
three members.

(b) One of the members shall be the Chief of the Division of Mineral Resources and one shall be the Chief Oil and Gas Inspector of the Division of Mines and Quarries. The third member shall be appointed by the governor.

(c) The Chief Oil and Gas Inspector of the Division of Mines and Quarries shall be the chairman of the commission. The commission shall meet at such times and places as shall be designated by the chairman. The chairman shall call a meeting of the commission upon the written request of another member of the commission. Notification of each meeting shall be given in writing to each member by the chairman at least five days in advance of the meeting. Any two members, one of which may be the chairman, shall constitute a quorum for the transaction of any business as herein provided for. A majority of the commission shall be required to determine any issue brought before it.

§ 45.1-113.4. Powers and duties of the commission.—(a) The commission shall have the power and duty to execute and carry out the provisions of this article in the manner provided herein.

(b) The commission is authorized to make such investigations and inspections of records and facilities as it deems necessary and proper to discharge its duties and perform its functions under this article.

(c) Without limiting its general authority, the commission is hereby granted specific authority:

(1) To regulate the spacing of deep wells to achieve the purposes of this article;

(2) Upon proper application and notice to enter spacing and pooling orders and to provide for the unitization of interests within a drilling unit.

(3) To classify pools as oil or gas or associated pools, or wells as oil or gas wells, for purposes material to the interpretation or administration of this article under the definitions set out in § 45.1-106.

(4) To make and enforce reasonable rules and regulations and orders reasonably necessary to prevent waste, protect correlative rights, govern the practice and procedure before the Commission and otherwise administer the provisions of this article.

(5) To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of any books, records, maps, charts, diagrams and other pertinent documents, and administer oaths and affirmations to such witnesses whenever, in the judgment of the commission, it is necessary to do so for the effective discharge of its duties under the provisions of this article.
§ 45.1-113.5. Drilling units for deep oil and gas wells.—(a)
To prevent waste of oil or gas, to avoid the drilling of unnecessary
wells, or to protect correlative rights, the commission, upon its
own notice or upon application of any operator, after notice and
hearing as herein provided, shall have the power to establish or
modify drilling units covering any pool. Drilling units when
established or modified shall to the extent reasonably possible
be of uniform size and shape for the entire pool.
(b) In establishing or modifying a drilling unit, the acreage
to be embraced within each unit and the shape thereof shall be
determined by the commission from the evidence introduced at the
hearing but shall be of an area that can be efficiently and eco-
nomically drained by one well. If at the time of a hearing to
establish drilling units, there is not sufficient evidence from
which to determine the area which can be drained efficiently and
economically by one deep well, the commission may enter an order
establishing provisional drilling units for the orderly development
of the pool pending the obtaining of information necessary to
determine the ultimate spacing for such pool.
(c) On the date specified in the notice, the commission shall
hold a public hearing to determine the area to be included in the
order and the acreage to be embraced within each unit and the shape
thereof and the area within which deep wells may be drilled on such
units. Evidence of the following facts may be considered by the
commission in entering its order:
(1) The surface topography and property lines of the lands
underlaid by the pool.
(2) The plan of well spacing then being employed or proposed
in such pool.
(3) The depth at which production from said pool has been
found.
(4) The nature and character of the producing formation or
formations, and whether the substances produced or sought to be
produced are gas or oil.
(5) The maximum area which may be drained efficiently and
economically by one well.
(6) Any other available geological or scientific data
pertaining to said pool, which may be of probative value to the
Commission in determining the proper spacing and well drilling unit
therefor, with due and relative allowance for the correlative rights
and obligations of the operators' and royalty owners' interests
therein.
(d) An order establishing or modifying drilling units shall
specify the minimum distance from the nearest outside boundary of
the drilling unit at which a deep well may be drilled. The minimum
distance provided shall be the same in all drilling units established
or modified under said order with necessary exceptions for deep wells
drilled or being drilled at the time of the filing of the application.
If the commission finds that a deep well to be drilled in compliance
with the specified minimum distance would not be likely to produce
in paying quantities or will encounter surface conditions which would
substantially add to the burden or hazard of drilling such deep
well, or that a location within the area permitted by the order is
prohibited by the lawful order of any state agency or court, the
commission is authorized after notice and hearing to make an order
permitting the deep well to be drilled at a location within the
minimum distance prescribed by the spacing order, with such con-
ditions restricting production from any such well as to provide
that no operator or royalty owner shall produce or receive more
than his just and equitable share of the production.
(e) An order establishing or modifying drilling units for
a pool shall cover all lands determined by the commission to be
underlaid by such pool, and may be modified by the commission from
time to time (i) to include additional areas determined to be
underlaid by such pool or to delete areas determined not to be
underlaid by such pool, and (ii) to change the size of one or more
drilling units, and if production has already commenced from a well
on a drilling unit prior to the order changing its size, then the
commission shall not issue an order for that particular drilling unit
until it has received an agreement from all operators and royalty
owners with an interest in the drilling unit permitting the commission
to act on the evidence adduced in support of the application.
(f) The commission shall within 45 days after issuing a notice
of hearing to establish or modify drilling units for a pool either
enter an order establishing or modifying such units or dismiss the
application.
(g) After the issue date of a notice of hearing called to
establish or modify drilling units, no additional deep well shall be
commenced for production from the pool until the order establishing
or modifying drilling units has been made, unless the commencement
of the deep well is authorized by order of the commission.
§ 45.1-113.6. Pooling of interests in drilling units.—(a)
When two or more separately owned tracts are embraced within a
drilling unit, or when there are separately owned interests in all
or a part of the drilling unit, then operators owning such interests
may pool their interests for the development and operation of the
drilling unit by voluntary agreement including the exercise of
pooling and unitization rights granted in any oil and gas lease.
In the absence of voluntary pooling, the Commission, upon the
application of any operators, may enter an order pooling all
interests in the drilling unit for the development and
operation thereof. Each such pooling order shall be made after
notice and hearing and shall be upon terms and conditions that
are just and reasonable. Such hearing may in the discretion of
the Commissioner be conducted in conjunction with or ancillary
to the hearing to create drilling units as set forth in
§ 45.1-113.5. Operations incident to the drilling of a well upon
any portion of a unit covered by a pooling order shall be deemed
for all purposes to be the conduct of such operations upon each
separately owned tract in the unit by the several owners thereof.
That portion of the production allocated or applicable to any
tract included in a unit covered by a pooling order shall be in
the same proportion which the acreage in that tract included in
the unit bears to the total acreage included in the unit, and shall
when produced, be deemed for all purposes to have been produced
from each such tract by a well drilled thereon.

(b) Any pooling order under the provisions of this section
shall authorize the drilling and operation of a deep well for the
production of oil or gas from the pooled acreage; shall designate
the operator to drill and operate such deep well; shall prescribe
the time and manner in which all other operators may elect to
participate therein; shall provide that all reasonable costs and
expenses of drilling, completing, equipping, operating, plugging
and abandoning such deep well shall be borne, and all production
therefrom shared, by all operators in the proportion which
acreage in the pooled tracts owned or under lease to each operator
bears to the total acreage in the unit; and shall make provisions
for payment of all reasonable costs thereof, including a reasonable
charge for the supervision and for interest on past-due accounts,
by all those who elect to participate therein. In the event of a
dispute as to such costs the commission shall determine the proper
costs.

(c) If requested, each such pooling order shall provide just
and equitable alternatives whereby an operator who does not elect
to participate in the risk and cost of the drilling and operation, or
operation, of a well may elect to surrender his leasehold interest
to the participating operators on some reasonable basis and for a
reasonable consideration which, if not agreed upon, shall be
determined by the commission, or may elect to participate in the
drilling and operation, or operation, of the well on a limited or
carried basis under the following conditions: in the event any
operator in any portion of the pooled tract shall drill and
operate, or pay the costs of drilling and operating, a deep well for the benefit of such nonparticipating operator as provided in the pooling order, then such operator shall be entitled to the share of production from the tracts or portions thereof pooled accruing to the interest of such nonparticipating operator, exclusive of any royalty or overriding royalty reserved in any leases, assignments thereof or agreements relating thereto, of such tracts or portions thereof, or exclusive of one-eighth of the production attributable to all unleased tracts or portions thereof, until the market value of such share equals three times the share of such costs payable by or charged to the interest of such nonparticipating owner.

§ 45.1-113.7. Validity of unit agreements.-No agreement between or among operators, entered into pursuant to the provisions of this article or with a view to or for the purpose of bringing about the unitized development or operation of such properties, shall be held to violate the statutory or common law of this Commonwealth prohibiting monopolies or acts, arrangements, contracts, combinations or conspiracies in restraint of trade or commerce.

§ 45.1-113.8. Rules and regulations.-(a) The commission shall prescribe rules and regulations governing practice and procedure before the commission in accordance with the Administrative Process Act (Chapter 1.1:1 of Title 9 of the Code of Virginia).

§ 45.1-113.9. Court review.-Any person adversely affected by a decision of the commission after a hearing held pursuant to this act shall be entitled to judicial review pursuant to the provisions of the Administrative Process Act.

§ 45.1-113.10. Power of the Conservation Commission to restrain violations.-In the event any person violates or threatens to violate the provisions of §§ 45.1-113.1 through 45.1-113.9 of this chapter, the Oil and Gas Conservation Commission may maintain suit to restrain such violation in the same manner as provided in § 45.1.141.

§ 45.1-113.11. Standing of persons other than the commission to bring action for violation where the commission does not act.-If the commission shall refuse to fail to apply for an injunction to enjoin a violation or threatened violation of any provision of this article, any reasonable rule and regulation promulgated by the commission thereunder or any order or final decision of the commission, within ten days after receipt of a written request to do so by any person who is or will be adversely affected by such violation or threatened violation, the person making such request shall have standing to bring a bill in equity as set forth in § 45.1-142. The commission shall be made a party in such action in addition to the person or persons violating or threatening to violate any provision of this article, any reasonable rule and regulation promulgated
CHAPTER 2.1

Compensation and Expenses of Commissions, Boards, etc.

§ 2.1-20.4. Bodies receiving compensation.—A. Notwithstanding any other provision of law to the contrary, the following commissions, boards, etc. shall be those which receive compensation from State funds pursuant to § 2.1-20.3:

Accountancy, State Board of
Agriculture and Consumer Services, Board of
Air Pollution Control Board, State
Airports Authority, Virginia
Apprenticeship Council
Architects, Professional Engineers and Land Surveyors, State
Board of
Athletic Commission, Virginia
Audiology and Speech Pathology, Virginia Board of Examiners for
Aviation Commission, Virginia
Barber Examiners, Board of
Behavioral Sciences, Virginia Board of
Building Code Technical Review Board, State
Certification of Librarians, Board for
Certification of Water and Wastewater Work Operations, Board of
Collection Agency Board, Virginia
College Building Authority
Commerce, Board of
Commercial Driver Training Schools, Board of
Conservation and Economic Development, Board of
Contractors, State Registration Board for
Corrections, Board of
Criminal Justice, Council on
Criminal Justice Services Commission
Deaf, Council for the
Dentistry, Virginia Board of
Development Disabilities Planning Council, Virginia
Drug and Alcoholism Counselor Certification Committees
Education, State Board of
Education Loan Authority, Virginia—Board of Directors
Elections, State Board of
Environment, Council on the
Examiners in the Division of Mines, Board of
Fire Services Commission, Virginia State
Funeral Directors and Embalmers, Virginia Board of
Game and Inland Fisheries, Commission of
Health, State Board of
Health Coordinating Council, Statewide
Health Regulatory Boards, Commission of
Hearing Aid Dealers and Fitters, Virginia Board of
Higher Education, State Council of
Highway and Transportation Commission, State
Housing and Community Development, Board of
Local Government, Commission on
Marine Resources Commission
Medical Complaint Investigation Committee
Medicine, Virginia State Board of
Mental Health and Mental Retardation Board, State
Milk Commission
Nursing, Virginia State Board of
Nursing Home Administrators, State Board of Examiners for
Oil and Gas Conservation Commission
Opticians, Virginia State Board of
Optometry, Virginia Board of
Outdoor Recreation, Commission on
Pharmacy, State Board of
Physical Therapy, Advisory Committee on
Pilots, Board of Commissioners to Examine
Port Authority, Board of Commissioners of the Virginia
Professional Counselors, Virginia Board of
Professional Hairdressers, Virginia State Board of Examiners of
Psychology, Virginia Board of
Public School Authority, Virginia
Purchases and Supply Appeals Board
Real Estate Commission, Virginia
Rehabilitative School Authority
Safety and Health Codes Commission
Sanitarian Examiners, State Board of
Seed Potato Commission
Social Workers, Virginia Board of
Surface Mining Review, Board of
Treasury Board
Veterinary Medicine, Virginia Board of
Virginia Supplemental Retirement System, Board of Trustees
Visually Handicapped, Virginia Commission for the
Water Control Board, State
Welfare, Board of

B. Individual members of boards, commissions, committees, councils, and other similar bodies appointed at the State level and receiving compensation for their services on January one, nineteen
hundred eighty, but who will not receive compensation under the
provisions of this article, shall continue to receive compensation
at the January one, nineteen hundred eighty rate until such member's
current term expires.
(1) On Page 6, Line 31, delete "associated pools" and substitute "both".
AMENDMENTS

(2) On Page 6, Line 39-44, delete all of subdivision (5) and substitute as follows:

(5) To collect data, make investigations and inspections, examine properties, leases, papers, books and records, administer oaths and affirmations and take testimony from witnesses, hold hearings, provide for the keeping of records and making reports and to take such actions as appear to him reasonably necessary to carry out the provisions of this article.
AMENDMENTS

(3) On Page 8, Lines 23 through 28, delete subdivision (ii) as written and substitute:

"(ii) to change the size or shape of one or more drilling units, or to permit the drilling of an additional well or wells thereon."

AMENDMENTS

(4) On Page 9, Line 2, delete "may" and substitute "shall".
(5) On Page 10, Line 22, add to 45.1-113.8 the following language:

(b) The Commission shall not promulgate any substantive rule or regulation or hold any hearing without first publishing a notice of such regulation or hearing in a newspaper of general circulation published at the State Capitol at least fourteen days in advance of any hearing relating to such rules or regulations or other hearing which the Commission shall hold.

In addition to the time, place and nature of the proceedings, such notices shall include a brief statement as to the subject, substance, issues, basis, and purpose or possible terms of the regulation under consideration as well as a reference to the legal authority of the agency to act and the place at which any tentative draft thereof will be available for public inspection. Such tentative draft shall include a copy of all reporting forms which the agency anticipates to be incorporated into or to be used in administering the proposed regulation.

The Commission may, in addition to such notice, publish similar notices in newspapers in localities which may be particularly affected as well as by news releases and other media as will best serve the purpose and subject involved.

(c) In the case of any hearing held pursuant to §§ 45.1-113.5 or § 45.1-113.6 of this article, the Commission in addition to providing notice in the manner described in subsection (b) of this section, shall give notice of such hearing by mail to each operator of record identified, by the applicant or the Commission, as having an interest in the oil and gas underlying the tracts which are the subject of the hearing, Provided that: The failure, to identify any person as an operator having an interest or to provide notice by mail to such operator, if not a willful or knowing failure on the part of any applicant or the Commission shall not constitute a basis for the recission of any order issued pursuant to the provisions of §§ 45.1-113.5 or 45.1-113.6 of this Article.
TO ALL INTERESTED PERSONS:

Re: Virginia Oil and Gas Conservation Act

Enclosed is a draft of a proposed Oil and Gas Conservation Act as discussed at the meeting of the Virginia Coal and Energy Commission on October 14.

Very truly yours,

R. Neal Pierce

RNP: bak

Enclosure
A BILL to amend and reenact § 45.1-106 of the Code of Virginia, to amend the Code of Virginia by adding in Chapter 12 of Title 45 an article numbered 2.1 consisting of sections numbered 45.1-113.1 through 45.1-113.11, and to further amend the Code of Virginia by amending and reenacting § 2.1-20.4, all relating to conservation and regulation of oil and gas.

Be it enacted by the General Assembly of Virginia:

1. That § 45.1-106 is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 12 of Title 45 an article numbered 2.1 consisting of sections numbered 45.1-113.1 through 45.1-113.11, and by amending and reenacting § 2.1-30.4 as follows:

   § 45.1-106. Definitions.—As used in §§ 45.1-106 through 45.1-144 unless the context clearly indicates otherwise:

   (a) "Casing" means a string or strings of pipe commonly placed set in wells drilled for petroleum and natural gas;

   (b) "Casing-head gas" means any gas or vapor, or both gas and vapor, indigenous to an oil stratum and produced from such stratum with oil;

   (c) "Cement" means hydraulic cement;

   (d) "Chief" means the Chief Mine Inspector or his designated assistant unless the context indicates otherwise;

   (e) "Coal operator" means any person or persons, firm, partnership association or corporation that proposes to or does operate a coal mine;

   (f) "Commission" means the Oil and Gas Conservation Commission;

   (f) "Commissioner" means the Commissioner of the Department of Labor and Industry;

   (fl) "Correlative rights" means the rights of each owner of oil and gas interests in a single pool to have a fair and reasonable opportunity to obtain and produce his just and equitable share of the oil and gas in such pool, without being required to drill unnecessary wells or incur other unnecessary expense to recover or receive such oil or gas or its equivalent;

   (fa) "Deep Well" (See under Well);

   (g) "Division" means the Division of Mines;

   (gl) "Drilling Unit" means a drilling unit established
under the procedures set forth in § 45.1-113.5 of this article;

(h) "Gas" means the natural gas including casing-head gas obtained from gas or combination wells regardless of its chemical analysis;

(hl) "Just and equitable share of production" means, as to each person, an amount of oil or gas or both substantially equal to the amount of recoverable oil and gas in that part of a pool underlying his tract or tracts;

(i) "Log" or "well log" means the written record progressively describing all strata, water, oil or gas encountered in drilling, depth and thickness of each bed or seam of coal drilled through, quantity of oil, volumes of gas, pressures, rate of fill-up, fresh and salt water-bearing horizons and depths, caving strata, casing records, etc., as is usually recorded in the normal procedure of drilling; also includes the electrical survey records or logs;

(j) "Mine" means an underground or surface excavation or development with or without any shafts, slopes, drifts or tunnels for the extraction of coal, minerals or nonmetallic materials, commonly designated as mineral resources (excluding petroleum and natural gas), containing the same with hoisting or haulage equipment and appliances for the extraction of the said mineral resources; and embraces any and all of the land or property of the mining plant, and the surface and underground, that is used or contributes directly or indirectly to the mining property, concentration or handling of said mineral resources;

(k) "Mine operator" means any person or persons, firm, partnership, partnership association or corporation that proposes to or does operate a mine;

(l) "Mud-laden fluid" means any approved mixture of water and clay or other material as the term is commonly used in the industry;

(m) "Natural gas" (see Gas);

(n) "Oil" means crude petroleum oil or petroleum;

(nl) "Onondaga Horizon" means the top of the Onondaga formation, except in those areas in which the Onondaga formation is not present, and in such areas the term shall be understood to mean either (1) the top of the stratigraphic horizon first appearing in the interval of the missing Onondaga formation, or (2) the surface where strata older than the top of the Onondaga are exposed at the surface;

(o)(1) "Operator means any person who, duly authorized, is in charge of the development of a lease, drilling activities or the operator of a producing well, (2) For purposes of Article 2.1 of this chapter "operator" means any owner of the
right to develop, operate and produce oil and gas from a pool and
to appropriate the oil and gas produced therefrom, either for him-
self or for himself and others; in the event that there is no oil
and gas lease in existence with respect to the tract in question,
the owner of the oil and gas rights therein shall be considered as
"operator" to the extent of seven-eighths of the oil and gas in
that portion of the pool underlying the tract owned by such owner,
and as "royalty owner" as to one-eighth interest in such oil and
gas; and in the event the oil is owned separately from the gas,
the owner of the substance being produced or sought as to such pool;

(p) "Person" means any natural person, firm, partnership,
partnership association, association, company, corporation,
receiver, trustee, guardian, executor, administrator, fiduciary
or representative of any kind;

(q) "Petroleum" means the natural untreated oil obtained
from an oil well;

(r) "Pillar" means a solid block of coal or ore or other
material, left unmined to support the overlying strata in a mine;

(s) "Pipeline" means any pipes above or below the ground used
or to be used for the transportation of oil or gas;

(t) "Plat" or "map" means a map, drawing or print showing the
location of a well or wells, mines, quarries;

(u) "Plug" means the stopping of the flow of water, gas or
oil in connection with the abandoning of a producing or non-
productive well;

(ul) "Pool" means an underlying reservoir containing a common
accumulation of crude petroleum oil or natural gas or both. Each
zone of a general structure which is completely separated from any
other zone in the structure is covered by the term "pool" as used
in this chapter.

(v) "Porosity" means the-state-of-or-quality-of-being-porous;
the-absorbent-capacity-of-the-material-or-the-volume-of-liquid-held
by-the-pores a measure of the pore space, in a given quantity of
bulk rock, expressed as a percentage;

(v1) "Project area" means the well and any other disturbed
area, including roads and off-site disposal, associated with the
well;

(v2) "Royalty owner" means any owner of oil or gas in place
or oil or gas rights, subject to a lease covering such oil or gas
in place or oil or gas rights. "Royalty owner" also means any
owner of an interest in an oil or gas lease which entitles him to
share in the production of the oil or gas under such lease or the
proceeds therefrom without obligating him to pay any costs under
such lease. "Royalty owner" also means the owner of any interest
in the oil or gas in place, or oil or gas rights, who has not
executed an oil and gas lease, to the extent that such owner is
not designated an "operator" under subsection (o) of this section;
(v3) "Shallow well" (See under Well);
(w) "Shot" or "shooting" means exploding nitroglycerine or
other high explosive in a hole, to shatter the rock and increase
the flow of oil or gas;
(w1) "Spoil" means any overburden or other material removed
from its natural state in the process of preparing or utilizing a
well location;
(x) "Tubing" means the conduit through which oil or gas is
removed from a well;
(y) "Waste," in addition to its ordinary meaning, means
"physical waste" as that term is generally understood in the oil
and gas industry;
(z) "Well" means any excavation or hole drilled or bored into
the earth, for the purpose of exploring for or producing, extracting
or injecting any gas, petroleum or other liquid, but excluding holes
drilling or bored, to produce fresh water to be used as such, or
vertical mine ventilation holes, and for purposes of Article 2.1 of
this chapter (1) "deep well" means a well drilled to a depth
greater than five thousand feet or to the top of the uppermost
member of the Onondaga horizon, whichever is deeper, except that it
does not mean wells which penetrate the Onondaga horizon if such
penetration does not exceed 100 feet, does not result in production
from the Onondaga or deeper horizons and is for the purpose of
logging or stratigraphic testing or to permit the fracturing and
completion of a horizon situated above the top of the Onondaga
horizon, and (2) "shallow well" means any well other than a deep
well;
(aa) "Well operator" means any person or persons, firm,
partnership, partnership association or corporation that proposes
to or does locate, drill, operate or abandon any well as herein
defined;
(bb) "Workable coal bed" means a coal bed in fact being
operated commercially, or which, in the judgment of the Chief, can,
and that is reasonably to be expected will be so operated, and
which, when operated, will require protection if wells are drilled
through it.

Article 2.1
Oil and Gas Conservation
§ 45.1-113.1. Declaration of public policy; legislative
findings.- (a) It is hereby declared to be the public policy of
this Commonwealth and in the public interest to:
(1) Foster, encourage and promote exploration for and
development, production, utilization and conservation of oil and
gas resources;
(2) Prohibit waste of oil and gas resources and unnecessary
surface loss of oil and gas and their constituents;
(3) Encourage the maximum recovery of oil and gas, while
preserving capital, and
(4) Safeguard, protect and enforce the correlative rights of
operators and royalty owners in a pool or oil or gas to the end
that each such operator and royalty owner may obtain his just and
equitable share of production from such pool of oil or gas.

(b) The General Assembly hereby determines and finds that oil
and natural gas found in Virginia in shallow sands or strata have
geological and other characteristics different than those found
in deeper formations; and that in order to encourage the maximum
recovery of oil and gas from all productive formations, it is
in the public interest to enact new statutory provisions relating
to the production and conservation of oil and gas from deep wells,
as defined in this article.

§ 45.1-113.2. Applicability; exclusions; construction. -(a)
Except as provided in subsection (b) of this section, the pro-
visions of this article shall apply to all lands located in this
Commonwealth whether publicly or privately owned or administered;
(b) This article shall not apply to or affect:
(1) Shallow wells;
(2) Any well commenced or completed prior to the effective
date of this article, unless such well is, after completion (whether
such completion is prior or subsequent to the effective date of this
article), deepened subsequent to the effective date of this article
to a formation at or below the top of the "Onondaga Horizon" or at
a depth greater than five thousand feet, whichever is deeper;
(3) Gas storage operations or any well employed to inject gas
into or withdraw gas from a gas storage reservoir or any well
employed for storage observation; or
(c) The provisions of this article shall not be construed
to grant to the commissioner authority or power to:
(1) Limit production or output, except to prorate production
for the protection of correlative rights pursuant to any order
issued under § 45.1-113.5 of this article; or
(2) Fix prices of oil or gas.

§ 45.1-113.3. Oil and gas conservation commission;

membership; qualifications; appointments and terms; vacancies;
meetings; compensation.- (a) There is hereby created the "Virginia
Oil and Gas Conservation Commission" which shall be composed of
three members.

(b) One of the members shall be the Chief of the Division of Mineral Resources and one shall be the Chief Oil and Gas Inspector of the Division of Mines and Quarries. The third member shall be appointed by the governor.

(c) The Chief Oil and Gas Inspector of the Division of Mines and Quarries shall be the chairman of the commission. The commission shall meet at such times and places as shall be designated by the chairman. The chairman shall call a meeting of the commission upon the written request of another member of the commission. Notification of each meeting shall be given in writing to each member by the chairman at least five days in advance of the meeting. Any two members, one of which may be the chairman, shall constitute a quorum for the transaction of any business as herein provided for. A majority of the commission shall be required to determine any issue brought before it.

§ 45.1-113.4. Powers and duties of the commission.—(a) The commission shall have the power and duty to execute and carry out the provisions of this article in the manner provided herein.

(b) The commission is authorized to make such investigations and inspections of records and facilities as it deems necessary and proper to discharge its duties and perform its functions under this article.

(c) Without limiting its general authority, the commission is hereby granted specific authority:

(1) To regulate the spacing of deep wells to achieve the purposes of this article;

(2) Upon proper application and notice to enter spacing and pooling orders and to provide for the unitization of interests within a drilling unit.

(3) To classify pools as oil or gas or associated pools, or wells as oil or gas wells, for purposes material to the interpretation or administration of this article under the definitions set out in § 45.1-106.

(4) To make and enforce reasonable rules and regulations and orders reasonably necessary to prevent waste, protect correlative rights, govern the practice and procedure before the Commission and otherwise administer the provisions of this article.

(5) To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of any books, records, maps, charts, diagrams and other pertinent documents, and administer oaths and affirmations to such witnesses whenever, in the judgment of the commission, it is necessary to do so for the effective discharge of its duties under the provisions of this article.
§ 45.1-113.5. Drilling units for deep oil and gas wells.—(a) To prevent waste of oil or gas, to avoid the drilling of unnecessary wells, or to protect correlative rights, the commission, upon its own notice or upon application of any operator, after notice and hearing as herein provided, shall have the power to establish or modify drilling units covering any pool. Drilling units when established or modified shall to the extent reasonably possible be of uniform size and shape for the entire pool.

(b) In establishing or modifying a drilling unit, the acreage to be embraced within each unit and the shape thereof shall be determined by the commission from the evidence introduced at the hearing but shall be of an area that can be efficiently and economically drained by one well. If at the time of a hearing to establish drilling units, there is not sufficient evidence from which to determine the area which can be drained efficiently and economically by one deep well, the commission may enter an order establishing provisional drilling units for the orderly development of the pool pending the obtaining of information necessary to determine the ultimate spacing for such pool.

(c) On the date specified in the notice, the commission shall hold a public hearing to determine the area to be included in the order and the acreage to be embraced within each unit and the shape thereof and the area within which deep wells may be drilled on such units. Evidence of the following facts may be considered by the commission in entering its order:

(1) The surface topography and property lines of the lands underlaid by the pool.

(2) The plan of well spacing then being employed or proposed in such pool.

(3) The depth at which production from said pool has been found.

(4) The nature and character of the producing formation or formations, and whether the substances produced or sought to be produced are gas or oil.

(5) The maximum area which may be drained efficiently and economically by one well.

(6) Any other available geological or scientific data pertaining to said pool, which may be of probative value to the Commission in determining the proper spacing and well drilling unit therefor, with due and relative allowance for the correlative rights and obligations of the operators' and royalty owners' interests therein.

(d) An order establishing or modifying drilling units shall specify the minimum distance from the nearest outside boundary of
the drilling unit at which a deep well may be drilled. The minimum
distance provided shall be the same in all drilling units established
or modified under said order with necessary exceptions for deep wells
drilled or being drilled at the time of the filing of the application.
If the commission finds that a deep well to be drilled in compliance
with the specified minimum distance would not be likely to produce
in paying quantities or will encounter surface conditions which would
substantially add to the burden or hazard of drilling such deep
well, or that a location within the area permitted by the order is
prohibited by the lawful order of any state agency or court, the
commission is authorized after notice and hearing to make an order
permitting the deep well to be drilled at a location within the
minimum distance prescribed by the spacing order, with such con-
ditions restricting production from any such well as to provide
that no operator or royalty owner shall produce or receive more
than his just and equitable share of the production.

(e) An order establishing or modifying drilling units for
a pool shall cover all lands determined by the commission to be
underlaid by such pool, and may be modified by the commission from
time to time (i) to include additional areas determined to be
underlaid by such pool or to delete areas determined not to be
underlaid by such pool, and (ii) to change the size of one or more
drilling units, and if production has already commenced from a well
on a drilling unit prior to the order changing its size, then the
commission shall not issue an order for that particular drilling unit
until it has received an agreement from all operators and royalty
owners with an interest in the drilling unit permitting the commission
to act on the evidence adduced in support of the application.

(f) The commission shall within 45 days after issuing a notice
of hearing to establish or modify drilling units for a pool either
enter an order establishing or modifying such units or dismiss the
application.

(g) After the issue date of a notice of hearing called to
establish or modify drilling units, no additional deep well shall be
commenced for production from the pool until the order establishing
or modifying drilling units has been made, unless the commencement
of the deep well is authorized by order of the commission.

§ 45.1-113.6. Pooling of interests in drilling units.—(a)
When two or more separately owned tracts are embraced within a
drilling unit, or when there are separately owned interests in all
or a part of the drilling unit, then operators owning such interests
may pool their interests for the development and operation of the
drilling unit by voluntary agreement including the exercise of
pooling and unitization rights granted in any oil and gas lease.
In the absence of voluntary pooling, the Commission, upon the application of any operators, may enter an order pooling all interests in the drilling unit for the development and operation thereof. Each such pooling order shall be made after notice and hearing and shall be upon terms and conditions that are just and reasonable. Such hearing may in the discretion of the Commissioner be conducted in conjunction with or ancillary to the hearing to create drilling units as set forth in § 45.1-113.5. Operations incident to the drilling of a well upon any portion of a unit covered by a pooling order shall be deemed for all purposes to be the conduct of such operations upon each separately owned tract in the unit by the several owners thereof. That portion of the production allocated or applicable to any tract included in a unit covered by a pooling order shall be in the same proportion which the acreage in that tract included in the unit bears to the total acreage included in the unit, and shall when produced, be deemed for all purposes to have been produced from each such tract by a well drilled thereon.

(b) Any pooling order under the provisions of this section shall authorize the drilling and operation of a deep well for the production of oil or gas from the pooled acreage; shall designate the operator to drill and operate such deep well; shall prescribe the time and manner in which all other operators may elect to participate therein; shall provide that all reasonable costs and expenses of drilling, completing, equipping, operating, plugging and abandoning such deep well shall be borne, and all production therefrom shared, by all operators in the proportion which acreage in the pooled tracts owned or under lease to each operator bears to the total acreage in the unit; and shall make provisions for payment of all reasonable costs thereof, including a reasonable charge for the supervision and for interest on past-due accounts, by all those who elect to participate therein. In the event of a dispute as to such costs the commission shall determine the proper costs.

(c) If requested, each such pooling order shall provide just and equitable alternatives whereby an operator who does not elect to participate in the risk and cost of the drilling and operation, or operation, of a well may elect to surrender his leasehold interest to the participating operators on some reasonable basis and for a reasonable consideration which, if not agreed upon, shall be determined by the commission, or may elect to participate in the drilling and operation, or operation, of the well on a limited or carried basis under the following conditions: in the event any operator in any portion of the pooled tract shall drill and
operate, or pay the costs of drilling and operating, a deep well for the benefit of such nonparticipating operator as provided in the pooling order, then such operator shall be entitled to the share of production from the tracts or portions thereof pooled accruing to the interest of such nonparticipating operator, exclusive of any royalty or overriding royalty reserved in any leases, assignments thereof or agreements relating thereto, of such tracts or portions thereof, or exclusive of one-eighth of the production attributable to all unleased tracts or portions thereof, until the market value of such share equals three times the share of such costs payable by or charged to the interest of such nonparticipating owner.

§ 45.1-113.7. Validity of unit agreements.-No agreement between or among operators, entered into pursuant to the provisions of this article or with a view to or for the purpose of bringing about the unitized development or operation of such properties, shall be held to violate the statutory or common law of this Commonwealth prohibiting monopolies or acts, arrangements, contracts, combinations or conspiracies in restraint of trade or commerce.

§ 45.1-113.8. Rules and regulations.-(a) The commission shall prescribe rules and regulations governing practice and procedure before the commission in accordance with the Administrative Process Act (Chapter 1.1:1 of Title 9 of the Code of Virginia).

§ 45.1-113.9. Court review.-Any person adversely affected by a decision of the commission after a hearing held pursuant to this act shall be entitled to judicial review pursuant to the provisions of the Administrative Process Act.

§ 45.1-113.10. Power of the Conservation Commission to restrain violations.-In the event any person violates or threatens to violate the provisions of §§ 45.1-113.1 through 45.1-113.9 of this chapter, the Oil and Gas Conservation Commission may maintain suit to restrain such violation in the same manner as provided in § 45.1.141.

§ 45.1-113.11. Standing of persons other than the commission to bring action for violation where the commission does not act.-If the commission shall refuse to fail to apply for an injunction to enjoin a violation or threatened violation of any provision of this article, any reasonable rule and regulation promulgated by the commission thereunder or any order or final decision of the commission, within ten days after receipt of a written request to do so by any person who is or will be adversely affected by such violation or threatened violation, the person making such request shall have standing to bring a bill in equity as set forth in § 45.1.142. The commission shall be made a party in such action in addition to the person or persons violating or threatening to violate any provision of this article, any reasonable rule and regulation promulgated
by the commission thereunder or any order or final decision of the commission.

CHAPTER 2.1

Compensation and Expenses of Commissions, Boards, etc.

§ 2.1-20.4. Bodies receiving compensation.-A. Notwithstanding any other provision of law to the contrary, the following commissions, boards, etc. shall be those which receive compensation from State funds pursuant to § 2.1-20.3:

Accountancy, State Board of
Agriculture and Consumer Services, Board of
Air Pollution Control Board, State
Airports Authority, Virginia
Apprenticeship Council
Architects, Professional Engineers and Land Surveyors, State Board of
Athletic Commission, Virginia
Audiology and Speech Pathology, Virginia Board of Examiners for Aviation Commission, Virginia
Barber Examiners, Board of
Behavioral Sciences, Virginia Board of
Building Code Technical Review Board, State
Certification of Librarians, Board for
Certification of Water and Wastewater Work Operations, Board of Collection Agency Board, Virginia
College Building Authority
Commerce, Board of
Commercial Driver Training Schools, Board of
Conservation and Economic Development, Board of
Contractors, State Registration Board for
Corrections, Board of
Criminal Justice, Council on
Criminal Justice Services Commission
Deaf, Council for the
Dentistry, Virginia Board of
Development Disabilities Planning Council, Virginia
Drug and Alcoholism Counselor Certification Committees
Education, State Board of
Education Loan Authority, Virginia--Board of Directors
Elections, State Board of
Environment, Council on the
Examiners in the Division of Mines, Board of
Fire Services Commission, Virginia State
Funeral Directors and Embalmers, Virginia Board of
Game and Inland Fisheries, Commission of
Health, State Board of
Health Coordinating Council, Statewide
Health Regulatory Boards, Commission of
Hearing Aid Dealers and Fitters, Virginia Board of
Higher Education, State Council of
Highway and Transportation Commission, State
Housing and Community Development, Board of
Local Government, Commission on
Marine Resources Commission
Medical Complaint Investigation Committee
Medicine, Virginia State Board of
Mental Health and Mental Retardation Board, State
Milk Commission
Nursing, Virginia State Board of
Nursing Home Administrators, State Board of Examiners for
Oil and Gas Conservation Commission
Opticians, Virginia State Board of
Optometry, Virginia Board of
Outdoor Recreation, Commission on
Pharmacy, State Board of
Physical Therapy, Advisory Committee on
Pilots, Board of Commissioners to Examine
Port Authority, Board of Commissioners of the Virginia
Professional Counselors, Virginia Board of
Professional Hairdressers, Virginia State Board of Examiners of
Psychology, Virginia Board of
Public School Authority, Virginia
Purchases and Supply Appeals Board
Real Estate Commission, Virginia
Rehabilitative School Authority
Safety and Health Codes Commission
Sanitarian Examiners, State Board of
Seed Potato Commission
Social Workers, Virginia Board of
Surface Mining Review, Board of
Treasury Board
Veterinary Medicine, Virginia Board of
Virginia Supplemental Retirement System, Board of Trustees
Visually Handicapped, Virginia Commission for the
Water Control Board, State
Welfare, Board of

B. Individual members of boards, commissions, committees, councils, and other similar bodies appointed at the State level and receiving compensation for their services on January one, nineteen
hundred eighty, but who will not receive compensation under the
provisions of this article, shall continue to receive compensation
at the January one, nineteen hundred eighty rate until such member's
current term expires.
The Honorable Frederick C. Boucher  
State Senate of Virginia  
Richmond, Virginia  

Dear Senator Boucher: 

Pursuant to your request of October 17, 1980, I have undertaken to prepare a very brief summary for use by yourself and other members of the Committee in your consideration of the Oil and Gas Conservation Statute which has been proposed by various representatives of the Oil and Gas Industry. 

GENERAL 

This Statute proposes to create a new Article 2.1 in the Oil and Gas Chapter of the Virginia Code. The proposal contemplates the formation of an Oil and Gas Conservation Commission, which will have the authority to establish drilling units and order the pooling of units for deep well drilling in Virginia. 

SUMMARY OF PROPOSED PROVISIONS 

Section 45.1-1106. This is the definition of Section of Chapter 12. In order to create a new article, certain definitions needed to be added to the Chapter. The most significant of these are definition of correlative rights, royalty owner, deep well, and the amendment to the present definition of Operator. 

Section 45.1-113.1. This section sets out the policy representing the foundation for the new Article. The key provisions are the recognition of the need to prohibit waste, encourage maximum recovery of oil and gas, protect correlative
rights, and to recognize the geological and economic distinctions between shallow wells and deep wells in Appalachia.

Section 45.1-113.3. This section establishes and empowers an Oil and Gas Conservation Commission made up of three members: one being the Chief Oil and Gas Inspector of the Division of Mines, one being the State Geologist and the third being appointed by the Governor.

Section 45.1-113.4. This section sets out the powers and duties of the Commission, including the authority to regulate the spacing of deep wells, classify pools of oil or gas, promulgate and enforce reasonable rules and regulations, and enter specing or pooling orders.

Section 45.1-113.5. This section sets out the parameters for the establishment of drilling units by the Oil and Gas Conservation Commission. It provides for the establishment of either permanent or provisional units, describes the information which the Commission must consider, and provides for the modification of Commission orders as additional information becomes available.

Section 45.1-113.6. This section provides for the pooling of interest within drilling units and establishes the general rules regarding the rights of parties who are pooled in a drilling unit. This section specifically addresses the rights of persons having an interest in oil and gas who have not leased or otherwise conveyed such rights, but who may be required to participate in a pooling arrangement. This section also contains provisions setting forth the method in which various working interest owners may participate in the cost of drilling deep wells. These participation provisions do not apply to royalty and overriding royalty owners.

Sections 45.1-113.8 and 113.9. These sections set out the administrative procedure for the Commission and track the Administrative Process Act of Virginia.

It is my hope that the Committee will find this very brief summary to be of some help in their consideration of the matter at hand.

Very truly yours,

R. Neal Pierce

RNP:bak
October 22, 1980

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RNP:bak
§ 275. Wells gauged.—Regulation by Corporation Commission.—Agents.—For the purpose of determining such production, a gauge of each well shall be taken under rules and regulations to be prescribed by the Corporation Commission, and said Commission is authorized and directed to make and promulgate, by proper order, such other rules and regulations, and to employ or appoint such agents with the consent of the Governor, as may be necessary to enforce this act. 

Laws 1915, c. 29, § 6.

1. Sections 221-223 of the title.
2. CS 1921, § 1704; SL 1933, § 13115.


Money and Minerals Code.

§ 276. Enforcement of act.—Hearings before Corporation Commission.—Any person, firm, or corporation, or the Attorney General on behalf of the State, may institute proceedings before the Corporation Commission, or apply for a hearing before said Commission, upon any question relating to the enforcement of this act, and jurisdiction is hereby conferred upon such Commission to hear and determine the same. Said Commission shall set a time and place, when and where such hearing shall be had and also give reasonable notice thereof to all persons or classes interested therein, by publication in some newspaper or newspapers, having general circulation in the State, and in addition thereto, shall cause reasonable notice in writing to be served personally on any person, firm or corporation complained against. In the exercise and enforcement of such jurisdiction, said Commission is authorized to determine any question or fact, arising hereunder, and to summon witnesses, make ancillary orders, and use means and final process, including inspection and punishment as for contempt, analogous to proceedings under its control over public service corporations, as now provided by law. 

Laws 1915, c. 29, § 6.

2. CS 1921, § 1704; SL 1933, § 13115.


Money and Minerals Code.

§ 277. Appeals to Supreme Court.—Effect on orders.—Appellate jurisdiction is hereby conferred upon the Supreme Court in this State to review the action of said Commission in making any order, or orders, under this act. 

Such appeal may be taken by any person, firm or corporation, shown by the record to be interested therein, in the same manner and time as appeals are allowed by law from other orders of the Corporation Commission. Said order as so appealed from shall not be superseded by the mere fact of such appeal being taken, but shall be and remain in full force and effect until specially suspended or set aside by the Supreme Court. 

Laws 1915, c. 25, § 7.

2. CS 1921, § 1706; SL 1933, § 13172.


Money and Minerals Code.

§ 278. Violation—Penalties.—In addition to any penalty that may be imposed by the Corporation Commission for contempt, any person, firm, or corporation, or any officer, agent or employee thereof, directly or indirectly violating the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof, in a court of competent jurisdiction, shall be punished by a fine in any sum not to exceed five thousand dollars ($5,000.00), or by imprisonment in the county jail not to exceed thirty (30) days, or by both fine and imprisonment. 

Laws 1915, c. 29, § 8.

2. CS 1921, § 1704; SL 1933, § 13115.

Violation of section 7 of the Act of 1915 for receiving in case of oil producer a violation of provisions of said act, or any person, agent, or employee thereof, shall be punishable by fine not to exceed $100.00, or by imprisonment in the county jail not to exceed thirty (30) days. 

Laws 1915, c. 29, § 10.

2. CS 1921, § 1704; SL 1933, § 13115.


Sister Code § 260.

UNITIZED MANAGEMENT OF COMMON SUCCESSIONS OF SUPPLY

§§ 268.1 to 268.17 Repealed. Laws 1915, p. 142, § 16.


§ 283.1 Legislative finding.—The Legislature finds and declares that it is desirable and necessary under the circumstances and for the purposes hereinafter set out, to authorize and provide for unified management, operation and further development of the oil and gas properties to which this Act is applicable, to the end that a greater ultimate recovery of oil and gas, may be had therefrom, waste prevented, and the cumulative rights of the owners in a fuller and more beneficial enjoyment of the oil and gas rights preserved. Laws 1951, p. 136, § 1.

§ 257.3 Matters to be found by Commission—Requisites of petition.—If upon the filing of a petition therefor and after notice and hearing, all in the form and manner and in accordance with the procedure and requirements hereinafter provided, the Commission shall find (a) that the unified management, operation and further development of a common source of supply of oil and gas or portion thereof is reasonably necessary in order to effectively carry on pressure maintenance or repressuring operations, cycling operations, water flooding operations or any combination thereof, or any other form of joint effort calculated to substantially increase the ultimate recovery of oil and gas from the common source of supply; and (b) that one or more of said unified methods of operation as applied to such common source of supply or portion thereof are feasible, will prevent waste and will with reasonable probability result in the increased recovery of substantially all more oil and gas from the common source of supply than would otherwise be recovered; and (c) that the estimated additional cost of the additional oil and gas so recovered, and (d) that such utilization and the adoption of one or more of such unified methods of operation is for the common good and will result in the general advantage of the owners of the oil and gas rights within the common source of supply or portion thereof as directly affected, it shall make a finding to that effect and make an order creating the unit and providing for the unification and unified operation of the common source of supply or portion thereof described in the order, all upon such terms and conditions, as may be shown by the evidence to be fair, reasonable, equitable and which are necessary or proper to protect, safeguard, and adjust the respective rights and obligations of the parties affected, including royalty owners, owners of overriding royalties, oil and gas payments, carried interests, mortgages, liens, assignees and assignors, as well as the lessees. The petition shall set forth a description of the proposed unit area with a map or plat thereof attached, must allege the existence of the facts required to be found by the Commission as hereinbefore provided and shall have attached thereto a recommended plan of unification applicable to such proposed unit area and which the petitioner or petitioners consider to be fair, reasonable and equitable. Laws 1951, p. 154, § 3.

§ 257.4 Order—Units and unit areas—Plan of unification.—The order of the Commission shall define the area of the common source of supply or portion thereof to be included within the unit area and prescribe with reasonable detail the plan of unification applicable thereto.

Each unit and unit area shall be limited to all or a portion of a single common source of supply. Only so much of a common source of supply as has been defined and determined to be productive of oil and gas by actual drilling operations may be so included within the unit area.

A unit may be created to embrace less than the whole of a common source of supply only where it is shown by the evidence that the area to be so included within the unit area is of such size and shape as may be reasonably required for the successful and efficient conduct of the unified method or methods of operation for which the unit is created, and that the conduct thereof will have no material adverse effect upon the remainder of such common source of supply.

The plan of unification for each such unit and unit area shall be one suited to the needs and requirements of the particular unit dependent upon the facts and conditions found to exist with respect thereto. In addition to such other terms, provisions, conditions and requirements found by the Commission to be reasonably necessary or proper to effectuate or accomplish the purpose of this Act, and subject to the further requirements hereof, each such plan of unification shall contain fair, reasonable and equitable provisions for:

(a) The efficient unified management and control of the further development and operation of the unit area for the recovery of oil and gas from the common source of supply affected.

Under such a plan the actual operations within the unit area may be carried on in whole or in part by the unit operator, or by one or more of the lessors within the unit area as unit operator subject to the supervision and direction of the Commission, dependent upon what is most beneficial and expedient. The designation of the unit operator shall be by vote of the lessees in the unit in a manner provided in the plan of unification and not by the Commission.

(b) The division of interest or formula for the apportionment and allocation of the unit...
production, among and to the several separately-owned tracts within the unit area such as will reasonably permit persons otherwise entitled to share in or benefit by the production from such separately-owned tracts to produce or receive, in lieu thereof, their fair, equitable and reasonable share of the unit production or other benefits thereof. A separately-owned tract's fair, equitable and reasonable share of the unit production shall be measured by the value of each such tract for oil and gas purposes and its contributing value to the unit in relation to like values of other tracts in the unit, taking into account acreage, the quantity of oil and gas recoverable therefrom, location on structure, its probable productivity of oil and gas and gas recoverable, the burden of operation to which the tract will or is likely to be subjected, or so many of said factors, or such other pertinent engineering, geological, or operating factors, as may be reasonably susceptible of determination. Unit production as that term is used in this Act shall mean and include all oil and gas produced from a unit area from and after the effective date of the order of the Commission creating the unit regardless of the well or tract within the unit area from which the same is produced.

(c) The manner in which the unit and the further development and operation of the unit area shall or may be financed and the basis, terms and condition, on which the cost and expense thereof shall be apportioned among and assessed against the tracts and interests made chargeable therewith, including a detailed accounting procedure governing all charges and credits incident to such operations. Upon and subject to such terms and conditions as to time and rate of interest as may be fair to all concerned, reasonable provision shall be made in the plan of unitization for carrying or otherwise financing lessees who are unable to promptly meet their financial obligations in connection with the unit.

(d) The procedure and basis upon which well, equipment and other properties of the several lessees within the unit area are to be taken over and used for unit operations, including the method of arriving at the compensation therefor, or of otherwise proportionately equalizing the investment in the operation of the several lessees in the project as of the effective date of unit operation.

(e) The creation of an operating committee to have general overall management and control of the unit and the conduct of its business and affairs and the operations carried on by it, together with the creation or designation of such other subcommittees, boards or officers to function under the direction of the operating committee as may be necessary, proper or convenient in the efficient management of the unit, defining the number and size of all such committees, boards, or officers and prescribing their tenure and time and method for their selection.

(f) The time when the plan of unitization shall become and be effective.

(g) The time when and conditions under which and the method by which the unit shall or may be dissolved and its affairs wound up.

§ 287.5 Ratification or approval of plan by lessees and owners.—No order of the Commission creating and vesting control and operation of the unit shall be effective unless and until the plan of unitization applicable thereto shall become effective and unless and until the plan of unitization has been signed, ratified or approved by lessees of record of not less than sixty percent (60%) of the unit area and by owners of one third (1/3) or less of the oil and gas producing interest in the unit area and the Commission has made a finding either in the order creating the unit or in a supplemental order that the plan of unitization has been so signed, ratified or approved by lessees and royalty owners owning the required percentage interest in and to the unit area.

The plan of unitization has not been so signed, ratified or approved by lessees and royalty owners owning the required percentage interest in and to the unit area, and the Commission has made a finding either in the order creating the unit or in a supplemental order that the plan of unitization has been so signed, ratified or approved by lessees and royalty owners owning the required percentage interest in and to the unit area. Where the plan of unitization has not been so signed, ratified or approved by lessees and royalty owners owning the required percentage interest in and to the unit area, the Commission shall, upon petition and notice, hold such additional and supplemental hearings as may be required or required to determine if and when the plan of unitization has been so signed, ratified or approved by lessees and royalty owners owning the required percentage interest in and to the unit area and shall, in respect to such hearings, make such findings of its determination in such regard. In the event lessees and royalty owners, or either, owning the required percentage interest in and to the unit area have not so signed, ratified or approved the plan of unitization within a period of six months from and after the date on which the order creating the unit is made, the order creating the unit shall cease to be of further force and effect and shall be revoked by the Commission. Laws 1951, p. 133, § 5.

§ 287.6 Procedure.—Notice—Appeals.—Except as otherwise herein expressly provided, all proceedings had under this Act including the filing of petitions, the giving of notice, the conduct of hearings and other action taken by the Commission shall be in accordance with the procedures and procedural requirements provided in Sections 84 to 100 inclusive, Title 82, Money and Minerals Conservation, 1951, or any amendment thereof with reference to proceedings therunder. Such additional notice shall be given as may be required by the Commission. The Conservation Officer,
his assistant and deputies and the Conservation Attorney shall act without additional compensation as technical advisors to the Commission or to the extent the Commission may require. Any person aggrieved by any order of the Commission made pursuant to this Act may appeal the decision to the Supreme Court of the State of Oklahoma upon the same conditions, within the same time and in the same manner as provided in said Sections 94 to 136, inclusive, Title 55, Oklahoma Statutes, 1951, or any amendments thereof, for the taking of appeals from the orders of the Commission made hereunder. Laws 1951, p. 139, § 6.

5. Section 278.7 of this title.

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§ 287.7 Unlawful operation.—From and after the effective date of an order of the Commission creating a unit and prescribing the plan of unification applicable thereto, the operation of any well producing from the common source of supply or portion thereof within the unit area defined in the order by person other than the unit or persons acting under its authority or except in the manner and to the extent provided in such plan of unification shall be unlawful and is hereby prohibited. Laws 1951, p. 139, § 7. 3

3 Sections 278.7 of this title.

§ 287.8 Status and powers of unit.—Liability for expenses—Events.—Each unit created under the provisions of this Act shall be a body politic and corporate, capable of suing, being sued and contracting with and in its own name. Each such unit shall be authorized on behalf of and for the account of all the owners of the oil and gas rights within the unit area, without profit to the unit, to supervise, manage and conduct the further development and operations for the production of oil and gas from the unit area, pursuant to the powers conferred, and subject to the limitations imposed by the provisions of this Act and by the plan of unification.

The obligation or liability of the lessee or other owners of the oil and gas rights in the several separately-owned tracts for the payment of unit expenses shall at all times be several and not joint or collective and in no event shall a lessee or the owners of the oil and gas rights in the separately-owned tract be chargeable with, obligated or liable, directly or indirectly, for more than the amount of his interest, expressed or otherwise charged to his interest in such separately-owned tract pursuant to the plan of unification and then only to the extent of the lien provided for in this Act.

Subject to such reasonable limitations as may be set out in the plan of unification, the unit shall have a first and prior lien upon the leasehold estate and other oil and gas rights (exclusive of a one-eighth [1/8] royalty interest) in and to each separately-owned tract, the interest of the owners thereof in and to the unit production and all equipment in the possession of the unit, to secure the payment of the amount of the unit expenses with respect to the interest against such separately-owned tract. The interest of the lessee or other persons who by lease, contract or otherwise are made responsible for the cost and expense of developing and operating a separately-owned tract for oil and gas in the absence of unification shall, however, be primarily responsible for and charged with any assessment for unit expenses or any part thereof, such tract and record may be had to overriding royalties, oil and gas payments, royalty interests in excess of one-eighth [1/8] of the production, the other interests which otherwise are not chargeable with such cost, only in the event the owner of such interests fails to pay such assessment or the production to the credit thereof is insufficient for that purpose. In the event the owner of any royalty interest, overriding royalty, oil and gas payment or other interest which under the plan of unification is not primarily responsible therefor pays in whole or in part the amount of an assessment for unit expense for the purpose of protecting such interest, or the amount of the assessment in whole or in part is deducted from the unit production to the credit of such interest, the owner thereof shall to the extent of such payment or deduction be subrogated to all of the rights of the unit with respect to the interest or interests primarily responsible for such assessment. A one-eighth [1/8] part of the unit production allocated to each separately-owned tract shall in all events be regarded as royalty to be distributed to and among, or the proceeds thereof paid to, the royalty owners free and clear of all unit expense and free of any lien thereon. Laws 1951, p. 139, § 8. 3

3 Sections 278.8 of this title.

§ 287.9 Modification of property rights, leases and contracts—Title to property—Distribution of proceeds.—In the event the property rights, leases, contracts, and all other rights and obligations shall be regarded as amended and modified to the extent necessary to conform to the provisions and requirements of this Act and to any valid and applicable plan of unification or order of the Commission, the modification may be adopted pursuant hereto, but otherwise to remain in full force and effect.

Nothing contained in this Act shall be construed to require a transfer to or vesting in the unit of title to the separately-owned tracts or cases thereon within the unit area, other than the right to use and operate the same to the extent set out in the plan of unification; nor shall the unit be entitled to any proceeds from the sale thereof shall be owned by the several persons the same to be distributed under the plan of unification. All property, whether real or personal, which the unit
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may in any way acquire, hold or possess shall not be acquired, held or possessed by the unit for its own account but shall be so acquired, held and possessed by the unit for the account and as agent of the several lessees and shall be the agent of such lessees as their interests may appear under the plan of unification, subject, however, to the right of the unit to the possession, management, use or disposal of the same in the proper conduct of its affairs, and subject to any lien the unit may have thereon to secure the payment of unit expense.

The amount of the unit production allocated to each separately-owned tract within the unit, and only that amount, regardless of the well or wells in the unit area from which it may be produced, and regardless of whether it be more or less than the amount of the production from the well or wells, if any, on any such separately-owned tract, shall for all intents, uses and purposes be regarded and considered as production from such separately-owned tract, and, except as may be otherwise authorized in this Act, or in the plan of unification approved by the Commission, shall be distributed among or the proceeds thereof paid to the several persons entitled to share in the production from such separately-owned tract in the same manner, in the same proportions, and upon the same conditions that they would have participated and shared in the production or proceeds thereof from such separately-owned tract had not said unit been organized, and with the same legal force and effect. If adequate provisions are made for the receipt thereof, the share of the unit production allocated to each separately-owned tract shall be held by or in any manner beneficial to the persons entitled thereto by virtue of ownership of oil and gas rights therein or by purchase from such owners, subject to the same terms as to unit to which the production is held and sold the same in payment of unit expense pursuant to the plan of unification, and subject further to the call of the unit on such portions of the gas for operating purposes as may be provided in the plan of unification.

Operations carried on under and in accordance with the plan of unification shall be regarded and considered as a fulfillment of and compliance with all of the provisions, covenants, and conditions, express or implied, of the several oil and gas mining leases upon lands included within the unit area, or other contracts pertaining to the development thereof, so far as said leases or other contracts may relate to the common source of supply or portions thereof included in the unit area. Wells drilled or operated on any part of the unit area no matter where located shall for all purposes be regarded as wells drilled on each separately-owned tract within such unit area.

Nothing herein or in any plan of unification shall be construed as increasing or decreasing the implied covenants of a lease in respect to a common source of supply or lands not included within the unit area of a unit. Laws 1951, p. 140, § 9.

§ 287.10 Enlargement of area.—Creation of new units.—Amendment of plan.—The unit area of a unit may be enlarged to include additional portions of the same common source of supply, including the unit area of another unit, and a new unit created for the unified management, operation and further development of such enlarged unit area, or the plan of unification may be otherwise amended, all in the same manner, upon the same conditions and subject to the same limitations and herein provided with respect to the creation of a unit in the first instance, except that where an amendment to plan of unification relates only to the rights and obligations as between lessees the requirement that the same be signed, ratified or approved by royalty owners of record of net less than sixty three percent (632%) of the unit area shall have no application. Laws 1951, p. 141, § 10.

§ 287.11 Participation by public lands.—The Commissioners of the Land Office, or other proper board or officer of the State having the control and management of State land, and the proper board or officer of any political, municipal, or other subdivision or agency of the State, are hereby authorized and shall have the power on behalf of the State or of such political, municipal, or other subdivision or agency thereof, with respect to lands or oil and gas rights within, adjacent to or in any manner beneficial to the control and management of such respective board, or officer, to consent to or participate in any plan or program of unification adopted pursuant to this Act. Laws 1951, p. 141, § 11.

§ 287.12 Receipts as income.—Neither the unit production or proceeds from the sale thereof, nor other receipts shall be treated, regarded or taxed as income or profits of the unit: but instead, all such receipts shall be the income of the several persons to whom or to whose credit the same are payable under the plan of unification. To the extent the unit may receive or distribute said receipts it shall only do so as a common administrative agent of all persons to whom the same are payable. Laws 1951, p. 141, § 12.

§ 287.13 Definitions.—For the purposes of this Act, unless the context otherwise requires:

(a) The term "lessee" refers not only to lessees under oil and gas leases but also to the
owners of unleased lands or mineral rights having the right to develop the same for oil and gas.

(b) Any reference to a separately-owned tract, although in general terms broad enough to include the surface and all underlying common sources of supply of oil and gas shall have reference thereto only in relation to the common source of supply or portion thereof embraced within the unit area of a particular unit.

(c) The phrase "oil and gas" shall refer not only to oil and gas as such in combination one with the other, but shall have general reference to oil, gas, casinghead gas, condensate, gas-distillate, or other hydrocarbons, or any combination or combinations thereof, which may be found in or produced from a common source of supply of oil, oil and gas or gas-distillate.

(d) The term "person" shall mean and include any individual, corporation, partnership, common law or statutory trust, association of any kind, the State of Oklahoma or any subdivision or agency thereof acting in a proprietary capacity, guardian, executor, administrator, fiduciary of any kind, or any other entity or being capable of owning an interest in and to common source of supply of oil and gas.

(e) The term "unit expense" shall include and mean any and all cost, expense, or indebtedness incurred by the unit in the establishment of its organization, or incurred in the conduct and management of its affairs or the operations covered by it, or as a part of the creation of the unit.

§ 287.15 Agreements not violative of laws governing monopolies or restraint of trade.

No agreement between or among lessors or other owners of oil and gas rights in oil and gas properties, entered into pursuant hereto or with a view or for the purpose of bringing about the uniting development or operation of such properties, shall be held to violate any of the statutes of this State prohibiting monopolies or acts, combinations, or conspiracies in restraint of trade or commerce. Laws 1931, p. 142, § 15.

**CHAPTER 4. REGULATION AND INSPECTION OF WELLS**

291. Confinement of gas until used.

292. Waste from pipes, etc.-Unlawful if unnecessary.

293. Laws.-Rights unaffected.

294. Light.-Exposure not prohibited.

295. Burning gas during day.

296. Reporting from wells in gas field.

297. Repealed.

298. Fusing or killing gas, or interfering with appliances used in production.

299. Penalty for violations.

300. Repealed.

301. Well drilling within 100 feet of underground coal.

302. Well drilling within 100 feet of underground coal, etc.

303. Workable coal beds or seams destroyed.

304. Drilling of wells through waterable strata; requirement.

305. Drilling.

306. Spreading and drilling.

307. Leaking wells entered upon under bond, or stoppage or repair on any account.

308. Liability for damages caused by drilling; liability for future remedial work.

309. No abridgment of right of drainage of action.

310. Right of action for costs involved therein.

311. Remedial and procedural matters.

312. Agreements as to conformity with drilling and plugging regulations; recovery of costs.

313. Repealed.

§ 291. Confinement of gas until used.—Any person, partnership, or corporation in possession, either as owner, lessee, agent or manager of any well producing natural gas in this State in order to prevent the said gas from escaping, shall, immediately after penetrating the gas-bearing rock, in any well before shutting in and confining the gas in said well until and during such cutting time as the gas therein shall be utilized for light, fuel or power purposes, provided, that this section shall not apply to any well operated for oil: Provided, further, that when in the course of drilling time shall be allowed in which to determine whether the well shall be shut and utilized for gas production or drilled further for the purpose of producing oil. R.L.1919, § 4728.

Laws 1939, p. 40; C.S.1931, § 1151; R.L.1919, § 1151.

Vallely et al. v. The Colonial Oil & Refineries Co. v. Czapman.


Ramos.—This action held proper by the Supreme Court of the United States, 275 U.S. 91, 48 S. Ct. 461, 72 L. Ed. 862.

§ 292. Waste from gas pipe line.—Unlawful if unnecessary.—It shall be unlawful for any person, partnership, or corporation, either as owner, lessee, agent, or manager of any pipe line in this State, through which natural gas flows from wells utilized for the production of gas only, to allow any unnecessary or idle or waste to occur from said line. R.L.1919, § 4729.

Laws 1925, p. 401; C.S.1921, § 4729; R.L.1919, § 4729.

Morse and Mitchell v. Hare.

OIL AND GAS 52 § 292
§ 86.4 Common source of supply—Orders, rules and regulations

Law Review Commentaries

A provision of the Corporation Commission's oil and gas rules and regulations states that when a common source of supply is available, the commission may order the joint operation of wells. The order must specify the method of operation and the allocation of the production. The order shall be based on equitable principles. The rules also provide for the appointment of a referee to hear and decide disputes arising out of the operation of a common source of supply.

§ 87.1 Common source of supply of oil — Well spacing and drilling units

When a common source of supply is available, the minimum well spacing requirements may be waived. The order must specify the method of operation and the allocation of the production. The order shall be based on equitable principles. The rules also provide for the appointment of a referee to hear and decide disputes arising out of the operation of a common source of supply.

Exemption for spacing of wells

When there is a common source of supply, the commission may order the joint operation of wells. The order must specify the method of operation and the allocation of the production. The order shall be based on equitable principles. The rules also provide for the appointment of a referee to hear and decide disputes arising out of the operation of a common source of supply.
(b) In case of a spacing unit of one hundred sixty (160) acres or more, the oil and gas leaseholds interested outside the spacing unit involved may be held by production from the spacing unit involved for a period not to exceed a maximum of sixty (60) days after the beginning of the primary term of the lease.

(c) In determining a well spacing or drilling unit for a common source of supply thereunder, the extent to be embraced within such unit shall be determined by the Commissioner from the data available to him and the map thereof shall be determined by the Commissioner from the evidence introduced at the hearing, and following the same, their findings shall be binding and conclusive as to the correctness or invalidity of any or all or wells or wells into common source of supply, covered by a pending spacing application, at a location other than that approved by a special order on the basis that the drilling of such well is not prohibited. The operation of any well drilled in violation of any or all or wells or wells into common source of supply, covered by a pending spacing application, at a location other than that approved by a special order is hereby prohibited. Where two or more separate and owned tracts or leases or parts thereof are involved within an established unit or within such unestablished spacing unit, the proper spacing and drilling units interested and develop their lands as a unit. Where, however, such owners have not agreed to pool their interests and where one or more separate owners have not agreed to pool their interests, or where two or more separate owners have not agreed to pool their interests, the proper spacing and drilling units interested shall be determined by the Commissioner.

(d) The Commission shall establish the size and shape of such spacing or drilling units to be established therein, the rights of the interested parties and such procedures as it deems necessary for the protection of the public interest.

(e) If any or all of the spacing or drilling units are not established, the proper spacing and drilling units interested shall be determined by the Commissioner and the rights and interests of the parties shall be adjusted accordingly.

(f) The Commission shall establish the size and shape of such spacing or drilling units to be established therein, the rights of the interested parties and such procedures as it deems necessary for the protection of the public interest.

(g) The Commission shall establish the size and shape of such spacing or drilling units to be established therein, the rights of the interested parties and such procedures as it deems necessary for the protection of the public interest.

(h) The Commission shall establish the size and shape of such spacing or drilling units to be established therein, the rights of the interested parties and such procedures as it deems necessary for the protection of the public interest.

(i) The Commission shall establish the size and shape of such spacing or drilling units to be established therein, the rights of the interested parties and such procedures as it deems necessary for the protection of the public interest.

(j) The Commission shall establish the size and shape of such spacing or drilling units to be established therein, the rights of the interested parties and such procedures as it deems necessary for the protection of the public interest.

(k) The Commission shall establish the size and shape of such spacing or drilling units to be established therein, the rights of the interested parties and such procedures as it deems necessary for the protection of the public interest.

(l) The Commission shall establish the size and shape of such spacing or drilling units to be established therein, the rights of the interested parties and such procedures as it deems necessary for the protection of the public interest.
For the purpose of this section, the owner, or owners, of oil and gas rights in any unleased tract of land shall be regarded as a lessee to the extent of a seven-eighths (7/8) interest in and to said rights and as a lessor to the extent of a one-eighth (1/8) interest therein. Should the owners of separate tracts or interests be separated into a unit of oil and gas production and the drilling of a well on the lease, or 10 acres owned by the land shall be regarded as a lessee to the extent of a seven-eighths (7/8) interest in and to said rights and as a lessor to the extent of a one-eighth (1/8) interest therein.

2. - Police power

The power of the Corporation Commission to regulate the drilling of oil and gas wells on the leased unit, and the granting of permits to drill such wells, is vested in the Corporation Commission by the Oil and Gas Code of the State of California, as amended from time to time.

3. - Gas process

Wherein the Corporation Commission has authority to regulate the drilling of oil and gas wells on the leased unit, and the granting of permits to drill such wells, is vested in the Corporation Commission by the Oil and Gas Code of the State of California, as amended from time to time.

Oil and gas leases and permits are subject to the approval of the Corporation Commission. Any person or corporation, intending to drill or produce oil or gas on a lease, must first obtain a permit from the Corporation Commission. The permit must be issued by the Corporation Commission upon application therefor, and shall be subject to such conditions and limitations as the Corporation Commission may prescribe.

Oil and gas leases and permits are subject to the approval of the Corporation Commission. Any person or corporation, intending to drill or produce oil or gas on a lease, must first obtain a permit from the Corporation Commission. The permit must be issued by the Corporation Commission upon application therefor, and shall be subject to such conditions and limitations as the Corporation Commission may prescribe.

4. - Impairment of contracts

Any impairment of contract or agreement by reason of the granting or sale of oil or gas leases, or by reason of the leasing of oil or gas lands, shall be void and of no effect.

5. - Injunctions to prevent

Injunctions to prevent the drilling of oil and gas wells on the leased unit, and the granting of permits to drill such wells, are subject to the approval of the Corporation Commission. Any person or corporation, intending to drill or produce oil or gas on a lease, must first obtain a permit from the Corporation Commission. The permit must be issued by the Corporation Commission upon application therefor, and shall be subject to such conditions and limitations as the Corporation Commission may prescribe.

6. - Injunctions to prevent

Injunctions to prevent the drilling of oil and gas wells on the leased unit, and the granting of permits to drill such wells, are subject to the approval of the Corporation Commission. Any person or corporation, intending to drill or produce oil or gas on a lease, must first obtain a permit from the Corporation Commission. The permit must be issued by the Corporation Commission upon application therefor, and shall be subject to such conditions and limitations as the Corporation Commission may prescribe.

7. - Injunctions to prevent

Injunctions to prevent the drilling of oil and gas wells on the leased unit, and the granting of permits to drill such wells, are subject to the approval of the Corporation Commission. Any person or corporation, intending to drill or produce oil or gas on a lease, must first obtain a permit from the Corporation Commission. The permit must be issued by the Corporation Commission upon application therefor, and shall be subject to such conditions and limitations as the Corporation Commission may prescribe.

8. - Injunctions to prevent

Injunctions to prevent the drilling of oil and gas wells on the leased unit, and the granting of permits to drill such wells, are subject to the approval of the Corporation Commission. Any person or corporation, intending to drill or produce oil or gas on a lease, must first obtain a permit from the Corporation Commission. The permit must be issued by the Corporation Commission upon application therefor, and shall be subject to such conditions and limitations as the Corporation Commission may prescribe.

9. - Injunctions to prevent

Injunctions to prevent the drilling of oil and gas wells on the leased unit, and the granting of permits to drill such wells, are subject to the approval of the Corporation Commission. Any person or corporation, intending to drill or produce oil or gas on a lease, must first obtain a permit from the Corporation Commission. The permit must be issued by the Corporation Commission upon application therefor, and shall be subject to such conditions and limitations as the Corporation Commission may prescribe.

10. - Injunctions to prevent

Injunctions to prevent the drilling of oil and gas wells on the leased unit, and the granting of permits to drill such wells, are subject to the approval of the Corporation Commission. Any person or corporation, intending to drill or produce oil or gas on a lease, must first obtain a permit from the Corporation Commission. The permit must be issued by the Corporation Commission upon application therefor, and shall be subject to such conditions and limitations as the Corporation Commission may prescribe.

11. - Injunctions to prevent

Injunctions to prevent the drilling of oil and gas wells on the leased unit, and the granting of permits to drill such wells, are subject to the approval of the Corporation Commission. Any person or corporation, intending to drill or produce oil or gas on a lease, must first obtain a permit from the Corporation Commission. The permit must be issued by the Corporation Commission upon application therefor, and shall be subject to such conditions and limitations as the Corporation Commission may prescribe.

12. - Injunctions to prevent

Injunctions to prevent the drilling of oil and gas wells on the leased unit, and the granting of permits to drill such wells, are subject to the approval of the Corporation Commission. Any person or corporation, intending to drill or produce oil or gas on a lease, must first obtain a permit from the Corporation Commission. The permit must be issued by the Corporation Commission upon application therefor, and shall be subject to such conditions and limitations as the Corporation Commission may prescribe.

Oil and gas leases and permits are subject to the approval of the Corporation Commission. Any person or corporation, intending to drill or produce oil or gas on a lease, must first obtain a permit from the Corporation Commission. The permit must be issued by the Corporation Commission upon application therefor, and shall be subject to such conditions and limitations as the Corporation Commission may prescribe.

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Note

The administrative authority of a corporation
commission to set higher fees in the state of California,
which was a violation of the law. The California Supreme
Court, in a 1919 decision, ruled that the Public
Service Commission had the authority to set rates.

Where only a minor violation was
found, the commission was dismissed with
no penalty.

18. Damage to the public
interest

19. Similar cases

7.14 - Unallotted

12. Rates and

13. An increase in the rate

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The Corporation Commission is without
doubt authority to entertain-applications
for the establishment of a local
supply company which has been held
fairly and consistently in the public
interest. A corporation must
demonstrate that the proposed
enterprise is economically feasible
and financially sound,

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Note 

30. Royalty interests associated with the production of oil and gas from federal leases may be subject to payments in kind. Such payments may be made in the form of oil, gas, or other minerals produced from the lease. The payment of royalties is a contractual obligation and is not subject to state or federal taxation. The rate of royalty payments may vary depending on the terms of the lease and the prevailing market conditions. Royalty payments are typically calculated as a percentage of the gross revenue from the sale of oil or gas produced from the lease. The percentage rate is often specified in the lease agreement between the lessee and the lessee. 

31. In the context of evaluating the economic viability of a mineral deposit, it is important to consider the potential for royalty payments to affect the net revenue from the deposit. Royalty payments can be significant, especially in cases where the commodity price is low or the production volume is high. Therefore, it is crucial to accurately estimate royalty payments when assessing the economic potential of a mineral deposit. 

32. Correlation of data from different sources and methodologies is essential in evaluating the reliability of royalty payment data. Differences in definitions, reporting standards, and data quality can lead to variations in royalty payment estimates. Therefore, it is important to carefully assess the sources and methodologies used to collect royalty payment data when performing economic evaluations.

33. In general, the economic value of royalty payments is determined by the market value of the minerals produced and the contractual terms of the lease. However, it is important to note that royalty payments may also be subject to government regulations and taxes, which can affect the net revenue from the deposit.
94. Maps and drawings—Location of pipe lines and connections

Verifications

1. In general.

In this section, unless otherwise noted, the term "map" shall mean a photographic reproduction of a map or drawing, or a map or drawing as it appeared prior to any changes or modifications thereon. The term "drawing" shall mean a graphical representation of a map or a part thereof. Maps and drawings shall be used to show the location of pipe lines and connections, and shall be signed by the party responsible for their preparation.

95. Commission—Jurisdiction to make rules, regulations, and standards

Hearings

1. Construction and application

No application for a public utility commission to regulate the construction, operation, and maintenance of new or existing public utility facilities shall be considered by the commission unless the application includes a map or drawing showing the proposed location of the facilities.

2. Maps and drawings

When an application for a public utility commission to regulate the construction, operation, and maintenance of new or existing public utility facilities is filed, the commission shall require the applicant to submit a map or drawing showing the proposed location of the facilities. The commission shall consider the application only if the map or drawing is submitted.

Section 3 of this title, "Injunctions," provides for the issuance of an injunction to prevent the violation of any provision of this chapter.

Section 4 of this title, "Supervision of construction,

Section 5 of this title, "Enforcement of orders.

Section 6 of this title, "Appeals.

Section 7 of this title, "Powers of the Commission.

Section 8 of this title, "Revocation or modification of orders.

Section 9 of this title, "Hearings.

Section 10 of this title, "Compliance with orders.

Section 11 of this title, "Penalties.

Section 12 of this title, "Enforcement of penalties.

Section 13 of this title, "Finality of orders.

Section 14 of this title, "Confidentiality.

Section 15 of this title, "Exemptions.

Section 16 of this title, "Miscellaneous.

Supplemental Index to Notes

Evidence

Section 1 of this title, "Hearings.

Section 2 of this title, "Commission hearings.

Section 3 of this title, "Challenges to orders.

Section 4 of this title, "Petitions for rehearing.

Section 5 of this title, "Appeals.

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Section 14 of this title, "Confidentiality.

Section 15 of this title, "Exemptions.

Section 16 of this title, "Miscellaneous.
ARTICLE 4A
OIL & GAS
CONSERVATION

(Passed March 9, 1972; in effect from passage.)

AN ACT to amend chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article four-a, relating generally to the conservation of oil and gas; setting forth a declaration of public policy in this regard; making certain legislative findings with respect to deep oil or gas wells; providing certain definitions of terms; specifying the lands to which said article shall be applicable; providing certain exclusions; creating the West Virginia oil and gas conservation commission and providing for its authority and responsibility; authorizing the appointment of the oil and gas conservation commissioner and providing for his qualifications, compensation and expenses; relating to the membership of such commission, the qualifications and terms of its members, vacancies in such membership, meetings of the commission, the compensation and expenses of its members and general powers and duties of the commissioner; authorizing the commissioner to issue subpoenas and subpoenas duces tecum; authorizing the promulgation by the commissioner of reasonable rules and regulations; specifying certain notice requirements; making applicable certain provisions of the West Virginia rules of civil procedure for trial courts of record; prohibiting the waste of oil or gas; requiring the establishment of drilling units and the pooling of interests in drilling units in connection with deep oil or gas wells; relating to the rights and duties of nonparticipating owners in the event of a pooled tract; relating to the recovery of oil and unit operations; validating unit agreements; establishing hearing procedures; authorizing the commissioner to hold hearings; providing a time and place for such hearings; expressly providing that the provisions of chapter twenty-nine-a of the code shall govern such hearings and otherwise be applicable; providing for judicial review of decisions of the commissioner entered following such hearings; providing for appeals to the supreme court of appeals; providing for legal counsel for the commissioner; providing for injunctive relief; authorizing injunctive relief without bond or other undertaking; providing for a special oil and gas conservation tax; establishing criminal penalties; providing for construction of article; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article four-a, to read as follows:
ARTICLE 4A. OIL AND GAS CONSERVATION.

§23-4A-1. Declaration of public policy; legislative findings.

(a) It is hereby declared to be the public policy of this state and in the public interest to:

(1) Foster, encourage and promote exploration for and development, production, utilization and conservation of oil and gas resources;

(2) Prohibit waste of oil and gas resources and unnecessary surface loss of oil and gas and their constituents;

(3) Encourage the maximum recovery of oil and gas; and

(4) Safeguard, protect and enforce the correlative rights of operators and royalty owners in a pool of oil or gas to the end that each such operator and royalty owner may obtain his just and equitable share of production from such pool of oil or gas.

(b) The Legislature hereby determines and finds that oil and natural gas found in West Virginia in shallow sands or strata have been produced continuously for more than one hundred years; that oil and gas deposits in such shallow sands or strata have geological and other characteristics different than those found in deeper formations; and that in order to encourage the maximum recovery of oil and gas from all productive formations in this state, it is not in the public interest, with the exception of shallow wells utilized in a secondary recovery program, to enact new statutory provisions relating to the exploration for or production from oil and gas from shallow wells, as defined in section two of this article, but that it is in the public interest to enact new statutory provisions establishing regulatory procedures and principles to be applied to the exploration for or production of oil and gas from deep wells, as defined in said section two.

§23-4A-2. Definitions. — (a) Unless the context in which used clearly requires a different meaning, as used in this article:

(1) "Commission" means the oil and gas conservation commission and "commissioner" means the oil and gas conservation commissioner as provided for in section four of this article;

(2) "Director" means the director of the department of mines as defined in section one, article one of this chapter;

(3) "Deputy Director for Oil and Gas" means the deputy director for oil and gas provided for in section one-a, article four of this chapter;

(4) "Person" means any natural person, corporation, partnership, receiver, trustee, executor, administrator, guardian, fiduciary or other representative of any kind, and includes any government or any political subdivision or any agency thereof;

(5) "Operator" means any owner of the right to develop, operate and produce oil and gas from a pool and to appropriate the oil and gas produced therefrom, either for himself or for himself and others; in the event that there is no oil and gas lease in existence with respect to the tract in question, the owner of the oil and gas rights therein shall be considered as "operator" to the extent of seven eighths of the oil and gas in that portion of the pool underlying the tract owned by such owner, and as "royalty owner" as to one eighth interest in such oil and gas; and in the event the oil is owned separately from the gas, the owner of the substance being produced or sought to be produced from the pool shall be considered as "operator" as to such pool;

(6) "Royalty owner" means any owner of oil and gas in place, or oil and gas rights, to the extent that such owner is not an operator as defined in subdivision (5) of this section;

(7) "Independent Producer" means a person who is actively engaged in the production of oil and gas in West Virginia, but whose gross revenue from such production in West Virginia does not exceed five hundred thousand dollars per year;

(8) "Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoir;

(9) "Gas" means all natural gas and other fluid hydrocarbons not defined as oil in subdivision (8) of this section;

(10) "Pool" means an underground accumulation of petroleum in a single and separate natural reservoir (ordinarily a porous sandstone or limestone) that is characterized by a single natural-pressure system so that production of petroleum from one part of the pool affects the reservoir pressure throughout its extent. A pool is bounded by geologic barriers in all directions, such as geologic structural conditions, impermeable strata, and water in the formations, so that it is effectively separated from any other pools that may be present in the same district or on the same geologic structure;

(11) "Well" means any shaft or hole sunk, drilled, bored or dug into the earth or underground strata for the extraction of oil or gas;

(12) "Shallow well" means any well drilled and completed in a formation above the top of the uppermost member of the "Ondaga Group" or at a depth less than six thousand feet, whichever is shallower;

(13) "Deep well" means any well drilled and completed in a formation at or below the top of the uppermost member of the "Ondaga Group" or at a depth of or greater than six thousand feet, whichever is shallower;

(14) "Drilling unit" means the acreage on which one well may be drilled;

(15) "Waste" means and includes: (a) Physical waste, as that term is generally understood in the oil and gas industry; (b) the leasing, drilling, equipping,
operating or producing of any oil or gas well in a manner that causes, or tends to cause, a reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations, or that causes or tends to cause unnecessary or excessive surface loss of oil or gas; or (c) the drilling of more deep wells than are reasonably required to recover efficiently and economically the maximum amount of oil and gas from a pool;

(16) "Correlative rights" means the reasonable opportunity of each person entitled thereto to recover and receive without waste the oil and gas in and under his tract or tracts, or the equivalent thereof, and

(17) "Just and equitable share of production" means, as to each person, an amount of oil or gas or both substantially equal to the amount of recoverable oil and gas in that part of a pool underlying his tract or tracts.

(b) Unless the context clearly indicates otherwise, the use of the word "and" and the word "or" shall be interchangeable, as, for example, "oil and gas" shall mean oil or gas or both.

§22-4A-3. Application of article; exclusions. — (a) Except as provided in subsection (b) of this section, the provisions of this article shall apply to all lands located in this state, however owned, including any lands owned or administered by any government or any agency or subdivision thereof, over which the state has jurisdiction under its police power. The provisions of this article are in addition to and not in derogation of or substitution for the provisions of article four of this chapter.

(b) This article shall not apply to or affect:

(1) Shallow wells other than those utilized in secondary recovery program as set forth in section eight of this article

(2) Any well commenced or completed prior to the effective date of this article, unless such well is, after completion (whether such completion is prior or subsequent to the effective date of this article), (i) deepened subsequent to the effective date of this article to a formation at or below the top of the uppermost member of the "Ooondaga Group" or at a depth of or greater than six thousand feet, whichever is shallower or (ii) involved in secondary recovery operations for oil under an order of the commissioner entered pursuant to section eight of this article;

(3) Gas storage operations or any well employed to inject gas into or withdraw gas from a gas storage reservoir or any well employed for storage observation; or

(4) Free gas rights.

(c) The provisions of this article shall not be construed to grant to the commissioner authority or power to:

(1) Limit production or output, or pro rata production of any oil or gas well, except as provided in subdivision (5), subsection (a), section seven of this article;

(2) Fix prices of oil or gas.

§22-4A-4. Oil and gas conservation commissioner and commission; membership; qualifications of members; terms of members; vacancies on commission; meetings; compensation and expenses; appointment and qualifications of commissioner; general powers and duties. — (a) There is hereby created the "West Virginia Oil and Gas Conservation Commission", which shall be composed of five members. The director of the department of natural resources and the deputy director for oil and gas shall be members of the commission ex officio. The remaining three members of the commission shall be appointed by the governor, by and with the advice and consent of the Senate. Of the three members appointed by the governor, one shall be an independent producer and at least one shall be a public member not engaged in full-time employment in an activity under the jurisdiction of the public service commission or the federal power commission. As soon as practical after appointment of the members of the commission, the governor shall call a meeting of the commission to be convened at the state capitol for the purpose of organizing and electing a chairman.

(b) The members of the commission appointed by the governor shall be appointed for overlapping terms of six years each, except that the original appointments shall be for terms of two, four and six years, respectively. Each member appointed by the governor shall serve until his successor has been appointed and qualified. Members may be appointed by the governor to serve any number of terms. The members of the commission appointed by the governor, before performing any duty hereunder, shall take and subscribe to the oath required by section five, article four of the constitution of West Virginia. Vacancies in the membership appointed by the governor shall be filled by appointment by him for the unexpired term of the member whose office shall be vacant and such appointment shall be made by the governor within sixty days of the occurrence of such vacancy. Any member appointed by the governor may be removed by the governor in case of incompetency, neglect of duty, gross immorality or malfeasance in office.

(c) The commission shall meet at such times and places as shall be designated by the chairman. The chairman may call a meeting of the commission at any time, and he shall call a meeting of the commission upon the written request of two members or upon the written request of the oil and gas conservation commissioner. Notification of each meeting shall be given in writing to each member by the chairman at least five days in advance of the meeting. Any three members, one of which may be the chairman, shall constitute a quorum for the transaction of any business as herein provided for. A majority of the commission shall be required to determine any issue brought before it.

(d) Each member of the commission appointed by the governor shall receive thirty-five dollars per diem not to exceed one hundred dollars per calendar year while actually engaged in the performance of his duties as a member of the commission. Each member of the commission shall also be reimbursed for all reasonable and necessary expenses actually incurred in the performance of his duties as a member of the commission.
(e) The commission shall appoint the oil and gas conservation commissioner, fix his salary within available funds, and advise him regarding his duties and authority under this article and consult with him prior to his reaching any final decisions and entering orders hereunder. However, the commissioner has full and final authority under this article with the commission serving in an advisory capacity to him. The commissioner shall possess a degree from an accredited college or university in petroleum engineering or geology and must be a registered professional engineer with particular knowledge and experience in the oil and gas industry.

(f) The oil and gas commissioner is hereby empowered and it shall be his duty to execute and carry out, administer and enforce the provisions of this article in the manner provided herein. Subject to the provisions of section three of this article, the commissioner shall have jurisdiction and authority over all persons and property necessary therefor. The commissioner is authorized to make such investigation of records and facilities as he deems proper. In the event of a conflict between the duty to prevent waste and the duty to protect correlative rights, the commissioner's duty to prevent waste shall be paramount. He shall serve as secretary of the oil and gas conservation commission.

(g) Without limiting his general authority, the commissioner shall have specific authority to:

(1) Regulate the spacing of deep wells;

(2) Make and enforce reasonable rules and regulations and orders reasonably necessary to prevent waste, protect correlative rights, govern the practice and procedure before the commissioner and otherwise administer the provisions of this article;

(3) Issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of any books, records, maps, charts, diagrams and other pertinent documents, and administer oaths and affirmations to such witnesses, whenever, in the judgment of the commissioner, it is necessary to do so for the effective discharge of his duties under the provisions of this article; and

(4) Serve as technical advisor regarding oil and gas to the Legislature, its members and committees, to the deputy director for oil and gas, to the department of natural resources and to any other agency of state government having responsibility related to the oil and gas industry.

§24-A-5. Rules and regulations; notice requirements. — (a) The commissioner may promulgate such reasonable rules and regulations as he may deem necessary or desirable to implement and make effective the provisions of this article and the powers and authority conferred and the duties imposed upon him under the provisions of this article and for securing uniformity of procedure in the administration of the provisions of article three, chapter twenty-nine-a of this code.

(b) Notwithstanding the provisions of section two, article seven, chapter twenty-nine-a of this code, any notice required under the provisions of this article shall be given at the direction of the commissioner by (1) personal or substituted service and if such cannot be had then by (2) certified United States mail, addressed, postage prepaid, to the last known mailing address, if any, of the person being served, with the directions that the same be delivered to address only, return receipt requested, and if there be no known mailing address or if the notice is not so delivered then by (3) publication of such notice as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county or counties wherein any land which may be affected by such order is situate. In addition, the commissioner shall mail a copy of such notice to all other persons who have specified to the commissioner an address to which all such notices may be mailed. The notice shall issue in the name of the state, shall be signed by the commissioner, shall specify the style and number of the proceeding, the time and place of any hearing, and shall briefly state the purpose of the proceeding. Personal or substituted service and proof thereof may be made by an officer authorized to serve process or by an agent of the commissioner in the same manner as is now provided by the "West Virginia Rules of Civil Procedure for Trial Courts of Recorders or service of process in civil actions in the various courts of this state. A certified copy of any pooling order entered under the provisions of this article shall be presented by the commissioner to the clerk of the county court of each county wherein all or any portion of the pooled tract is located. A recordation in the record book of such county in which oil and gas leases are normally recorded. Such recording of such order from the time noted thereon by such clerk shall be notice of the order to all persons.

§24-A-6. Waste of oil or gas prohibited. — Waste of oil or gas is hereby prohibited.

§24-A-7. Drilling units and the pooling of interests in drilling units in connection with deep oil or gas wells. — (a) Drilling units.

(1) After one deep well has been drilled establishing a pool, an application to establish drilling units may be filed with the commissioner by the operator of such discovery deep well or by the operator of any lands directly and immediately affected by the drilling of such discovery deep well, or subsequent deep wells in said pool, and the commissioner shall promptly schedule a hearing on said application. Each application shall contain such information as the commissioner may prescribe by reasonable rules and regulations promulgated by him in accordance with the provisions of section five of this article.

(2) Upon the filing of an application to establish drilling units, notice of the hearing shall be given by the commissioner. Each notice shall specify the date, time and place of hearing, describe the area for which a spacing order is to be entered, and contain such other information as is essential to the giving of proper notice.

(3) On the date specified in such notice, the commissioner shall hold a public hearing to determine the area to be included in his spacing order and the area to be contained by each drilling unit, the shape thereof, and the minimum distance from the outside boundary of the unit at which a deep well may be drilled thereon. At such hearing the commissioner shall consider:

(i) The surface topography and property lines of the lands underlaid by the pool to be included in such order;
(ii) The plan of deep well spacing then being employed or proposed in such pool for such lands;

(iii) The depth at which production from said pool has been found;

(iv) The nature and character of the producing formation or formations, and whether the substance produced or sought to be produced is gas or oil;

(v) The maximum area which may be drained efficiently and economically by one deep well; and

(vi) Any other available geological or scientific data pertaining to said pool which may be of productive value to the commissioner in determining the proper deep well drilling units therefor.

To carry out the purposes of this article, the commissioner shall, upon proper application, notice and hearing as herein provided, and if satisfied after such hearing that drilling units should be established, enter an order establishing drilling units of a specified and approximately uniform size and shape for each pool subject to the provisions of this section.

(4) When it is determined that an oil or gas pool underlies an area for which a spacing order is to be entered, the commissioner shall include in his order all lands determined or believed to be underlaid by such pool and exclude all other lands.

(5) No drilling unit established by the commissioner shall be smaller than the maximum area which may be drained efficiently and economically by one deep well. Provided, That if at the time of a hearing to establish drilling units, there is not sufficient evidence from which to determine the area which can be drained efficiently and economically by one deep well, the commissioner may enter an order establishing temporary drilling units for the orderly development of the pool pending the obtaining of information necessary to determine the ultimate spacing for such pool.

(6) An order establishing drilling units shall specify the minimum distance from the nearest outside boundary of the drilling unit at which a deep well may be drilled. The minimum distance provided shall be the same in all drilling units established under said order with necessary exceptions for deep wells drilled or being drilled at the time of the filing of the application. If the commissioner finds that a deep well to be drilled at or more than the specified minimum distance from the boundary of a drilling unit would not be likely to produce in paying quantities or will encounter surface conditions which would substantially add to the burden or hazard of drilling such deep well, or that a location within the area permitted by the order is prohibited by the lawful order of any state agency or court, the commissioner is authorized after notice and hearing to make an order permitting the deep well to be drilled at a location within the minimum distance prescribed by the spacing order. In granting exceptions to the spacing order, the commissioner may require the production from any such deep well so that each person entitled thereto in such drilling unit shall not produce or receive more than his just and equitable share of the production.

(7) An order establishing drilling units for a pool shall cover all lands determined or believed to be underlaid by such pool, and may be modified by the commissioner, from time to time, to include additional lands determined to be underlaid by such pool or to exclude lands determined not to be underlaid by such pool. An order establishing drilling units may be modified by the commissioner to permit the drilling of additional deep wells on a reasonably uniform pattern at a uniform minimum distance from the nearest unit boundary as provided above. Any order modifying a prior order shall be made only after application by an interested operator and notice and hearing as prescribed herein for the original order. However, drilling units established by order shall not exceed one hundred sixty acres for an oil well or six hundred forty acres for a gas well.

(8) After the date of the notice of hearing called to establish drilling units, no additional deep well shall be commenced for production from the pool until the order establishing drilling units has been made, unless the commencement of the deep well is authorized by order of the commissioner.

(9) The commissioner shall, within forty-five days after the filing of an application to establish drilling units for a pool subject to the provisions of this section, enter an order establishing such drilling units or dismiss the application.

(10) As part of the order establishing a drilling unit, the commissioner shall prescribe just and reasonable terms and conditions upon which the royalty interests in the unit shall, in the absence of voluntary agreement, be deemed to be integrated without the necessity of a subsequent order integrating the royalty interests.

(b) Pooling of interests in drilling units

(1) When two or more separately owned tracts are embraced within a drilling unit, or when there are separately owned interests in all or a part of a drilling unit, the interested persons may pool their tracts or interests for the development and operation of the drilling unit. In the absence of voluntary pooling and upon application of any operator having an interest in the drilling unit and after notice and hearing, the commissioner shall enter an order pooling all tracts or interests in the drilling unit for the development and operation thereof and for sharing production therefrom. Each such pooling order shall be upon terms and conditions which are just and reasonable. No event shall drilling be initiated on the tract of an unleased royalty owner without his written consent.

(2) All operations, including, but not limited to, the commencement, drilling or operation of a deep well, upon any portion of a drilling unit for which a pooling order has been entered, shall be deemed for all purposes the conduct of such operations upon each separately owned tract in the drilling unit by the several owners thereof. That portion of the production allocated to a separately owned tract included in a drilling unit shall, when produced, be deemed for all purposes to have been actually produced from such tract by a deep well drilled thereon.

(3) Any pooling order under the provisions of this subsection (b) shall authorize the drilling and operation of a deep well for the production of oil or gas from the pooled acreage; shall designate the operator to drill and operate such deep
well; shall prescribe the time and manner in which all owners of operating interests in the pooled tracts or portions of tracts may elect to participate therein; shall provide that all reasonable costs and expenses of drilling, completing, equip-

ping, operating, plugging and abandoning such deep well shall be borne, and all production therefrom shared, by all owners of operating interests in proportion to their respective ownership in oil or gas acreage in the pooled tracts owned or under lease to each owner; and shall make provisions for payment of all reasonable costs thereof, including a reasonable charge for supervision and for interest on past-due accounts, by all those who elect to participate therein.

(4) No drilling or operation of a deep well for the production of oil or gas shall be permitted upon or within any tract of land unless the operator shall have first obtained the written consent and easement therefor, duly acknowledged and placed of record in the office of the county clerk, for valuable consideration of all owners of the surface of such tract of land, which consent shall describe with rea-
sonable certainty the portion upon such tract, of the location of such proposed deep well, a certified copy of which consent and easement shall be submitted by the operator to the commission.

(5) Upon request, any such pooling order shall provide just and equitable alternatives whereby an owner of an operating interest who does not elect to par-
icipate in the risk and cost of the drilling of a deep well may elect:

(i) Option 1. To surrender his interest or a portion thereof to the participating owners on a reasonable basis and for a reasonable consideration, which, if not agreed upon, shall be determined by the commissioner; or

(ii) Option 2. To participate in the drilling of the deep well on a limited or carried basis on terms and conditions which, if not agreed upon, shall be determined by the commissioner to be just and reasonable.

(6) In the event a nonparticipating owner elects Option 2, and an owner of any operating interest in any portion of the pooled tract shall drill and operate, or pay the costs of drilling and operating a deep well for the benefit of such nonparticipating owner as provided in the pooling order, then such operating owner shall be entitled to the share of production from the tracts or portions thereof pooled accruing to the interest of such nonparticipating owner, exclusive of any royalty or overriding royalty reserved in any leases, assignments thereof or agreements relating thereto, of such tracts or portions thereof, or exclusive of one eighth of the production attributable to all unleased tracts or portions thereof, until the market value of such nonparticipating owner's share of the production, exclusive of such royalty, overriding or one eighth of production, equals double the share of such costs payable by or charged to the interest of such nonparticipating owner.

(7) If a dispute shall arise as to the costs of drilling and operating a deep well, the commissioner shall determine and apportion the costs, within ninety days from the date of written notification to the commissioner of the existence of such dispute.

§22-4-13. Secondary recovery of oil; unit operations. — Upon the applica-
tion of any operator in a pool productive of oil and after notice and hearing, the commissioner may enter an order requiring the unit operation of such pool in con-


(b) All of the pertinent provisions of article five, chapter twenty-nine-a of this code shall apply to and govern the hearing and the administrative procedures in connection with and following such hearing, with like effect as if the provisions of said article five were set forth in extenso in this subsection.

(c) Any such hearing shall be conducted by the commissioner. For the purpose of conducting any such hearing, the commissioner shall have the power and authority to issue subpoenas and subpoenas ducum tecum which shall be issued and served within the time, for the fees and shall be enforced, as specified in section one, article five of said chapter twenty-nine-a, and all of the said section one provisions dealing with subpoenas and subpoenas ducum tecum shall apply to subpoenas and subpoenas ducum tecum issued for the purpose of a hearing hereunder.

(d) At any such hearing any interested person may represent himself or be represented by an attorney at law admitted to practice before any circuit court of this state. Upon request by the commissioner, he shall be represented at such hearing by the attorney general or his assistants without additional compensation. The commissioner, with the written approval of the attorney general, may employ special counsel to represent the commissioner at any such hearing.

(e) After any such hearing and consideration of all of the testimony, evidence and record in the case, the commissioner shall render his decision in writing. The written decision of the commissioner shall be accompanied by findings of fact and conclusions of law as specified in section three, article five, chapter twenty-nine-a of this code, and a copy of such decision and accompanying findings and conclusions shall be served by certified mail, return receipt requested, upon all interested persons and their attorneys of record, if any.

(f) The decision of the commissioner shall be final unless reversed, vacated or modified upon judicial review thereof in accordance with the provisions of section eleven of this article.

§22-4-A-12. Judicial review; appeal to supreme court of appeals; legal representation for commissioner.—(a) Any person adversely affected by a decision of the commissioner rendered after a hearing held in accordance with the provisions of section ten of this article shall be entitled to judicial review thereof. All of the pertinent provisions of section four, article five, chapter twenty-nine-a of this code shall apply to and govern such judicial review with like effect as if the provisions of said section four were set forth in extenso in this section.

(b) The judgment of the circuit court shall be final unless reversed, vacated or modified on appeal to the supreme court of appeals in accordance with the provisions of section one, article six, chapter twenty-nine-a of this code, except that notwithstanding the provisions of said section one the petition seeking such review must be filed with said supreme court within thirty days from the date of entry of the judgment of the circuit court.

(c) Legal counsel and services for the commissioner in all appeal proceedings in any circuit court and the supreme court of appeals shall be provided by the attorney general or his assistants and in any circuit court by the prosecuting attorney of the county as well, all without additional compensation. The commissioner, with the written approval of the attorney general, may employ special counsel to represent the commissioner in any such appeal proceedings.

§22-4-A-13. Injunctive relief.—(a) Whenever it appears to the commissioner that any person has been or is violating or is about to violate any provision of this article, any reasonable rule and regulation promulgated by the commissioner hereunder or any order or final decision of the commissioner, the commissioner may apply in the name of the state to the circuit court of the county in which the violations or any part thereof has occurred, is occurring or is about to occur, or the judge thereof in vacation, for an injunction against such person and any other persons who have been, are or are about to be, involved in any practices, acts or omissions, so in violation, enjoining such person or persons from any such violation or violations. Such application may be made and prosecuted to conclusion whether or not any such violation or violations have resulted or shall result in prosecution or conviction under the provisions of section fourteen of this article.

(b) Upon application by the commissioner, the circuit courts of this state may by mandatory or prohibitory injunction compel compliance with the provisions of this article, the reasonable rules and regulations promulgated by the commissioner hereunder and all orders and final decisions of the commissioner. The court may issue a temporary injunction in any case pending a decision on the merits of any application filed. Any other section of this code so the contrary notwithstanding, the state shall not be required to furnish bond or other undertaking as a prerequisite to obtaining mandatory, prohibitory or temporary injunctive relief under the provisions of this article.

(c) The judgment of the circuit court upon any application permitted by the provisions of this section shall be final unless reversed, vacated or modified on appeal to the supreme court of appeals. Any such appeal shall be sought in the manner and within the time provided by law for appeals from circuit courts in other proceedings.

(d) The commissioner shall be represented in all such proceedings by the attorney general or his assistants and in such proceedings in the circuit courts by the prosecuting attorneys of the several counties as well, all without additional compensation. The commissioner, with the written approval of the attorney general, may employ special counsel to represent the commissioner in any such proceedings.

(e) If the commissioner shall refuse or fail to apply for an injunction to enjoin a violation or threatened violation of any provision of this article, any reasonable rule and regulation promulgated by the commissioner hereunder or any order or final decision of the commissioner, within ten days after receipt of a written request to do so by any person who is or will be adversely affected by such violation or threatened violation, the person making such request may apply in his own behalf for an injunction to enjoin such violation or threatened violation in any court in which the commissioner might have brought suit. The commissioner shall be made a party defendant in such application in addition to the person or persons violating or threatening to violate any provision of this article, any reasonable rule and regulation promulgated by the commissioner hereunder or any order or final decision of the commissioner. The application shall proceed and injunctive relief
may be granted without bond or other undertaking in the same manner as if the application had been made by the commissioner.

§22-4A-13. Special oil and gas conservation tax. — Owners of leases on oil or gas for the exploration, development or production of oil or natural gas shall pay to the commission a special oil and gas conservation tax of three cents for each acre under lease, excluding from the tax the first twenty-five thousand acres. The commission shall deposit with the treasurer of the state of West Virginia, to the credit of the special oil and gas conservation fund, all taxes collected hereunder. The special oil and gas conservation fund shall be a special fund and shall be administered by the commission for the sole purpose of carrying out all costs necessary to carry out the provisions of this article. This tax shall be paid as provided herein annually on or before the first day of July, one thousand nine hundred seventy-two, and on or before the first day of July in each succeeding year.

§22-4A-14. Penalties. — (a) Any person who violates any provision of this article, any of the reasonable rules and regulations promulgated by the commissioner hereunder or any order or any final decision of the commissioner, other than a violation covered by the provisions of subsection (b) of this section, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one thousand dollars, and each day that a violation continues shall constitute a new and separate violation.

(b) Any person who, for the purpose of evading any provision of this article, any of the reasonable rules and regulations promulgated by the commissioner hereunder or any order or final decision of the commissioner, shall make or cause to be made any false entry or statement in a report required under the provisions of this article, any of the reasonable rules and regulations promulgated by the commissioner hereunder or any order or final decision of the commissioner, or shall make or cause to be made any false entry in any record, account or memorandum required under the provisions of this article, any of the reasonable rules and regulations promulgated by the commissioner hereunder or any order or any final decision of the commissioner, or who shall omit, or cause to be omitted, from any such record, account or memorandum, full, true and correct entries, or shall remove from this state or destroy, mutilate, alter or falsify any such record, account or memorandum, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than five thousand dollars, or imprisoned in the county jail not more than six months, or both fined and imprisoned.

(c) Any person who knowingly aids or abets any other persons in the violation of any provision of this article, any of the reasonable rules and regulations promulgated by the commissioner hereunder or any order of final decision of the commissioner, shall be subject to the same penalty as that prescribed in this article for the violation by such other person.

§22-4A-15. Construction and severability. — Except as provided in subsection (c), section three of this article, this article shall be liberally construed so as to effectuate the declaration of public policy set forth in section one of this article.

If any section, subsection, subdivision, subparagraph, sentence or clause of this article is adjudged to be unconstitutional or invalid, such invalidation shall not affect the validity of the remaining portions of this article, and, to this end, the provisions of this article are hereby declared to be severable.
WEST VIRGINIA
ADMINISTRATIVE REGULATIONS

Oil and Gas Conservation Commission

Chapter 22-4A
(1977)

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SECTION 1 — GENERAL RULES

1.01 Effective Scope of Rules and Regulations.

All rules and regulations of a general nature herein promulgated are to prevent waste, protect correlative rights, and to conserve oil and gas in the State of West Virginia and are applicable in all pools and fields developed subsequent to their adoption, except as may be amended, modified, altered or enlarged generally or in specific pools or fields by orders hereafter issued by the Commissioner. Where Special Field Rules apply, the Special Field Rules shall govern to the extent of any conflict.

1.02 Duties of the Commissioner.

The duties of the Commissioner shall be as described in the Statute.

1.03 Access to Records.

The Commissioner and/or his authorized agent shall have access to such deep well and lease records, wherever located, as may be necessary in the performance of his statutory duties. All persons or operators, drilling or servicing deep wells, shall permit the Commissioner and/or his authorized agent, to come upon any lease, property, or deep well operated or controlled by them, and to inspect the record and operation of such deep wells and to have access at reasonable times to such records of deep wells, provided that, information so obtained shall be kept confidential.

1.04 Reports.

All operators and purchasers of oil and gas within the State shall, from time to time, file such reports containing such information and covering such periods as the Commissioner, in order to perform his statutory duties, may require by rule or regulation.

1.05 Tests and Surveys.

When deemed necessary or advisable in the performance of his statutory duties, the Commissioner, by rule or regulation, may require tests and surveys to determine the occurrence of waste of oil, gas, water, or reservoir energy and the magnitude thereof.

1.06 Corrective Action.

The Commissioner shall require correction of any condition which is causing or is likely to cause waste of oil or gas and require the proper plugging and abandonment of any deep well or wells no longer used or useful.

1.07 Well Designations.

The operator, upon completion of any deep well, shall install and maintain, upon the deep well site, proper identification thereof, including but not limited to, the operator's name, name of lease, number of the well, API number (composed of State, county, and permit number).
1.08 Naming of Fields.

All oil and gas fields subject to the Statute discovered subsequent to the adoption of these rules and regulations shall be named by the Commissioner or at his direction.

1.09 Forms Upon Request.

Forms required by the Commissioner will be furnished upon request.

SECTION II — DEFINITIONS

2.01 "Commission" shall mean the West Virginia Oil and Gas Conservation Commission, composed of three members appointed by the Governor, the Director of Natural Resources and the Deputy Director for Oil and Gas of the Department of Mines.

2.02 "Commissioner" shall mean the person appointed by the West Virginia Oil and Gas Conservation Commission to the position of Commissioner.

2.03 "Code" shall mean the Code of West Virginia, one thousand, nine hundred thirty-one, as amended.

2.04 "Statute" shall mean article 4-A of chapter twenty-two of the Code of West Virginia, one thousand, nine hundred, thirty-one, as amended.

2.05 "Hearing" shall mean a proceeding in which any matter is heard before the Commissioner.

2.06 "Day" shall mean a period of twenty-four (24) consecutive hours.

2.07 "Barrel" shall mean forty-two (42) U. S. gallons of two hundred and thirty-one (231) cubic inches each at a temperature of sixty degrees (60°) Fahrenheit.

2.08 "Cubic Foot of Gas" shall mean, in these rules and regulations, the volume of gas contained in one cubic foot of space at a standard pressure base and a standard temperature base. The standard pressure base shall be fourteen and seventy-three hundredths (14.73) psia and the standard temperature base shall be sixty degrees (60°) Fahrenheit.

2.09 "Log or Well Log" shall mean a systematic detailed geological record of formations encountered in the drilling of a well.

2.10 The words, "Person, Operator, Royalty Owner, Independent Producer, Oil, Gas, Pool, Well, Shallow Well, Deep Well, Drilling Unit, Waste, Correlative Rights, and Just and Equitable Share of Production", are defined by the Statute and said definitions are hereby adopted in these Rules and Regulations.

2.11 "Oil Well" shall mean any well which produces less than six thousand (6,000) cubic feet of gas to each one (1) barrel of oil on initial gas-oil ratio test, defining oil and gas as in the Statute.

2.12 "Gas Well" shall mean any well which produces six thousand (6,000) cubic feet or more than six thousand (6,000) cubic feet of gas to each one (1) barrel of oil on initial gas-oil ratio test, defining oil and gas as in the Statute.

2.13 "Completion", An oil well shall be considered completed when the well is first capable of producing new oil through wellhead equipment into lease tanks from the ultimate producing interval after the producing string has been run.
gas well shall be considered completed when the well is capable of producing gas through wellhead equipment from the ultimate producing zone after the producing string has been run. A dry hole shall be considered completed when all provisions of plugging have been performed. A multiple completion is the completion of more than one pool of hydrocarbon fluids into one wellbore.

2.14 "Purchaser" shall mean any person who directly or indirectly purchases, transports, takes or otherwise removes oil, gas or other hydrocarbon to his account from a well, lease, drilling unit or pool.

2.15 "Field" shall mean a geographic area which is underlaid or appears to be underlaid by at least one pool; and "field" shall include the underground reservoirs containing oil or gas. The words "field" and "pool" are synonymous when only one underground reservoir is involved; however, "field" may relate to two or more pools.

2.16 "Well Spacing" shall mean the pattern or minimum distances from drilling unit boundary lines and from other deep wells drilling to or producible from the same pool, at which deep wells may be located on the surface.

2.17 "Unit" shall mean a lease or two or more leases which have been combined in such a manner that the combined leases may be regarded as a common lease for the drilling and operation of a deep oil or gas well.

2.18 "Designated Agent". The designated agent shall be a resident of the State of West Virginia upon whom process, notices, orders or other communications issued pursuant to these Rules and Regulations may be served. Change in designated agent must be received by the Commissioner within five (5) days after such change.

2.19 "Authorized Agent" shall mean a representative of the Commissioner.

2.20 "Special Field Rules" are rules ordered after a deep well has been drilled establishing a field or pool and an application is filed by the operator of the deep well or by the operator of any lands directly and immediately affected by the drilling of such deep well or wells in the field or pool. The Special Field Rules will designate the field or pool by name, the area to which they are applicable, the acreage of each drilling unit, the shape thereof, the minimum distance from the outside boundary of each drilling unit at which a deep well may be drilled and a minimum distance between deep wells. The Commissioner may conform the size and shape of the drilling unit upon which a deep well is situated to the applicable Special Field Rules.

SECTION III — OPERATIONAL RULES

3.01 Notices — General and Emergency.

Any written notice of intention to do work which requires the Commissioner's approval or to change plans previously approved by the Commissioner must be filed with the Commissioner in triplicate, unless otherwise directed, and must receive his approval before the work is begun.

In case of emergency or a situation where operations might be unduly delayed, any written notice or approval required by these rules and regulations to be given to or received from the Commissioner may be given or received orally or by wire, and, if approval is obtained, the transaction shall be confirmed in writing as a matter of record.

3.02 Location of Wells.

To prevent waste, in the absence of an application for Special Field Rules or Special Field Rules ordered by the Commissioner establishing drilling units or authorizing different deep well spacing or location patterns for a particular field or pool or parts thereof, each deep well drilled shall not be less than three thousand feet (3,000') from a deep well drilling to or capable of producing hydrocarbons from the objective pool of the deep well and no deep well shall be less than four hundred feet (400') from a lease or unit boundary.

The Commissioner shall have the discretion to determine pattern location of deep wells adjacent to an area governed by Special Field Rules where there is sufficient evidence to indicate that the pool or reservoir spaced by the Special Field Rules may extend beyond the boundary of the spacing order and the uniformity of the spacing pattern is necessary to insure orderly development of the pool or field.

3.03 Exception to Location of Wells.

When exception to Operational Rule 3.02 or a Special Field Rule applicable to the location of deep well is desired, the operator shall file a supplemental application to the application required by operational Rule 3.04 of these rules and regulations with the Commissioner.

The supplemental application shall be accompanied by a plat or sketch, with appropriate coordinates, drawn to the scale of one (1) inch equaling to two thousand feet (2,000') accurately showing to scale all other completed, drilling, or permitted deep oil and gas wells on said property or surrounding property within a distance of two (2) miles if the plat or sketch submitted under Operational Rule 3.04 does not accurately reflect the hereinabove information. The plat shall show:

(a) The location at which a deep oil or gas well could be drilled in compliance with the applicable order;

(b) The location at which the applicant requests permission to drill, and;
(c) The location at which deep oil or gas wells have been drilled or could be drilled in accordance with the applicable Special Field Order, directly or diagonally offsetting the proposed exception.

The Commissioner, after notice and hearing, may grant or deny the application and require the withholding or approve issuing of a permit pursuant to Operational Rule 3.04.

No exception shall prevent any operator from drilling a deep oil or gas well on adjacent lands, directly or diagonally offsetting the exception, at locations permitted by any applicable Special Field Rules ordered by the Commissioner.

3.04 Application for Permit.

All applications submitted to the Deputy Director for Oil and Gas for a permit to drill, re-drill, stimulate, operate, plug, abandon, deepen, case, fracture, pressure, control, or combine any deep well, or physically, change any deep well to allow the migration of fluid from one formation to another shall be reviewed by the Commissioner or by an authorized agent to ascertain compliance with these rules and regulations. The Commissioner will provide the Deputy Director for Oil and Gas with a statement either approving or disapproving the application based upon its compliance with Oil and Gas Conservation rules and regulations and the statute. The permit will be issued by the Deputy Director for Oil and Gas when the applicant has complied with all rules and regulations. The application shall contain, or show by plat or sketch, in addition to the requirements of §22-4-1A, and administrative rules and regulations promulgated thereunder:

(a) A certificate of consent and easement from all owners of the surface of the tract on which the deep well is to be drilled, and;

(b) A tabulation of all deep wells within one mile of the proposed location, including the API number of the deep well, well name, and the name and address of the operator, and;

(c) On a plat for a proposed deep well location in an area covered by Special Field Rules, the boundaries of the drilling unit, the distances from the proposed deep well location to the nearest outside boundary and the acreage of each tract within the drilling unit shall be shown. Such plat shall accompany the application and shall be drawn to a scale of one (1) inch equal to two thousand feet (2,000').

The plat shall be prepared by a licensed land surveyor or registered engineer showing the district and county in which the tract of land upon which the well to be drilled is located, the acreage of the tract, the names of mineral owners or lessors of adjacent tracts, the proposed or actual location of the well determined by survey, the courses and distances of such locations from two (2) permanent points or landmarks on said tracts and the number to be given the deep well. The plat will show all deep oil and gas or abandoned deep oil and gas wells within one (1) mile of the proposed or actual deep well for which a permit is sought and the distances to each, and;

(d) Any other information which the Commissioner, by rule or regulation, may require in order to perform his statutory duties.

3.05 Monthly Report of Oil and Gas Production.

For each deep oil or gas well, an annual report of production by month shall be filed with the Commissioner. The report will be filed on or before the succeeding March 31st. The report will be filed regardless of the status of the deep well.

The report to be submitted by the operator or a person specified by the operator shall include the operator's name, place of business, lease or well name, API number (composed of State, county, and permit number), days produced during the report month, volume of oil measured in barrels or gas measured in thousand cubic feet, and other pertinent information as the Commissioner, by rule or regulation, may require in the performance of his statutory duties.

3.06 Filing of Well Logs.

Within ninety (90) days after the completion of drilling or re-completion of a deep well, the operator shall submit to the Commissioner a copy of the well log and the electrical, radioactive or other similar conventional log if they have been run. In addition, as soon as practicable, and upon the request of the Commissioner, operators shall file a copy of drill stem test charts, formation water analysis, porosity, permeability or fluid saturation measurements, core analysis, and lithologic log or sample description as compiled, provided that no such information shall be required unless the operator has compiled such information in the ordinary course of business. No interpretation of the data is to be filed.

All information furnished to the Commissioner hereunder with respect to a deep well marked "confidential" shall be kept confidential for one (1) year after the date the information is required to be filed hereunder, unless the operator gives written permission to release such information at an earlier date.

For good cause shown by the operator, the Commissioner may extend the period of confidentiality for one (1) year. The total period of confidentiality shall not exceed three (3) years.

3.07 Measurement of Oil.

The volume of production of oil shall be computed in terms of barrels of clean oil on the basis of meter measurement or tank measurements of oil level differences, made and recorded to the nearest quarter-inch of one hundred percent (100%) capacity tables, subject to the following corrections:

(a) Correction for Impurities — The percentage of impurities (water, sand, and other foreign substances, not constituting a natural component part of the oil) shall be determined to the satisfaction of the Commissioner and the observed gross volume of oil shall be corrected to exclude the entire volume of such impurities.

(b) Temperature Correction — The observed volume of oil corrected for impurities shall be further corrected to the standard volume at 60°F Fahrenheit in accordance with A.S.T.M. D-1250, Table 7, or any revisions thereof and any supplements thereto or any close approximation thereof approved by the Commissioner.
3.08 Measurement of Gas.

All gas, except gas used on the lease for development purposes and lease operations, when produced or sold shall be measured by an approved meter of sufficient capacity. The standard pressure base for reporting purposes shall be 14.73 psia regardless of atmospheric pressure at the point of measurement and the standard temperature base shall be 60° Fahrenheit.

3.09 Multiple Pool Completion or Commingling in one Well Bore.

In the absence of Special Field Rules, an operator will, within seventy-two (72) hours after commencing to complete a deep well in more than one (1) pool, file written notice in the office of the Conservation Commission of the intended multiple completion. Within fourteen (14) days after the multiple completion and before any production from the deep well is marketed, the operator shall file a report stating whether the production is segregated or commingled, include a diagrammatic sketch of the mechanical installation, name and address of the operators and a plot showing the location of the deep well and deep wells within two (2) miles of the deep multiple completion well which have been or may be capable of being completed in the same pool or pools.

The Commissioner will provide all operators of deep wells, within two (2) miles of the multiple completion, a copy of the report. If no protest is received and the Commissioner determines no waste will result from the completion within fourteen (14) days, the completion will be approved without notice and hearing.

In the event the pools are segregated, the Commissioner may require tests as he deems necessary to determine the effectiveness of the segregation of the different producing pools.

3.10 Intentional and Unintentional Deviation in Drilling.

Before beginning intentional directional drilling, other than sidetracking due to hole conditions, when the intent is to direct the bottom of the hole away from the vertical, notice of intention to do so shall be filed with the permit application and approval obtained. Such notice shall state clearly name and address of operator, the deep well's API number, lease name, field or pool, county, the depth, exact surface location of the well bore, proposed direction of deviation, and proposed horizontal distance between the bottom of the hole and surface location, reason for intentional deviation and a list of offset operators. The Commissioner shall notify offset operators of the applicants plan and hold the notice ten (10) days if objection is received, the application will be set for public hearing. If no objection is received, the application shall be approved. If approval is obtained, the operator shall file, with the Commissioner within sixty (60) days after the completion of the work, an accurate and complete copy of the directional survey.

In all deep wells, all operators shall, when the safety of the well bore is not in jeopardy; survey their well bore for unintentional deviation from the vertical at least every five hundred feet (500') or every ten feet if less than five hundred feet (500').

The operator shall calculate the cumulative random drift of the bore hole from such survey as drilling progresses. The operator shall file a copy of such record within sixty (60) days after completion of drilling operation and before sale of hydrocarbons is made from the well.

In the event safety precludes a survey being performed as described above, the operator shall, at the Commissioner's request, before completion of drilling operations and before sale of hydrocarbons is made from the well, run cased hole deviation surveys or directional surveys on the well bore to determine that the bore hole is within the confines of the drilling unit.

In all deep wells, should the operator calculate or have reason to suspect the cumulative random drift exceeds the surface distance of the well from the nearest drilling unit boundary, the operator shall run a directional survey on the bore hole to determine where the bore hole actually lies and file a copy of such record within sixty (60) days after completing the survey.

3.11 Production Potential, Shut-in Pressure and Gas-Oil Ratio Testing and Reports.

Production potential, shut-in pressure and gas-oil ratio testing and reporting may be required by the Commissioner to perform his statutory responsibilities. In deep well gas testing, the methods prescribed in the Interstate Oil Compact Commission's "Manual of Gas Well Testing" shall be used.

3.12 Gas-Oil Ratio Test.

Each operator shall take a gas-oil ratio test not later than thirty (30) days following the completion or recompletion of any deep well producing from a pool which contains both oil and gas. The results of such test shall be reported to the Commissioner within fifteen (15) days after the completion of the test. Upon application, the Commissioner may waive or extend the time for making a gas-oil ratio test. Additional tests may be taken at any time and shall be taken as required by the Commissioner to perform his statutory responsibilities.
SECTION IV — SECONDARY RECOVERY RULES

4.01 Waterflooding and Other Recovery Operations.

Applications for secondary or additional recovery operations, whether by waterflooding or repressuring or pressure maintenance operations, for a pool productive of oil shall contain:

(a) A plat drawn to a scale of one (1) inch equal to two thousand feet (2,000) showing the area involved, together with the well or wells, including shallow wells and dry and abandoned wells located thereon, all of which shall be properly designated;

(b) The name, description, and depth of the formations to be affected;

(c) The log of any injection well, or such similar information as is available;

(d) A description of any injection well's casing or the proposed casing program and the proposed method for testing casing before use in any injection well;

(e) A statement as to the type of fluid to be used for injection, its source and the estimated amounts to be injected daily;

(f) A full description of the particular operation for which approval is requested, including the additional oil recovery anticipated and the economic feasibility of the project;

(g) A copy of the unit agreement showing the approval of the plan and its terms of operation by the operators of approximately three-fourths (¾) of the acreage (calculating partial interests on a pro rata basis for operator interests on any parcel owned in common) and the royalty owners of approximately three-fourths (¾) of the acreage (calculating partial interests on a pro rata basis for royalty interests on any parcel owned in common), and

(b) A statement of the designated operator for the unit.

4.02 Unit Operations.

Subsequent to notice and hearing, at which the applicant will provide a copy of the unit agreement showing the approval of the plan and its terms of operation by the operators of at least three-fourths (¾) of the acreage (calculating partial interests on a pro rata basis for operator interests on any parcel owned in common) and the royalty owners of at least three-fourths (¾) of the acreage (calculating partial interests on a pro rata basis for royalty interests on any parcel owned in common), the Commissioner may enter an order as provided in section eight, article four-a of chapter twenty-two of the Code of West Virginia.

4.03 Monthly Report.

A monthly report of fluids injected and withdrawn shall be filed in a form prescribed by the Commissioner.
SECTION V — RULES OF PRACTICE AND PROCEDURE

5.01 The Commissioner, in all proceedings relating to the determination of Special Field Rules for the conservation of oil and gas in the State of West Virginia, shall, in addition to the provisions of section ten, article four-a, chapter twenty-two of the Code, require evidence from an applicant as follows:

(a) A topographic map at a scale of one (1) inch equal to two thousand (2,000) feet with an outline of the area for which Special Field Rules are requested;

(b) Known lease ownership of the area for which Special Field Rules are requested by plat at a scale of one (1) inch equal to two thousand (2,000) feet and/or a tabulation of such ownership;

(c) Geological mapping, records, and testimony relevant to the area to be spaced;

(d) Reservoir data anticipated for an average proposed drilling unit within the spaced area;

(e) A comparative economic evaluation of spacing patterns, based on estimated production and rate of production of oil and/or gas of the average proposed drilling unit within the spaced area.

5.02 Conduct of attorneys before the Commission shall be the same as required of attorneys before the Circuit Courts of the State of West Virginia. Attorneys or persons representing themselves shall stand when addressing the Commission or a witness. Any person testifying in response to a subpoena or subpoena duces tecum issued by the Commissioner and any person testifying in support of an application, or in opposition thereto, shall be required to do so under oath or affirmation administered by the Commissioner. Witnesses shall be examined with courtesy and respect and their good faith shall be presumed.

Smoking shall not be permitted in the hearing room of the Commission, either during session or during recess. Taking of photographs or the broadcasting of proceedings in or from any hearing room or so close thereto as to disturb the order and decorum thereof either while the hearing is in session or at recess is prohibited.

The conduct and demeanor of attorneys and persons when present during the proceedings shall be such as to reflect respect for the dignity and authority of the Commission and to maintain the proceedings as an objective search for the applicable facts and the correct principles of law.

The electronic recording of any session is prohibited except as may be required by the Commissioner for preserving a record thereof for the use of the Commissioner in connection with the matter being heard. A transcript of testimony shall be taken and preserved as part of the permanent record. Interested parties may examine the official transcript or purchase a copy from the Commissioner.

5.03 Any operator intending to apply for Special Field Rules, shall, along with the application which shall show applicant's name and address and describe the area (for which a spacing order is requested), send a notice of a pre-hearing conference to the Commissioner and the operators of any lands directly or immediately affected by the proposal. The pre-hearing notice shall include a list of the names and addresses of all operators to whom it was sent, a statement that a diligent effort has been made to determine to whom the notice must be sent, a statement that opponents to the application must file written notice with the Commissioner within ten (10) days of the conference will not be held, and the evidence required in 5.01. The Commissioner shall set a day, time, and place for the pre-hearing conference to be not less than twenty (20) days following the date of the pre-hearing notice. If no written opposition to the application is received by the Commissioner within (10) days after the date of the pre-hearing notice, the Commissioner will advise all persons to whom the pre-hearing notice was sent that a conference will not be held. If any operator relates in writing to the Commissioner opposition to the application's proposal, within ten (10) days, a conference will be held. Any person may attend and participate in the conference even though he did not request it. Opponents to the application shall present evidence, as required of an applicant in 5.01, indicating where there is disagreement with the applicant, sufficient to permit all operators to attempt to resolve the difference.

5.04 The Commissioner shall assign the application a Cause Number and enter the proceeding along with its date of filing on a separate page of the docket. Notice of the docket and the time and place of the hearing shall be in accordance with the provisions of the Statute. Hearing shall be not less than ten (10) days and not more than thirty (30) days after receipt of the application.

In addition to any other notice required by law or these rules, any person who believes that he may be interested in any hearing before the Commissioner who has filed a request for notice, in writing, shall be entitled to receive a copy of the docket for the hearing mailed by the Commissioner not later than ten (10) days before the date of the hearing. Upon request, such person will be furnished a copy of the application filed with the Commissioner.

5.05 Any person desiring to protest the granting of the application, shall, at least five (5) days prior to the date of the hearing, file a statement of opposition and a counterplan with the Commissioner and all operators of lands directly and immediately affected and state briefly the issues.

5.06 The applicant will open the hearing and present the testimony and exhibits offered in support of the application. The applicant's witnesses will then be subject to cross-examination by the Commissioner or any interested parties. The Commissioner shall determine the order of the appearances of the other participants in the hearing. Each interested party affected by the application who has complied with the Rules of Practice and Procedure, may present testimony and exhibits in support of or in opposition to the applicant's proposal. All witnesses shall be subject to cross-examination as previously set forth.

The applicant may offer rebuttal testimony and exhibits, but the witnesses will again be subject to cross-examination. Succeeding testimony and exhibits and subsequent testimony and exhibits may be permitted at the discretion of the Commissioner.
Closing statements and statements of position may be made by the participants and all other interested persons before the hearing is closed or at such time as designated by the Commissioner. No order shall be made which is not supported by competent legal evidence.

5.07 In addition to any special hearings which may be held, regular monthly hearings shall be held before the Commissioner. Where circumstances permit, the Commissioner, after sounding the docket, may first call up and dispose of all non-contested matters and motions for continuance.

5.08 Any interested party may petition the Commissioner for the promulgation, amendment or repeal of any rule by filing a written petition setting forth such facts and arguments as support the petition. Upon receiving such petition, the Commissioner, as soon as practicable, shall either (1) deny the petition in writing (stating his reasons for denial), or (2) initiate rule-making proceedings pursuant to chapter twenty-nine-a, article three or other appropriate provisions of the Code of the State of West Virginia.

5.09 The Commissioner shall enter a sparing order or dismiss the application therefor within forty-five (45) days after the application for a sparing order has been filed.

5.10 Any person who is bound by any order of the Commissioner shall have the right to compel a hearing on the matter if no such hearing has been held.
ARTICLE 4B. SHALLOW GAS WELL REVIEW BOARD.

§22-4B-1. Declaration of public policy; legislative findings. — (a) It is hereby declared to be the public policy of this state and in the public interest to:

(1) Insure the safe recovery of coal and gas;

(2) Foster, encourage and promote the fullest practical exploration, development, production, recovery and utilization of this state’s coal and gas, where both are produced from beneath the same surface lands, by establishing procedures, including procedures for the establishment of drilling units, for the location of shallow gas wells without substantially affecting the right of the gas operator proposing to drill a shallow gas well to explore for and produce gas; and

(3) Safeguard, protect and enforce the correlative rights of gas operators and royalty owners in a pool of gas to the end that each such gas operator and royalty owner may obtain his just and equitable share of production from such pool of gas.

(b) The legislature hereby determines and finds that gas found in West Virginia in shallow sands or strata has been produced continuously for more than one hundred years; that the placing of shallow wells has heretofore been regulated by the state for the purpose of insuring the safe recovery of coal and gas, but that regulation should also be directed toward encouraging the fullest practical recovery of both coal and gas because modern extraction technologies indicate the desirability of such change in existing regulation and because the energy needs of this state and the United States require encouragement of the fullest practical recovery of both coal and gas; that in order to encourage and insure the fullest practical recovery of coal and gas in this state and to further insure the safe recovery of such natural resources, it is in the public interest to enact new statutory provisions establishing a shallow gas well review board which shall have the authority to regulate and determine the appropriate placing of shallow wells when gas well operators and owners of coal seams fail to agree on the placing of such wells, and establishing specific considerations, including minimum distances to be allowed between certain shallow gas wells, to be utilized by the shallow gas well review board in regulating the placing of shallow wells; that in order to encourage and insure the fullest practical recovery of coal and gas in this state and to protect and enforce the correlative rights of gas operators and royalty owners of gas resources, it is in the public interest to enact new statutory provisions establishing a shallow gas well review board which shall also have authority to establish drilling units and order the pooling of interests therein to provide all gas operators and royalty owners with an opportunity to recover their just and equitable share of production.

§22-4B-2. Definitions. — Unless the context in which used clearly requires a different meaning, as used in this article:

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(1) "Board" means the West Virginia shallow gas well review board provided for in section four of this article;

(2) "Chairman" means the chairman of the West Virginia shallow gas well review board provided for in section four of this article;

(3) "Coal operator" means any person who proposes to or does operate a coal mine;

(4) "Coal seam" and "workable coal bed" are interchangeable terms and mean any seam of coal twenty inches or more in thickness, unless a seam of less thickness is being commercially worked, or can in the judgment of the department feasibly be commercially worked and will require protection if wells are drilled through it;

(5) "Commission" means the oil and gas conservation commission provided for in section four, article four of this chapter;

(6) "Commissioner" means the oil and gas conservation commissioner provided for in section four, article four of this chapter;

(7) "Coreductive rights" means the reasonable opportunity of each person entitled thereto to recover and receive without waste and under a tract or tracts, or the equivalent thereof;

(8) "Deep well" means any well drilled and completed in a formation at or below the top of the uppermost member of the "Otounaiga Group" or at a depth of or greater than six thousand feet, whichever is shallower;

(9) "Department" or "department of mines" means the state department of mines provided for in section two, article two of this chapter;

(10) "Director" means the director for oil and gas provided for in section two, article two of this chapter;

(11) "Drilling unit" means the acreage on which the board decides one well may be drilled under section ten of this article;

(12) "Gas" means all natural gas and all other fluid hydrocarbons not defined as oil in subdivision (13) of this section;

(13) "Gas operator" means any person who owns or has the right to develop, operate and produce gas from a pool and to appropriate the gas produced therefrom either for himself or for himself and others. In the event that there is no gas lease in existence with respect to the tract in question, the person who owns or has the gas rights therein shall be considered a "gas operator" to the extent of seven-eighths of the gas in that portion of the pool underlying the tract owned by such person, and a "royalty owner" to the extent of one-eighth of such gas;

(14) "Just and equitable share of production" means, as to each person, an amount of gas in the same proportion to the total gas production from a well as that person's acreage bears to the total acreage in the drilling unit;

(15) "Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoir;

(16) "Owner" when used with reference to any coal seam, shall include any person or persons who own, lease or operate such coal seam;

(17) "Person" means any natural person, corporation, firm, partnership, partnership association, vendor, receiver, trustee, executor, administrator, guardian, fiduciary or other representative of any kind, and includes any governor or any political subdivision or any agency thereof;

(18) "Plot" means a map, drawing or plan showing the location of one or more wells or a drilling unit;

(19) "Pool" means an underground accumulation of gas in a single and separate natural reservoir (ordinarily a porous sandstone or limestone). It is characterized by a single natural-pressure system so that production of gas from one part of the pool tends to or does cause the reservoir pressure throughout its extent. A pool is bounded by geologic barriers in all directions, such as geologic structural conditions, impermeable strata, and water in the formation, so that it is effectively separated from any other pools which may be present in the same district or in the same geologic structure;

(20) "Royalty owner" means any owner of gas in place, or gas rights, to the extent that such owner is not a gas operator as defined in subdivision (13) of this section;

(21) "Shallow well" means any well drilled and completed in a formation above the top of the uppermost member of the "Ootounaiga Group" or at a depth less than six thousand feet, whichever is shallower;

(22) "Tracts comprising a drilling unit" means all separable owned tracts of portions thereof which are included within the boundary of a drilling unit;

(23) "Well" means any shaft or bore sink, drilled, bored or dug into the earth or into underground strata for the extraction, injection or placement of any liquid or gas, or any shaft or bore sink or used in connection with such extraction, injection or placement. The term "well" does not include any shaft or bore sink, drilled, bored or dug into the earth for the sole purpose of core drilling or pumping or extracting nonconsumable, fresh or usable water for household, domestic, industrial, agricultural or public use; and

(24) "Well operator" means any person who proposes to or does locate, drill, operate or abandon any well.

§2-4B-3. Applications of article; exclusions. — (a) Except as provided in subsection (b) of this section, the provisions of this article shall apply to all lands located in this state, under which a coal seam as defined in section two, article four-B, chapter twenty-two and section one, article four, chapter twenty-two of this code, one thousand nine hundred thirty-one, is located, however owned, including any land owned or administered by any government or any agency or subdivision thereof, over which the state has jurisdiction under its police powers. The provisions of this article are
in addition to and not in derogation of or substitution for the provisions of articles four and four-a of this chapter.

(b) This article shall not apply to or affect:

(1) Deep wells;

(2) Oil wells and enhanced oil recovery wells associated with oil wells;

(3) Any shallow well permitted under article four of this chapter prior to 12:01 a.m., August first, one thousand nine hundred seventy-eight, unless such well is, after completion (whether such completion is prior or subsequent to the effective date of this article), deepened subsequent to the effective date of this article through another coal seam to another formation above the top of the uppermost member of the "Oconaluftee Group" or to a depth of less than six thousand feet, whichever is shallower;

(4) Any shallow well as to which no objection is made under section three-b, article four of this chapter;

(5) Wells as defined in subdivision (4), section one, article seven of this chapter; or


(c) The provisions of this act affecting applications for permits to drill shallow gas wells shall apply to such applications filed after 12:01 a.m., August first, one thousand nine hundred seventy-eight, and the provisions of article four of this chapter affecting such applications which were in effect immediately prior to the effective date of this act shall apply to all such applications filed prior to 12:01 a.m., August first, one thousand nine hundred seventy-eight, with like effect as if this act had not been enacted.

§22-4B-4. West Virginia shallow gas well review board; membership; method of appointment; vacancies; compensation and expenses; staff. — (a) There is hereby created the "West Virginia Shallow Gas Well Review Board" which shall be composed of three members, two of whom shall be the commissioner and the deputy director. The remaining member of the board shall be a registered professional mining engineer with at least ten years practical experience in the coal mining industry and shall be appointed by the governor, by and with the advice and consent of the Senate: Provided, That any person so appointed while the Senate of this state is not in session shall be permitted to serve in an acting capacity for one year from his appointment or until the next session of the Legislature, whichever is less. As soon as practical after appointment and qualification of the member appointed by the governor, the governor shall convene a meeting of the board for the purpose of organizing and electing a chairman, who shall serve as such until his successor is elected by the board.

(b) The member of the board appointed by the governor shall be appointed within three months of the effective date of this article. A vacancy in the membership appointed by the governor shall be filled by appointment by the governor within sixty days after the occurrence of such vacancy. Before performing any duty hereunder, each member of the board shall take and subscribe to the oath required by section five, article four of the constitution of West Virginia, and shall serve thereafter until his successor has been appointed and qualified.

(c) The member of the board appointed by the governor shall receive not less than seventy-five dollars per diem while actually engaged in the performance of his duties as a member of the board. Each member of the board shall also be reimbursed for all reasonable and necessary expenses actually incurred in the performance of his duties as a member of the board.

(d) The department shall furnish office and clerical staff and supplies and services, including reporters for hearings, as required by the board.

§22-4B-5. Same—Meetings; notice; general powers and duties. — (a) The board shall meet and hold conferences and hearings at such times and places as shall be designated by the chairman. The chairman may call a meeting of the board at any time. The chairman shall call a meeting of the board (1) upon receipt of a notice from the deputy director that an objection to the proposed drilling or deepening of a shallow well has been filed by a coal seam owner pursuant to section three-b, article four of this chapter or that an objection has been made by the department, (2) upon receipt of an application to establish a drilling unit filed with the board pursuant to section nine of this article, or (3) within twenty days upon the written request by another member of the board. Meetings called pursuant to subdivisions (1) and (2) of this subsection shall be scheduled not less than ten days nor more than twenty days from receipt by the chairman of the notice of objection or the application to establish a drilling unit. Not less than all meetings shall be given to each member of the board by the chairman at least ten days in advance thereof, unless otherwise agreed by the members.

(b) At least ten days prior to every meeting of the board called pursuant to the provisions of subdivisions (1) and (2), subsection (a) of this section, the chairman shall also notify (1) in the case of a notice of objection, the well operator and all objecting coal seam owners and (2) in the case of an application to establish a drilling unit, the applicant, all persons to whom copies of the application were required to be mailed pursuant to the provisions of subsection (d), section nine of this article and all persons who filed written protests or objections with the board in accordance with the provisions of subsection (c), section nine of this article.

(c) A majority of the members of the board shall constitute a quorum for the transaction of any business. A majority of the members of the board shall be required to determine any issue brought before it.

(d) The board is hereby empowered and it shall be its duty to execute and carry out, administer and enforce the provisions of this article in the manner provided herein. Subject to the provisions of section three of this article, the board shall have jurisdiction and authority over all persons and property necessary therefor: Provided, That the provisions of this article shall not be construed to grant to the board authority or power to (1) limit production or output from or prospect production of any gas well, or (2) fix prices of gas.

(e) The board shall have specific authority to:

(1) Take evidence and issue orders concerning applications for drilling permits and drilling units in accordance with the provisions of this article;

(2) Promulgate, pursuant to the provisions of chapter twenty-nine-a of this code,
and enforced reasonable rules and regulations necessary to govern the practice and procedures before the board.

(3) Make such relevant investigations of records and facilities as it deems proper.

(4) Issue subpoenas for the attendance of and sworn testimony by witnesses and subpoena duces tecum for the production of any books, records, maps, charts, diagrams, and other pertinent documents, and administer oaths and affirmations to such witnesses, whenever, in the judgment of the board, it is necessary to do so for the effective discharge of its duties under the provisions of this article.

122-4B.6. Rules and regulations; notice requirements. — (a) The board may promulgate, pursuant to the provisions of chapter twenty-nine of this code, such reasonable rules and regulations as are deemed necessary or desirable to implement and make effective the provisions of this article.

(b) Notwithstanding the provisions of section two, article seven, chapter twenty-nine of this code, any notice required under the provisions of this article shall be given in the direction of the chairman by (1) personal or substituted service and if such cannot be had then by (2) certified United States mail, addressed, postage and certification fee prepaid, to the last known mailing address, if any, of the person being served, with the direction that the same be delivered to addressee only, return receipt requested, and if there be no known mailing address or if the notice is not so delivered then by (3) publication of such notice in a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county or counties wherein any land which may be affected by the order of the board is situated. The chairman shall also mail a copy of such notice to all other persons who have specified to the chairman an address to which all such notices may be mailed. All notices shall issue in the name of the state, shall be signed by the chairman, shall specify the time and number of the proceeding, the date, time and place of any meeting, conference or hearing, and shall briefly state the purpose of the proceeding. Proof of service or publication of such notice shall be made to the board promptly and in any event within the time during which the person served must respond to the notice. If service is made by a person other than the chairman, he shall make proof thereof by affidavit. Failure to make proof of service or publication within the time required shall not affect the validity of the service of the notice.

122-4B.7. Objections to proposed drilling; conferences; agreed locations and changes in drilling or hearing; orders. — (a) At the time and place fixed by the chairman for the meeting of the board and for consideration of the objections to proposed drilling filed by coal seam owners pursuant to section three of this chapter, the well operator and the objecting coal seam owners present or represented, shall hold a conference with the board to consider the objections. Such person present or represented at the conference may agree upon either the drilling location as proposed by the well operator or an alternate location. Any change in the proposed drilling location shall be upon the consent of the well operator and the objecting coal seam owners present or represented. Any change in the drilling location shall be in accordance with the provisions of section three of this article. If agreement is reached at the conference the board shall issue a written order stating that an agreement has been reached, stating the nature of such agreement, and directing the department to grant the well operator a drilling permit for the location agreed upon. The original of such order shall be filed with the department within five days after the conference of the board and at which the drilling location was agreed upon and copies thereof shall be mailed by registered or certified mail to the well operator and the objecting coal seam owners present or represented at such conference.

(b) If the well operator and the objecting coal seam owners present or represented at the conference with the board are unable to agree upon a drilling location, then, unless they otherwise agree, the board shall, without recess for more than one fourteen days, hold a hearing to consider the application for a drilling permit. All of the pertinent provisions of article five, chapter twenty-nine of this code shall apply to and govern such hearing. Within twenty days after the close of a hearing, the board shall issue and file with the department a written order directing it, subject to other matters requiring approval of the department, to:

(1) Refuse a drilling permit; or

(2) Issue a drilling permit for the proposed drilling location; or

(3) Issue a drilling permit for an alternate drilling location different than that requested by the well operator; or

(4) Issue a drilling permit either for the proposed drilling location or for an alternate drilling location different than that requested by the well operator, but not allow the drilling of the well for a period of not more than one year from the date of issuance of such permit.

(c) The written order of the board shall contain findings of fact and conclusions based thereon concerning the following safety aspects, and no drilling permit shall be issued for any drilling location where the board finds from the evidence that such drilling location will be unsafe:

(1) Whether the drilling location is above or in close proximity to any mine opening or shaft, entry, travelway, airway, haulageway, drainageway or passageway, or to any proposed extension thereof, in any operated or abandoned or operating coal mine, or any coal mine already surveyed and platted but not yet being operated;

(2) Whether the proposed drilling can reasonably be done through an existing or planned pillar of coal, or in close proximity to an existing well or such pillar of coal, taking into consideration the surface topography;

(3) Whether the proposed well can be drilled safely, taking into consideration the dangers from creeps, squieres or other disturbances due to the extraction of coal; and

(4) The extent to which the proposed drilling location unreasonably interferes with the safe recovery of coal and gas.

The written order of the board shall also contain findings of fact and conclusions based thereon concerning the following:

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(5) The extent to which the proposed drilling location will unreasonably interfere with present or future coal mining operations on the surface, including but not limited to operations subject to the provisions of article six, chapter twenty of this code;

(6) The feasibility of moving the proposed drilling location to a mined out area, below the coal outcrop, or to some other location;

(7) The feasibility of a drilling moratorium for not more than one year in order to permit the completion of imminent coal mining operations;

(8) The methods proposed for the recovery of coal and gas;

(9) The distance limitations established in section eight of this article;

(10) The practicability of locating the well on a uniform pattern with other wells;

(11) The surface topography and use; and

(12) Whether the order of the board will substantially affect the right of the gas operator to explore for and produce gas.

Any member of the board may file a separate opinion. Copies of all orders and opinions shall be mailed by the board, by registered or certified mail, to the parties present or represented at the hearing.

§22-4B-8. Distance limitations.—(a) If the well operator and the objecting coal seam owners present or represented at the time and place fixed by the chairman for the consideration of the objections to the proposed drilling location are unable to agree upon a drilling location, then the written order of the board shall direct the department to refuse to issue a drilling permit unless the following distance limitations are observed:

(1) For all shallow wells with a depth less than three thousand feet, there shall be a minimum distance of one thousand feet from the drilling location to the nearest existing well as defined in subsection (b) of this section; and

(2) For all shallow wells with a depth of three thousand feet or more, there shall be a minimum distance of one thousand five hundred feet from the drilling location to the nearest existing well as defined in subsection (b) of this section, except that where the distance from the drilling location to such nearest existing well is less than two thousand feet but more than one thousand five hundred feet and a coal seam owner has objected, the gas operator shall have the burden of establishing the need for the drilling location less than two thousand feet from such nearest existing well. Where the distance from the drilling location proposed to the operator or designated by the board to the nearest existing well as defined in subsection (b) of this section is greater than two thousand feet, distance criterion will not be a ground for objection by a coal seam owner.

(b) The words "existing well" as used in this section shall mean (i) any well not plugged within nine months after being drilled to its total depth and either completed in the same target formation or drilled for the purpose of producing from the same target formation, and (ii) any unexpired, permitted drilling location for a well to the same target formation.

(c) 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 pre-existing oil or gas well and the proposed well will neither require enlargement of such pillar nor otherwise have an adverse effect on existing or planned coal mining operations.

(d) Nothing in this article shall be construed to empower the board to order the department to issue a drilling permit to any person other than the well operator filing the application which is the subject of the proceedings.

§22-4B-9. Application to establish a drilling unit contains a notice.—(a) Whenever the board has issued an order directing the department to refuse a drilling permit, the gas operator may apply to the board for the establishment of a drilling unit encompassing a contiguous tract or tracts if such gas operator believes that such a drilling unit will afford one well location for the production of gas from under the tract or tracts on which the drilling permit was sought, and will be acceptable to the coal seam owners.

(b) An application to establish a drilling unit shall be filed with the board and shall contain:

(1) The name and address of the applicant;

(2) A plat prepared by a licensed land surveyor or registered professional engineer showing the boundary of the proposed drilling unit, the district and county in which such unit is located, the acreage of the proposed drilling unit, the boundary of the tracts which comprise the proposed drilling unit, the names of the owners of record of such tracts, the proposed well location on the proposed drilling unit, and the proposed well location for which the department refused to issue a drilling permit;

(3) The names and addresses of the royalty owners of the gas underlying the tracts which comprise the proposed drilling unit;

(4) The names and addresses of the gas operators of the tracts which comprise the proposed drilling unit;

(5) The approximate depth and target formation to which the well for the proposed drilling unit is to be drilled;

(6) A statement indicating whether a voluntary pooling agreement has been reached among any or all of the royalty owners of the gas underlying the tracts which comprise the proposed drilling unit and the gas operators of such tracts;

(7) An affidavit of publication of the notice of intent to file an application to establish a drilling unit as required in subsection (c) of this section; and

(8) Such other pertinent and relevant information the board may prescribe by reasonable rules and regulations promulgated in accordance with the provisions of section six of this article.
(c) Prior to the filing of an application to establish a drilling unit, the applicant shall cause to be published, as a Class II legal advertisement in accordance with the provisions of article three, chapter fifty-nine of this code, a notice of intent to file an application to establish a drilling unit. Such notice shall contain the information required by subdivisions (1), (4) and (5) of subsection (b) of this section, the name of the royalty owner of the gas underlying the proposed well location on the proposed drilling unit, plus an abbreviated description, or as the applicant's opinion a plot of the drilling unit, disclosing the county and district wherein the proposed drilling unit is to be located, the post office closest to the proposed drilling unit, a statement that the applicant will deliver a copy of the plot required by subdivision (2) of this subsection to any person desiring the same, the date upon which applicant intends to file the application to establish a drilling unit, and a statement that written protests and objections to such application may be filed with the board until a specified date, such date shall be at least ten days after the date upon which applicant intends to file the application to establish a drilling unit. The publication area of the notice required by this subsection shall be the county or counties in which the proposed drilling unit is to be located.

(d) At the time an application to establish a drilling unit is filed, the applicant shall forward a copy thereof by registered or certified mail to each and every person whose name and address were included on the application in accordance with the provisions of subdivisions (3) and (4), subsection (b) of this section. With each such application there shall be enclosed a notice in the form for which shall be furnished by the board on request addressed to each such person to whom a copy of the application is required to be sent, informing him that such application is being mailed to him respectively by registered or certified mail, pursuant to the requirements of this article. Provided, That the application and notice need not be forwarded to those royalty owners or gas operators within the boundary of the proposed drilling unit who have previously agreed to voluntary pooling by separately signed documents or documents empowering the gas operator, by assignment or otherwise, unilaterally to decline a unit.

22-44-10. Establishment of drilling units; hearings; orders. — (a) At the time and place fixed by the board for the meeting of the board and for consideration of an application to establish a unit, the applicant shall present to the board a plot of the drilling location on the proposed drilling unit has been agreed to by all of the owners of the coal seams underlying such drilling location, and thereby the applicant, the royalty owners of the gas underlying the tracts comprising the unit, and the gas operators of the tracts comprising the unit, or such of them as are present or represented. The board shall hold a conference with the board to consider the application. Such persons present or represented at the conference may agree upon the boundary of the drilling unit as proposed by the applicant or as changed to satisfy all valid objections of those persons present or represented. Any change in the boundary of the drilling unit from the boundary proposed by the applicants shall be shown on the plot filed with the board as part of the application. If agreement is reached at the conference upon the boundary of the drilling unit, among the applicants, the royalty owners of the gas underlying the tracts comprising the drilling unit, and the gas operators of the tracts comprising such unit, or such of them as are present or represented, and if such agreement is approved by the board, the board shall issue a written order establishing and specifying the boundary of the drilling unit.

(b) If the applicant, the royalty owners of the gas underlying the tracts comprising the drilling unit, and the gas operators of the tracts comprising such unit, or such of them as are present or represented at the time and place fixed by the board for consideration of the application, are unable to agree upon the boundary of the drilling unit, then the board shall hold a hearing without recess of more than one business day to consider the application to establish a drilling unit. All of the pertinent provisions of article five, chapter twenty-nine of this code shall apply to and govern such hearing. Within twenty days after the close of the hearing, the board shall issue a written order either establishing a drilling unit or disallowing the application. If the board determines to establish a drilling unit, the order shall specify the boundary of such drilling unit. In determining whether to grant or deny an application to establish a drilling unit, the board shall consider:

1. The surface topography and property lines of the lands comprising the drilling unit;
2. The correlative rights of all gas operators and royalty owners therein;
3. The just and equitable share of production of each gas operator and royalty owner therein;
4. Whether a gas operator or royalty owner objecting to the drilling unit has proved by clear and convincing evidence that the drilling unit is substantially smaller than the area that will be produced by the proposed well; and
5. Any other evidence relevant to the establishment of the boundary of a drilling unit.

(c) The board shall not grant an application to establish a drilling unit, nor shall it approve any drilling unit, unless the board finds that:

1. The applicant has proved that the drilling location on the drilling unit has been agreed to by all of the owners of the coal seams underlying such drilling location;
2. The department has previously refused to issue a drilling permit on one of the tracts comprising the drilling unit because of an order of the board;
3. The drilling unit includes all acreage within the minimum distance limitations provided by section eight of this article, unless the gas operators and royalty owners of any excluded acreage have agreed to such exclusion; and
4. The drilling unit includes a portion of the acreage from under which the well operator intended to produce gas under the drilling permit which was refused.

(d) All orders issued by the board under this section shall contain findings of fact and conclusions based thereon as required by section three, article five, chapter twenty-nine of this code and shall be filed with the department within ten days after the hearing. Any member of the board may file a separate opinion. Copies of all orders and opinions shall be mailed by the board, by registered or certified mail, to the parties present or represented at the hearing.
(e) Prior to the filing of an application to establish a drilling unit, the applicant shall cause to be published, as a Class II legal advertisement in accordance with the provisions of article three, chapter fifty-nine of this code, a notice of intent to file an application to establish a drilling unit. Such notice shall contain the information required by subdivisions (1), (4) and (5) of subsection (b) of this section, the name of the royalty owner of the gas underlying the proposed well location on the proposed drilling unit, plus an abbreviated description, or at the applicant's option a plan of the drilling unit disclosing the county and district wherein the proposed drilling unit is to be located, the post office closest to the proposed drilling unit, a statement that the applicant will deliver a copy of the plat required by subdivision (2) of this subsection to any person desiring the same, the date upon which applications intend to file the application to establish a drilling unit, and a statement that written protests and objections to such application may be filed with the board until a specified date which date shall be at least ten days after the date upon which applicants intend to file the application to establish a drilling unit. The publication area of the notice required by this subsection shall be the county or counties in which the proposed drilling unit is to be located.

(g) At the time an application to establish a drilling unit is filed, the applicant shall forward a copy thereof by registered or certified mail to each and every person whose name and address were included on the application in accordance with the provisions of subdivisions (3) and (4), subsection (b) of this section. With each such application there shall be enclosed a notice (the form for which shall be furnished by the board on request) addressed to each such person to whom a copy of the application is required to be sent, informing him that such application is being mailed to him respectively by registered or certified mail, pursuant to the requirements of this article: Provided, That the application and notice need not be forwarded to those royalty owners or gas operators within the boundary of the proposed drilling unit who have previously agreed to voluntarily pooling by separately stated documents or documents empowering the gas operator, by assignment or otherwise, unilaterally to declare a unit.

122-40-10. Establishment of drilling units; hearings; orders. — (a) At the time and place fixed by the chairman for the meeting of the board and for consideration of an application to establish a drilling unit, the applicant shall present proof that the drilling location on the proposed drilling unit has been agreed to by all of the owners of the coal seams underlying such drilling location; and thereafter, the applicant, the royalty owners of the gas underlying the tracts comprising the unit, and the gas operators of the tracts comprising the unit, or such of them as are present or represented, shall hold a conference with the board to consider the application. Such persons present or represented at the conference may agree upon the boundary of the drilling unit as proposed by the applicant or as changed to satisfy all valid objections of those persons present or represented. Any change in the boundary of the drilling unit from the boundary proposed by the applicant shall be shown on the plat filed with the board as part of the application. If agreement is reached at the conference upon the boundary of the drilling unit among the applicants, the royalty owners of the gas underlying the tracts comprising the drilling unit and the gas operator of the tracts comprising such unit, or such of them as are present or represented, and if such agreement is approved by the board, the board shall issue a written order establishing and specifying the boundary of the drilling unit.

(b) If the applicant, the royalty owners of the gas underlying the tracts comprising the drilling unit and the gas operators of the tracts comprising such unit, or such of them as are present or represented at the time and place fixed by the chairman for consideration of the application, are unable to agree upon the boundary of the drilling unit, then the board shall hold a hearing without recess of more than one business day to consider the application to establish a drilling unit. All at the pertinent provisions of article five, chapter twenty-three of this code shall apply to and govern such hearing. Within twenty days after the close of the hearing, the board shall issue a written order either establishing a drilling unit or dismissing the application. If the board determines to establish a drilling unit, the order shall specify the boundary of such drilling unit. In determining whether to grant or deny an application to establish a drilling unit, the board shall consider:

1. The surface topography and property lines of the lands comprising the drilling unit;
2. The cumulative rights of all gas operators and royalty owners therein;
3. The just and equitable share of production of each gas operator and royalty owner therein;
4. Whether a gas operator or royalty owner objecting to the drilling unit has proved by clear and convincing evidence that the drilling unit is substantially smaller than the area that will be produced by the proposed well; and
5. Other evidence relevant to the establishment of the boundary of a drilling unit.

(c) The board shall not grant an application to establish a drilling unit, nor shall it approve any drilling unit, unless the board finds that:

1. The applicant has proved that the drilling location on the drilling unit has been agreed to by all of the owners of the coal seams underlying such drilling location;
2. The department has previously refused to issue a drilling permit on one or the tracts comprising the drilling unit because of no order of the board;
3. The drilling unit includes all acreage within the minimum distance limitations provided by section eight of this article, unless the gas operators and royalty owners of any excluded acreage have agreed to such exclusion; and
4. The drilling unit includes a portion of the acreage from under which the well operator intended to produce gas under the drilling permit which was refused.

(d) All orders issued by the board under this section shall contain findings of fact and conclusions based thereon as required by section three, article five, chapter twenty-three of this code and shall be filed with the department within twenty days after the hearing. Any member of the board may file a separate opinion. Copies of all orders and opinions shall be mailed to the board by registered or certified mail, to the parties present or represented at the hearing.
22-41-11. Pooling of interests in a drilling unit; limitations. - (a) Whenever the board establishes a drilling unit pursuant to the provisions of sections nine and ten of this article, the order establishing such drilling unit shall include an order pooling the separately owned interests in the gas to be produced from such drilling unit.

(b) If a voluntary pooling agreement has been reached between all persons owning separate operating interests in the tracts comprising the drilling unit, the order of the board shall approve such agreement.

(c) If no voluntary pooling agreement is reached prior to or during the hearing held pursuant to subsection (b), section ten of this article, then at such hearing the board shall determine the pooling of interests in the drilling unit.

(d) Any order of the board pooling the separately owned interests in the gas to be produced from the drilling unit shall be in terms and conditions which are just and equitable and shall authorize the production of gas from the drilling unit; shall designate the operator as the operator to drill and operate such gas well; shall prescribe the procedure by which all owners of operating interests in the pooled tracts or portions of tracts may elect to participate therein; shall provide that all reasonable costs and expenses of drilling, completing, equipping, operating, plugging, abandoning, and reclaiming such well shall be borne and all production therefrom shall, by all owners of operating interests in the gas well, be paid in proportion to their interest in the net gas acreage in the pooled tracts owned or under lease to each owner; and shall provide for payment of all reasonable costs therefor, including all reasonable charges for supervision and fee interest on past due accounts, by all those who elect to participate therein.

(e) Upon request, any such pooling order shall provide an owner of an operating interest an election to be made within ten days from the date of the pooling order, (i) to participate in the risks and costs of the drilling of the well, or (ii) to participate in the profits of the drilling of the well, or (iii) to participate in the drilling of the well on a limited or customary basis on terms and conditions which, if not agreed upon, shall be determined by the board to be just and equitable. If the election is not made within the ten-day period, such owner shall be conclusively presumed to have elected the limited or customary basis. Thereafter, if an owner of any operating interest in any portion of the pooled tract shall drill and operate, or pay the costs of drilling and operating, a well for the benefit of such nonparticipating owner as provided in the order of the board, such operating owner shall be entitled to the share of production from the tracts or portions thereof pooled according to the interest of such nonparticipating owner, exclusive of any royalties or overriding royalty royalties reserved with respect to such tracts or portions thereof, or exclusive of one-eighth of the production attributable to all unleased tracts or portions thereof, until the market value of such nonparticipating owner's share of the production, exclusive of such royalty, overriding royalty or one-eighth of production, equals the total of all such costs payable by or charged to the interest of such nonparticipating owner.

(f) In no event shall drilling be initiated or completed on any tract, where the gas underlying such tract has not been severed from the surface thereof by deed, lease, or other like document, without the written consent of the person who owns such tract.

(g) All disputes which may arise as to the costs of drilling and operating a well under a pooling order issued pursuant to this section shall be resolved by the board within ninety days from the date of written notification to the board of the existence of such dispute.

22-41-12. Effect of order establishing drilling unit or pooling of interests on reclamation. - (a) An order issued by the board establishing a drilling unit and ordering the pooling of interests therein shall not entitle the gas operator designated in such order to drill a well on such drilling unit until such gas operator shall have received a drilling permit in accordance with the provisions applicable to alternative drilling location sets out in section three of article four of this chapter. All orders issued by the board establishing a drilling unit shall be filed with the department and shall subject the department to issue a drilling permit for the drilling location agreed to by all of the owners of the coal teams underlying such drilling location.

(b) A certified copy of any order of the board establishing a drilling unit or a pooling of interests shall be mailed by the board to the clerks of the county commission of each county wherein all or any portion of the drilling unit is located, for recording in the real estate records book of said county in which all oil and gas leases are recorded. Such recording from the time noted thereon by such clerk shall be notice to all persons.

22-41-13. Judicial review; appeal to supreme court of appeals; legal representation for board. - (a) Any person adversely affected by an order of the board may petition the supreme court of appeals for a judicial review thereof. All of the pertinent provisions of section four, article five, chapter twenty-nine-a of this code shall apply to and govern such judicial review with like effect as if the provisions of said section four were set forth in extenso in this section.

(b) The judgment of the circuit court shall be final unless reversed, vacated or modified on appeal to the supreme court of appeals in accordance with the provisions of section one, article six, chapter twenty-nine-a of this code.

(c) Legal counsel and services for the board in all appeal proceedings in any circuit court and the supreme court of appeals shall be provided by the attorney general or his assistants and in any circuit court by the prosecuting attorneys of the counties as well, all without additional compensation. The board, with the written approval of the attorney general, may employ special counsel to represent the board at any such appeal proceeding.

22-41-14. Operation on drilling units. - All operations, including, but not limited to, the commencement, drilling or operation of a well upon a drilling unit for which a pooling order has been entered, shall be deemed for all purposes the conduct of such operations upon each separately owned tract in the drilling unit by the several owners thereof. That portion of the production allocated to a separately owned tract included in a drilling unit shall, when produced, be deemed to all purposes to have been actually produced from such tract by a well drilled therein.

22-41-15. Validity of unit agreements. - No agreement between or among gas operators, lessees or other owners of gas rights in gas properties, entered into pursuant to the provisions of this article or with a view to or for the purpose of binding about the united development or operation of such properties, shall be held to violate the
§22-4B-11. Pooling of interests in a drilling unit; limitations. — (a) Whenever the board establishes a drilling unit pursuant to the provisions of sections nine and ten of this article, the order establishing such drilling unit shall include an order pooling the separately owned interest in the gas to be produced from such drilling unit.

(b) If a voluntary pooling agreement has been reached between all persons owning separate operating interests in the tracts comprising the drilling unit, the order of the board shall approve such agreement.

(c) If no voluntary pooling agreement is reached prior to or during the hearing held pursuant to subsection (b), section ten of this article, then at such hearing the board shall also determine the pooling of interests in the drilling unit.

(d) Any order of the board pooling the separate, owned interests in the gas to be produced from the drilling unit shall be upon terms and conditions which are just and equitable and shall authorize the production of gas from the drilling unit, shall designate the applicant as the operator to drill and operate such gas well; shall prescribe the procedure by which all owners of operating interests in the pooled tracts or portions of tracts may elect to participate therein; shall provide that all reasonable costs and expenses of drilling, completing, equipping, operating, plugging, abandoning, and reclaiming such well shall be borne, and all production therefrom shared, by all owners of operating interests in proportion to the net gas acreage in the pooled tracts owned or under lease to each owner; and shall make provisions for payment of all reasonable costs therefrom, including all reasonable charges for supervision and for interest on past due accounts, by all those who elect to participate therein.

(e) Upon request, any such pooling order shall provide an owner of an operating interest an election to be made within ten days from the date of the pooling order, (i) to participate in the risks and costs of the drilling of the well, or (ii) to participate in the drilling of the well on a limited or carried basis on terms and conditions which, if not agreed upon, shall be determined by the board to be just and equitable. If the election is not made within the ten-day period, such owner shall be conclusively presumed to have declined the limited or carried basis. Thereafter, if an owner of any operating interest in any portion of the pooled tract shall drill and operate, or pay the costs of drilling and operating, a well or the benefit of such nonparticipating owner as provided in the order of the board, then such operating owner shall be entitled to the share of production from the tracts or portions thereof pooled accruing to the interest of such nonparticipating owner, exclusive of any royalty or overriding royalty reserved with respect to such tracts or portions thereof, or exclusive of one-eighth of the proportion attributable to all unleased tracts or portions thereof, until the market value of such nonparticipating owner's share of the production, exclusive of such royalty, overriding royalty or one-eighth of production, equals double the share of such costs payable by or charged to the interest of such nonparticipating owner.

(f) No event shall drilling be initiated or completed on any tract, where the gas underlying such tract has not been severed from the surface thereof by deed, lease or other title document, without the written consent of the person who owns such tract.

(g) All disputes which may arise as to the costs of drilling and operating a well under a pooling order issued pursuant to this section shall be resolved by the board within ninety days from the date of written notification to the board of the existence of such dispute.

§22-4B-12. Effect of order establishing drilling unit or pooling of interests or recordation. — (a) Any order issued by the board establishing a drilling unit and ordering the pooling of interests therein shall not entitle the gas operator designated in such order to drill a well on such drilling unit unless such gas operator shall have received a drilling permit in accordance with the provisions of the provisions applicable to alternative drilling locations set out in section three of article four of this chapter. All orders issued by the board establishing a drilling unit shall be filed with the department and shall also direct the department to issue a drilling permit for the drilling location agreed to in all of the owners of the coal seams underlying such drilling location.

(b) A certified copy of any order of the board establishing a drilling unit or a pooling of interests shall be mailed by the board to the clerk of the county commission of each county, wherein all or any portion of the drilling unit is located, for recordation in the record book of such county in which oil and gas leases are normally recorded. Such recordation from the time noted thereon by such clerk shall be notice of the order to all persons.

§22-4B-13. Judicial review; appeal to supreme court of appeals; legal representation for board. — (a) Any person adversely affected by an order of the board shall be entitled to judicial review thereof. All of the pertinent provisions of section four, article five, chapter twenty-nine-a of this code shall apply to and govern such judicial review with like effect as if the provisions of said section four were set forth in this section.

(b) The judgment of the circuit court shall be final unless reversed, vacated or modified on appeal to the supreme court of appeals in accordance with the provisions of section one, article six, chapter twenty-nine-a of this code.

(c) Legal counsel and services for the board in all appeal proceedings in any circuit court and the supreme court of appeals shall be provided by the attorney general or his assistants and in any circuit court by the prosecuting attorney of the county as well, all without additional compensation. The board, with the written approval of the attorney general, may employ special counsel to represent the board at any such appeal proceedings.

§22-4B-14. Operation on drilling units. — All operations, including, but not limited to, the commencement, drilling or operation of a well upon a drilling unit for which a pooling order has been entered, shall be deemed for all purposes the conduct of such operations upon each separately owned tract in the drilling unit by the several owners thereof. That portion of the production allocated to a separately owned tract included in a drilling unit shall, when produced, be deemed for all purposes to have been actually produced from such tract by a well drilled thereon.

§22-4B-15. Validity of unit agreements. — No agreement between or among gas operators, lessees or other owners of gas rights in gas properties, entered into pursuant to the provisions of this article or with a view to or for the purpose of bringing about the unitized development or operation of such properties, shall be held to violate the
statutory or common law of this state prohibiting monopolies or acts, arrangements, contracts, combinations or conspiracies in restraint of trade or commerce.

§ 22-4B-16. Injunctive relief. — (a) Whenever it appears to the board that any person has been or is violating or is about to violate any provision of this article, any rule and regulation promulgated by the board hereunder or any order or final decision of the board, the board may apply in the name of the state to the circuit court of the county in which the violations or any part thereof has occurred, is occurring or is about to occur, or the judge thereof in vacation, for an injunction against such person and any other persons who have been, are or are about to be, involved in any practices, acts or omissions, so as to violate, enjoin such person or persons from any such violation or violations. Such application may be made and prosecuted to conclusion whether or not any such violation or violations have resulted or shall result in prosecution of conviction under the provisions of section seventeen of this article.

(b) Upon application by the board, the circuit courts of this state may by mandatories or prohibitory injunction compel compliance with the provisions of this article, the rules and regulations promulgated by the board hereunder and all orders of the board. The court may issue a temporary injunction in any case pending a decision on the merits of any application filed. Any other section of this code to the contrary notwithstanding, the state shall not be required to furnish bond or other undertaking as a prerequisite to obtaining mandatory, prohibitory or temporary injunctive relief under the provisions of this article.

(c) The judgment of the circuit court upon any application permitted by the provisions of this section shall be final unless reversed, vacated or modified on appeal to the supreme court of appeals. Any such appeal shall be sought in the manner and within the time provided by law for appeals from circuit courts in other civil actions.

(d) The board shall be represented in all such proceedings by the attorney general or his assistants and in such proceedings in the circuit courts by the prosecuting attorneys of the several counties as well, all without additional compensation. The board with the written approval of the attorney general, may employ special counsel to represent the board in any such proceedings.

(e) If the board shall refuse or fail to apply for an injunction to enjoin a violation or threatened violation of any provision of this article, any rule and regulation promulgated by the board hereunder or any order or final decision of the board, within ten days after receipt of a written request to do so by any person who is or will be adversely affected by such violation or threatened violation, the person making such request may apply, in his or her own behalf for an injunction to enjoin such violation or threatened violation in any court in which the board might have brought suit. The board shall be made a party defendant in such application in addition to the person or persons violating or threatening to violate any provision of this article, any rule and regulation promulgated by the board hereunder or any order of the board. The application shall proceed and injunctive relief may be granted without bond or other undertaking in the same manner as if the application had been made by the chairman.

§ 22-4B-17. Penalties. — (a) Any person who violates any provision of this article, any of the rules and regulations promulgated by the board hereunder or any order of the board other than a violation governed by the provisions of subsection (b) of this section, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one thousand dollars.

(b) Any person who, with the intention of evading any provision of this article, any of the rules and regulations promulgated by the board hereunder or any order of the board shall make or cause to be made any false entry or statement in any application or other document permitted or required to be filed under the provisions of this article, any of the rules and regulations promulgated by the board hereunder or any order of the board, shall be guilty of a misdemeanor; and, upon conviction thereof, shall be fined not more than five thousand dollars, or imprisoned in the county jail not more than six months, or both fined and imprisoned.

(c) Any person who knowingly aids or abets any other person in the violation of any provision of this article, any of the rules and regulations promulgated by the board hereunder or any order or final decision of the board, shall be subject to the same penalties as that prescribed in this article for the violation by such other person.

§ 22-4B-18. Construction. — This article shall be liberally construed so as to ef- fectuate the declaration of public policy set forth in section one of this article.
of the board other than a violation governed by the provisions of subsection (b) of this section, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one thousand dollars.

(b) Any person who, with the intention of evading any provision of this article, any of the rules and regulations promulgated by the board hereunder or any order of the board shall make or cause to be made any false entry or statement in any application or other document permitted or required to be filed under the provisions of this article, any of the rules and regulations promulgated by the board hereunder or any order of the board, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than five thousand dollars, or imprisoned in the county jail not more than six months, or both fined and imprisoned.

(c) Any person who knowingly aids or abets any other person in the violation of any provision of this article, any of the rules and regulations promulgated by the board hereunder or any order or final decision of the board, shall be subject to the same penalty as that prescribed in this article for the violation by such other person.

§22-4418. Construction. — This article shall be liberally construed so as to effectuate the declaration of public policy set forth in section one of this article.
Dear

I hate to bother you at this busy time of year but a matter of mutual concern has suddenly arisen which I would appreciate your taking some time to read over and give me some of your views. This state has had gas production only since 1932 and has operated for many years under simplistic and archaic rules. With increasing activity there is need to modernize these state laws.

State Senator Rick Boucher, who happens to be from Abingdon was recently appointed to chair a subcommittee of the Virginia Coal and Energy Committee to prepare a draft law Oil and Gas Conservation Law for presentation at the January, 1980 session of the General Assembly. Mr. Boucher permitted a lawyer with Columbia Natural Gas in Charleston, West Virginia to prepare a first draft, a copy of which is included. He drew mainly on statutes of West Virginia and Pennsylvania with some input from Louisiana and Arkansas.

I first became aware of this last Saturday and obtained this draft on Monday. At midnight Monday I found time to review it and at 6:30 am Tuesday attended a breakfast of some concerned local independents to discuss the proposed law. This group prevailed upon me to travel to Richmond on Wednesday to speak to the subcommittee at its first public hearing on the law. Reluctantly I flew to Richmond for my first experience with the legislative process.

After Mr. Pierce, the Columbia lawyer explained the bill I was recognized by Senator Boucher (I had the opportunity to sound him out at lunch). With some hesitation I tried to present my views which I hoped would reflect the interest of the independents. I deplored the speed which this was being pushed along and regret that there had been no opportunity to have your input or to discuss this with members of the Virginia Oil and Gas Association (about 25 were present).

I made four major points to the subcommittee:

1. The law should cover all wells, not just those "deep" ones
below 5000 feet. All of the present Virginia production (with one exception) would be excluded from this law. Much of our future production will be from Mississippian and Devonian Reservoirs which would not be covered. In order to permit orderly development we need the provision for forced pooling (p.8-9, 45.1-113.6).

2. I suggested a different make-up of the Oil and Gas Conservation Commission than that on p.6 with five members as follows: one geologist or petroleum engineer, one lawyer familiar with oil and gas law, one oil and gas operator, one landowner, and one coal company representative (the last was suggested by the subcommittee).

3. On page 3, line 6-8. Any reference to operator and royalty interest should be removed as to what percentage in order to allow flexibility.

4. Page 10, line 10. Change the "three times" penalty to a penalty to be set by the Commission in order to allow for greater or lesser risk factors.

There were many other cosmetic changes, most of which are noted on the copy enclosed. I will appreciate your written commentary in a form which I could present to the subcommittee. The subcommittee will meet once more for public review in mid-November and the bill will be turned in on December 8. If you would care to be present for the meeting I can let you know about time and place as soon as I am notified. It may be held here in Abingdon or at Roanoke.

You may wish to address any formal commentary to Senator Fredrick C. Boucher, 188 E. Main Street, Abingdon, Virginia 24210.

Also, I would be pleased to discuss this important matter with you by phone.

Sincerely yours,

[Signature]

Dr. Charles S. Bartlett, Jr.

CSB/1dh
October 27, 1980

Mr. Phil Cates
Regional Coordinator
Governmental Affairs
Tenneco Inc.
P. O. Box 2511
Houston, Texas 77001

Dear Phil:

Enclosed you will find copy of a draft of an "Oil and Gas Conservation Act" which was presented at the last meeting of a subcommittee of the Virginia Coal and Energy Commission. This draft is the work product of an attorney for Columbia Gas Transmission Company and reflected the thinking of the petroleum industry as of that time. The principal focus of the discussion on this bill was with respect to whether shallow wells should be excluded from it or whether the proposed bill should be modified to include shallow wells.

I would appreciate any comments or suggestions you might have with respect to this proposal.

I enjoyed your visit and look forward to seeing you again in the near future.

Sincerely,

[Signature]

Herbert H. Bateman

HHB/drb
Enclosure

cc: Mr. Robert Terrell, Governmental Affairs Dept.,
Newport News Shipbuilding & Dry Dock Company

P.S. Enclosed are copies of the information furnished me regarding Chase Exploration Corporation and its activities in Kay County, Oklahoma, and Sumner and Cowley Counties, Kansas. If it is not too inconvenient or too much of an imposition, I would appreciate any background you might furnish me based upon discreet inquiries.
November 13, 1980

To the member addressed of the oil and gas subcommittee of the Virginia Coal and Energy Commission:

Please find enclosed a summary of the oil and gas conservation statute under consideration by the subcommittee. The summary has been prepared by Mr. R. Neal Pierce of Columbia Gas Transmission Corporation.

A copy of the oil and gas statute will be forwarded to you in the near future.

Sincerely yours,

David S. Castle
Research Associate

DSC/mkh
Enclosure

Frederick C. Boucher
Walter C. Ayers
Herbert H. Bateman
Joseph A. Johnson
Lewis W. Parker, Jr.

CC:
W. Ward Teel
William E. Breen
George L. Jones, III
Robert W. Beard, Jr.
John A. Johansen
L. Blaine Carter
Arden R. Hodges
Juliana Smith

CC:
B. T. Fulmer
Charles J. Brown, III
G. S. Butler
J. J. Cox
Charles S. Bartlett, Jr.
Patricia W. Elliott
October 22, 1980

The Honorable Frederick C. Boucher
State Senate of Virginia
Richmond, Virginia

Dear Senator Boucher:

Pursuant to your request of October 17, 1980, I have undertaken to prepare a very brief summary for use by yourself and other members of the Committee in your consideration of the Oil and Gas Conservation Statute which has been proposed by various representatives of the Oil and Gas Industry.

GENERAL

This Statute proposes to create a new Article 2.1 in the Oil and Gas Chapter of the Virginia Code. The proposal contemplates the formation of an Oil and Gas Conservation Commission, which will have the authority to establish drilling units and order the pooling of units for deep well drilling in Virginia.

SUMMARY OF PROPOSED PROVISIONS

Section 45.1-1106. This is the definition of Section of Chapter 12. In order to create a new article, certain definitions needed to be added to the Chapter. The most significant of these are definition of correlative rights, royalty owner, deep well, and the amendment to the present definition of Operator.

Section 45.1-113.1. This section sets out the policy representing the foundation for the new Article. The key provisions are the recognition of the need to prohibit waste, encourage maximum recovery of oil and gas, protect correlative
rights, and to recognize the geological and economic distinctions between shallow wells and deep wells in Appalachia.

Section 45.1-113.3. This section establishes and empowers an Oil and Gas Conservation Commission made up of three members: one being the Chief Oil and Gas Inspector of the Division of Mines, one being the State Geologist and the third being appointed by the Governor.

Section 45.1-113.4. This section sets out the powers and duties of the Commission, including the authority to regulate the spacing of deep wells, classify pools of oil or gas, promulgate and enforce reasonable rules and regulations, and enter specing or pooling orders.

Section 45.1-113.5. This section sets out the parameters for the establishment of drilling units by the Oil and Gas Conservation Commission. It provides for the establishment of either permanent or provisional units, describes the information which the Commission must consider, and provides for the modification of Commission orders as additional information becomes available.

Section 45.1-113.6. This section provides for the pooling of interest within drilling units and establishes the general rules regarding the rights of parties who are pooled in a drilling unit. This section specifically addresses the rights of persons having an interest in oil and gas who have not leased or otherwise conveyed such rights, but who may be required to participate in a pooling arrangement. This section also contains provisions setting forth the method in which various working interest owners may participate in the cost of drilling deep wells. These participation provisions do not apply to royalty and overriding royalty owners.

Sections 45.1-113.8 and 113.9. These sections set out the administrative procedure for the Commission and track the Administrative Process Act of Virginia.

It is my hope that the Committee will find this very brief summary to be of some help in their consideration of the matter at hand.

Very truly yours,

R. Neal Pierce
A BILL to amend and reenact § 2.1-20.4 and 45.1-106 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 12 of Title 45.1 an article numbered 2.1, consisting of sections numbered 45.1-113.1 through 45.1-113.11, the amended sections providing respectively for those commissions or boards which receive state funds and definitions as they pertain to oil and gas regulation; the new section creating the Oil and Gas Commission, setting out its powers and duties with respect to the regulation of the oil and gas resources of the Commonwealth:

Be it enacted by the General Assembly of Virginia:

1. That § 2.1-20.4 and 45.1-106 of the Code of Virginia are amended and reenacted and the Code of Virginia is amended by adding in Chapter 12 of Title 45.1 an article numbered 2.1, consisting of sections numbered 45.1-113.1 through 45.1-113.11, as follows:

§ 2.1-20.4. Bodies receiving compensation.--A.

Notwithstanding any other provision of law to the contrary, the following commissions, boards, etc. shall be those which receive compensation from state funds pursuant to § 2.1-20.4:

Accountancy, State Board of
Agriculture and Consumer Services, Board of
Air Pollution Control Board, State
Airports Authority, Virginia
Apprenticeship Council
Architects, Professional Engineers and Land Surveyors,
State Board of Athletic Commission, Virginia
Examiners in the Division of Mines, Board of 
Fire Services Commission, Virginia State 
Funeral Directors and Embalmers, Virginia Board of 
Game and Inland Fisheries, Commission of 
Health, State Board of 
Health Coordinating Council, Statewide 
Health Regulatory Boards, Commission of 
Hearing Aid Dealers and Fitters, Virginia Board of 
Higher Education, State Council of 
Highway and Transportation Commission, State 
Housing and Community Development, Board of 
Local Government, Commission on 
Marine Resources Commission 
Medical Complaint Investigation Committee 
Medicine, Virginia State Board of 
Mental Health and Mental Retardation Board, State 
Milk Commission 
Nursing, Virginia State Board of 
Vocational Administrators, State Board of Examiners 
for 
Wills, Gas Conservation Commission 
Veterans, Virginia State Board of 
Urology, Virginia Board of 
Wildlife Recreation, Commission on 
Pharmacy, State Board of 
Physical Therapy, Advisory Committee on 
Pilots, Board of Commissioners to Examine 
Port Authority, Board of Commissioners of the Virginia
Professional Counselors, Virginia Board of
Professional Hairdressers, Virginia State Board of
Examiners of
Psychology, Virginia Board of
Public School Authority, Virginia
Purchases and Supply Appeals Board
Real Estate Commission, Virginia
Rehabilitative School Authority
Safety and Health Codes Commission
Sanitarian Examiners, State Board of
Seed Potato Commission
Social Workers, Virginia Board of
Surface Mining Review Board of
Treasury Board
Veterinary Medicine, Virginia Board of
Virginia Supplemental Retirement System, Board of
Trustees
Visually Handicapped, Virginia Commission for the
Water Control Board, State
Welfare, Board of
6. Individual members of boards, commissions,
committees, councils, and other similar bodies appointed at
the state level and receiving compensation for their
services on January 1, 1980, but who will not receive
compensation under the provisions of this article, shall
continue to receive compensation at the January 1, 1980 rate
until such member's current term expires.
§ 45.1-106. Definitions.—As used in §§ 45.1-106
through 451-144 unless the context clearly indicates
otherwise:
(a) "Casing" means a string or strings of pipe commonly
placed in wells drilled for petroleum and natural gas;
(b) "Casing-head gas" means any gas or vapor, or both
gas and vapor, indigenous to an oil stratum and produced
from such stratum with oil;
(c) "Cement" means hydraulic cement;
(d) "Chief" means the chief mine inspector or his
designated assistant unless the context indicates otherwise;
(e) "Coal operator" means any person or persons, firm,
partnership, partnership association or corporation that
operates to or does operate a coal mine;
(f) "Commission" means the Oil and Gas Conservation
Commission;
(g) "Commissioner" means the commissioner of the
Department of Labor and Industry;
(h) "Correlative rights" means the rights of each
owner of oil and gas interests in a single pool to have a
fair and reasonable opportunity to obtain and produce his
just and equitable share of the oil and gas in such pool,
without being required to drill unnecessary wells or incur
other unnecessary expense to recover or receive such oil or
gas or its equivalent;
(i) "Deep well" (see under Well);
(j) "Division" means the Division of Mines;
(k) "Gas" means the natural gas including casing-head
gas obtained from gas or combination wells regardless of its
chemical analysis;

(iii) "Just and equitable share of production" means a

(ii) each person an amount of oil or gas or both

substantially equal to the amount of recoverable oil and gas

in that part of a pool underlying his tract or tracks;

(ii) "Log" or "well log" means the written record

progressively describing all strata, water, oil or gas

encountered in drilling, depth and thickness of each bed or

seam of coal drilled through, quantity of oil, volumes of

gas, pressures, rate of fill-up, fresh and salt

water-bearing horizons and depths, cavings strata, casing

records, etc., as is usually recorded in the normal

procedure of drilling; also includes the electrical survey

records or logs;

(i) "Mine" means an underground or surface excavation

or development with or without any shafts, slopes, drifts or

tunnels for the extraction of coal, minerals or nonmetallic

materials, commonly designated as mineral resources

(excluding petroleum and natural gas), containing the same

with hoisting or haulage equipment and appliances for the

extraction of the said mineral resources; and embraces any

and all of the land or property of the mining plant, and the

surface and underground, that is used or contributes

directly or indirectly to the mining property, concentration

or handling of said mineral resources;

(ii) "Mine operator" means any person or persons, firm,

partnership, partnership association or corporation that

"owns" or does operate a mine.
(a) "Mud-laden fluid" means any approved mixture of water and clay or other materials as the term is commonly used in the industry;

(m) "Natural gas" (see gas);

(n) "Oil" means crude petroleum oil or petroleum;

oil "Unondaee Horizon" means the top of the Unondaee formation except in those areas in which the Unondaee formation is not present and in such areas the term shall be understood to mean either oil the top of the stratigraphic horizon first appearing in the interval of the missing Unondaee formation or oil the surface where strata older than the top of the Unondaee are exposed at the surface;

(o) "Operator" means any person who, duly authorized, is in charge of the development of a lease, drilling activities or the operator of a producing well for purposes of Article 2 of this chapter. "Operator" means any owner of the right to develop, operate, and produce oil and gas from a pool and to appropriate the oil and gas produced therefrom, either for himself or for himself and others, in the event that there is no oil and gas lease in existence with respect to the tract in question, the owner of the oil and gas rights therein shall be considered as operator in the extent of seven-eighths of the oil and gas in that portion of the pool underlying the tract owned by such owner, and as "royalty owner" as to one-eighth interest in such oil and gas and in the event the oil is owned separately from the gas, the owner of the substance being
produced or sought in such well

(p) "Person" means any natural person, firm,

partnership, partnership association, association, company,
corporation, receiver, trustee, guardian, executor;

(q) "Petroleum" means the natural untreated oil

obtained from an oil well;

(r) "Pillar" means a solid block of coal or ore or in a

mine;

(s) "Pipeline" means any pipes above or below the gas;

t) "Plan" or "map" means a map, drawing or print

showing the location of a well or wells, mines, quarries;

(u) "Plug" means the stopping of the flow of water, gas,
or liquid in connection with the abandoning of a producing or

nonproductive well;

full "Pore" means an underlying reservoir containing a

common accumulation of crude petroleum oil or natural gas;

building zone of a general structure which is completely

separated from any other zone in the structure is covered by

the full "Pore" as used in this chapter;

(v) "Porosity" means the state of or quality of being

saturated the absorbent capacity of the material or the volume

effluent held by the pores; a measure of the pore space in

a given quantity of bulk rock expressed as a percentage;

(vi) "Project area" means the well and any other

disturbed area, including roads and off-site disposal,

associated with the well;

(vii) "Property owner" means any owner of oil or gas in
place or oil or gas rights, subject to a lease covering such
oil or gas in place or oil or gas rights, "Royalty owner"
also means any owner of an interest in an oil or gas lease
which entitles him to share in the production of the oil or
gas under such lease or the proceeds therefrom without
galiating him to pay any costs under such lease, "Royalty
owner" also means the owner of any interest in the oil or
gas in place or oil or gas rights, who has not executed an
oil or gas lease to the extent that such owner is not
designated an "operator" under subsection (c) of this
section;

(11) "Shallow well" (see under "Well";

(12) "Shot" or "shooting" means exploding nitroglycerine
or other high explosive in a hole, to shatter the rock and
increase the flow of oil or gas;

(13) "Soil" means any overburden or other material
removed from its natural state in the process of preparing
or utilizing a well location;

(14) "Tubing" means the conduit through which oil or gas
is removed from a well;

(15) "Waste," in addition to its ordinary meaning, means
"physical waste" as that term is generally understood in the
oil and gas industry;

(16) "Well" means any excavation or hole drilled or
bored into the earth, for the purpose of exploring for or
producing, extracting or injecting any gas, petroleum, or
other fluid, but excluding holes drilled or bored, to
produce fresh water to be used as such, or vertical mine
ventilation holes for the purposes of Article 2-A of this chapter. All "deep wells" means a well drilled to a depth greater than 5,000 feet or to the top of the uppermost member of the Onondaga horizon, whichever is deeper, except that it does not mean wells which penetrate the Onondaga horizon if such penetration does not exceed 100 feet, does not result in production from the Onondaga or deeper horizons and is for the purpose of logging or stratigraphic testing or to permit the fracturing and completion of a well so situated above the top of the Onondaga horizon, and "coalise well" means any well other than a deep well.

"Well operator" means any person or persons, firm, partnership, partnership association or corporation that proposes to or does locate, drill, operate or abandon any well as herein defined;

"Workable coal bed" means a coal bed in fact being operated commercially, or which, in the judgment of the Chief, can, and that is reasonably to be expected will be so operated, and which, when operated, will require protection if wells are drilled through it.

ARTICLE 2-A

Oil and Gas Conservation

Declaration of public policy

Legislative findings--It is hereby declared to be the public policy of this Commonwealth and the public interest to encourage and promote exploration for and development, production, utilization and conservation of oil and natural gas.
...
and for the purpose of
unnecessarily surface loss of oil and gas, and their
constituents

... encourage the maximum recovery of oil and gas,
until reserving capital and

... safeguard, protect, and enforce the correlative
interest of operators and royalty owners in a pool of oil or
gas to the end that each such operator and royalty owner may
obtain his just and equitable share of production from such
pool of oil or gas.

The General Assembly hereby determines and finds
that oil and natural gas found in Virginia in shallow sands
or strata have geological and other characteristics
different than those found in deeper formations and that in
order to encourage the maximum recovery of oil and gas from
all productive formations, it is in the public interest to
enact new statutory provisions relating to the production
and conservation of oil and gas from deep wells, as defined
in this article.

11.1.2.1-112.2. - Applicability: exclusions:

Construction: - As provided in subsection e of this
section, the provisions of this article shall apply to all
lands located in this Commonwealth, whether publicly or
privately owned or administered.

This article shall not apply to or affect:

1. Shallow wells;

2. Shallow well commenced or completed prior to the
effective date of this article, unless such well is after
completion, whether such completion is prior or subsequent
to the effective date of this article, deepened subsequent
to the effective date of this article, to a formation at or
below the top of the "Enochia Horison" or at a depth
greater than 5,000 feet, whichever is deeper, or
in gas storage operations or any well employed to
injections into or withdr and from a gas storage reservoir
or any well employed for storage observation,
the provisions of this article shall not be
construed to extend to the commissioner, authority or power

13. Limit production or output, except for wartime
production for the protection of correlative rights pursuant
to any order issued under 8.45 or 11:3 of this article or
in prices of oil or gas,

15. Oil and Gas Conservation Commission,

16. Terms of qualifications, appointments and terms;

17. Vacancy in meetings, compensation. A. There is hereby
created the "Virginia Oil and Gas Conservation Commission"
which shall be composed of three members,

18. None of the members shall be the chief
division of Mineral Resources and one shall be the chief oil
and gas inspector of the division of mines and quarries.

19. For initial term, shall be appointed by the Governor.

20. The chief oil and gas inspector of the division of
mines and quarries shall be the chairman of the commission.

21. The commission shall meet at such times and places as shall
be designated by the chairman. The chairman shall call a
ing of the commission upon the written request of
another member of the commission. Notification of each
meeting shall be given in writing to each member by the
chairman at least five days in advance of the meeting. Any
two members, one of which may be the chairman, shall
constitute a quorum for the transaction of any business as
herein provided for. A majority of the commission shall be
required to determine any issue brought before it.

411:1-134. Powers and duties of the commission.—A.
The commission shall have the power and duty to execute and
carry out the provisions of this article in the manner
provided herein.

b. The commission is authorized to make such
investigations and inspections of records and facilities as
it deems necessary and proper to discharge its duties and
perform its functions under this article.

b. Without limiting its general authority, the
commission is hereby granted specific authority:
1. To regulate the spacing of deep wells to achieve
the purposes of this article;
2. Upon proper application and notice to enter searing
and folling orders and to provide for the unitization of
interests within a drilling unit;
2. To classify pools as oil or gas or both or wells
as oil or gas wells, for purposes material to the
interpretation or administration of this article under the
definitions set out in 411:1-134;
...in make and enforce reasonable rules and... 
3. regulations and orders reasonably necessary to prevent... 
4. waste, protect, correlative rights, govern the practice and... 
5. procedures before the commission and otherwise administer... 
6. the provisions of this article... 
7. to collect data, make investigations and... 
8. inspections, examine properties, leases, papers, books and... 
9. records, administer oaths and affirmations and take... 
10. testimony, file witnesses, hold hearings, provide for the... 
11. keeping of records and making reports and to take such... 
12. actions as appear reasonably necessary to carry out the... 
13. provisions of this article... 
14. 6.15.1-113.5, Drilling units for deep oil and gas... 
15. wells...A. To prevent waste of oil or gas, to avoid the... 
16. drilling of unnecessary wells, or to protect correlative... 
17. rights, the commission, upon its own notice or upon... 
18. application of any operator, after notice and hearing as... 
19. herein provided, shall have the power to establish or modify... 
20. drilling units covering any pool, drilling units when... 
21. established or modified shall to the extent reasonably... 
22. possible be of uniform size and shape for the entire pool... 
23. by establishing or modifying a drilling units the... 
24. area to be embraced within each unit and the shape... 
25. location shall be determined by the commission from the... 
26. evidence introduced at the hearing but shall be of an area... 
27. tract can be efficiently and economically drained by one... 
28. unit, if at the time of a hearing to establish drilling... 
29. units, there is not sufficient evidence from which to...
determine the area which can be drained efficiently and economically by one deep well. The Commission may enter an order establishing provisional drilling units for the orderly development of the pool, pending the obtaining of information necessary to determine the ultimate spacing for such pools.

On the date specified in the notice, the Commission shall hold a public hearing to determine the area to be included in the order and the acreage to be embraced within each unit and the shape thereof and the area within which deep wells may be drilled on such units. Evidence of the following facts may be considered by the Commission in entering its order:

1. The surface topography and property lines of the land underlaid by the pool.
2. The plan of well spacing then being employed or approved in such pool.
3. The geologic strata from which production from such pool has been found.
4. The nature and character of the producing formation or formations, and whether the substances produced or sought are gas or oil.
5. The maximum area which may be drained efficiently and economically by one well.
6. By other available geological or scientific data or information to such pool, which may be of corroborative value to the Commission in determining the proper spacing and well drilling unit, therefore, with due and relative allowance for
the correlative rights and obligations of the operators' and
royalty owners' interests therein.

2. An order establishing or modifying drilling units
shall specify the minimum distance from the nearest outside
boundary of the drilling unit at which a deep well may be
drilled. The minimum distance provided shall be the same in
all drilling units established or modified under said order
with necessary exceptions for deep wells drilled or being
drilled at the time of the filing of the application. If
the Commission finds that a deep well to be drilled in
compliance with the specified minimum distance would not be
likely to encroach in excess quantities or will encounter
surface conditions which would substantially add to the
burden or hazard of drilling such deep well or that a
location within the area permitted by the order is
prohibited by the lawful order of any state agency or court.
The Commission is authorized after notice and hearing to
issue an order permitting the deep well to be drilled at a
location within the minimum distance prescribed by the
sealing order, with such conditions restricting production
from any such well as to provide that no operator or royalty
owner shall recover or receive more than his just and
equitable share of the production.

25. An order establishing or modifying drilling units
for a pool shall cover all lands determined by the
Commission to be underlaid by such pool and may be modified
by the Commission from time to time (II) to include
additional areas determined to be underlaid by such pool or
to delete areas determined not to be underlaid by such pool, and
to change the size or shape of one or more drilling
units or to permit the drilling of an additional well or
wells thereon.

F. The commission shall within 45 days after issuing a
notice of hearing to establish or modify drilling units for
a pool either enter an order establishing or modifying such
units or dismiss the application.

G. After the issue date of a notice of hearing called
to establish or modify drilling units, no additional deep
well shall be commenced for production from the pool until
the order establishing or modifying drilling units has been
made, unless the commencement of the deep well is authorized
by order of the commission.

H. Pooling of interests in drilling units.—When two or more separately owned tracts are
embraced within a drilling unit, or when there are
separately owned interests in all or a part of the drilling
units, then operators owning such interests may pool their
interests for the development and operation of the drilling
unit by voluntary agreement including the exercise of
all interest and utilization rights granted in any oil and gas
leasing. In the absence of voluntary pooling, the commission,
upon the application of any operators, shall enter an order
pooling all interests in the drilling unit for the
development and operation thereof. Each such pooling order
shall be made after notice and hearing and shall be used
turns and conditions that are just and reasonable. Such
hearing may in the discretion of the commissioner be
conducted in conjunction with or ancillary to the hearing to
circle drilling units as set forth in 1-95, 1-12.2.
operations incident to the drilling of a well upon any
portion of a unit covered by a pooling order shall be deemed
for all purposes to be the conduct of such operations upon
each separately owned tract in the unit by the several
owners thereof, that portion of the production allocated or
applicable to any tract included in a unit covered by a
pooling order shall be in the same proportion which the
acreage in that tract included in the unit bears to the
total acreage included in the unit, and shall when produced,
be deemed for all purposes to have been produced from each
such tract by a well drilled therein.
be a pooling order under the provisions of this
section shall authorize the drilling and operation of a well
for the production of oil or gas from the pooled
acreage shall designate the operator to drill and operate
such well; shall prescribe the time and manner in which
all other operators may elect to participate therein; shall
provide that all reasonable costs and expenses of drilling,
completing, equipping, operating, plugging and abandoning
such well shall be borne, and all production therefrom
shall be apportioned by all operators in the proportion which acreage in
the pooling tracts owned or under lease to each operator
pays to the total acreage in the unit and shall make
provisions for payment of all reasonable costs thereof,
including a reasonable charge for the supervision and for

interest or past due accounts by all those who elect to participate therein in the event of a dispute as to such costs the Commission shall determine the proper costs.

If requested, each such pooling order shall provide just and equitable alternatives whereby an operator who does not elect to participate in the risk and cost of the drilling and operation of a well may elect to surrender his leasehold interest to the participating operators on some reasonable basis and for a reasonable consideration which, if not agreed upon, shall be determined by the Commission or may elect to participate in the drilling and operation of the well on a limited or carried basis under the following conditions: In the event any operator in any portion of the pooled tract shall drill and operate or pay the costs of drilling and operation, a deep well for the benefit of such nonparticipating operator as provided in the pooling order, such operator shall be entitled to the share of production from the tracts or portions thereof pooled accounting to the interest of such nonparticipating operator, exclusive of any royalty or overriding royalty reserved in any leases, assignments thereof or agreements relating thereto, of such tracts or portions thereof or exclusive of one-eighth of the production attributable to all unleased tracts or portions thereof, until the market value of such share equals three times the share of such costs payable by contract to the interest of such nonparticipating owner.

Validity of unit agreements.
agreement between operators entered into pursuant to the provisions of this article or with a view to or for the purpose of bringing about the unitized development or operation of such properties shall be held to violate the statutory or common law of this commonwealth prohibiting monopolies or acts, arrangements, contracts, combinations or conspiracies in restraint of trade or commerce.

4.15.1-113.6. Rules and regulations.--A. The commission shall prescribe rules and regulations governing practice and procedure before the commission in accordance with the administrative process act (Chapter 11 of Title 2 of the Code of Virginia).

B. The commission shall not promulgate any substantive rule or regulation or hold any hearing without first publishing a notice of such regulation or hearing in a newspaper of general circulation published at the state capital at least 14 days in advance of any hearing relating to such rules or regulations or other hearing which the commission shall hold.

In addition to the time, place and nature of the proceedings, such notices shall include a brief statement as to the subject, substance, issues, basis and purpose of the possible terms of the regulation under consideration as well as a reference to the legal authority of the agency to act and the place at which any tentative draft thereof will be available for public inspection. Such tentative draft shall include a copy of all reporting forms which the agency anticipates to be incorporated into or to be used in
administrating the purposes regulation,

The Commission may, in addition to such notice, publish
similar notices in newspapers in localities which may be
particularly affected as well as by news releases and other
media as will best serve the purpose and subject involved,

...in the case of any hearing held pursuant to it

paragraph 3 of this article, the Commission in
addition to providing notice in the manner described in
subsection c of this section, shall give notice of such

hearing by mail to each operator of record identified by
the applicant of the Commission as having an interest in
the oil and gas underlying the tracts which are the subject
of the hearing, provided that: the failure to identify any
operator as an operator having an interest or to provide
notice by mail to such operator, if not a willful or knowin
failure on the part of any applicant or the Commission shall
not constitute a basis for the rescission of any order
issued pursuant to the provisions of §§ 1-12.5 or

paragraph of this article...

§ 1-12.9 — Court review — Any person adversely
affected by a decision of the Commission after a hearing
held pursuant to this act, shall be entitled to judicial
review pursuant to the provisions of the Administrative
Process Act.

§ 1-113.10 — Power of the Conservation Commission to
restrain violations — In the event any person violates or
intends to violate the provisions of §§ 1-12.1 through

§ 1-12.7 of this chapter, the Oil and Gas Conservation
Commission may maintain suit to restrain such violation in the same manner as provided in § 45.1-141.

§ 45.1-113.1: Standing of persons other than the Commission to bring action for violation where the Commission does not act—If the Commission shall refuse or fail to apply for an injunction to enjoin a violation or threatened violation of any provision of this article, any reasonable rule and regulation promulgated by the Commission thereunder or any order or final decision of the Commission within 10 days after receipt of a written request to do so by any person who is or will be adversely affected by such violation or threatened violation, the person making such request shall have standing to bring a bill in equity as set forth in § 45.1-142. The Commission shall be made a party in such action in addition to the person or persons violating or threatening to violate any provision of this article, any reasonable rule and regulation promulgated by the Commission thereunder or any order or final decision of the Commission.
AMENDMENTS PROPOSED BY DR. CHARLES BARTLETT

delete "pool" and insert "reservoir" throughout the bill.

page 6, line 13 - strike "the electrical survey" and insert "all wire line"

page 7, lines 23-27 - Dr. Bartlett questions the validity of this statement.

page 8, lines 16-20 - delete entire definition.

page 8, line 28 - insert (V2) "Reservoir" means an underlying strata or rock formation containing a common accumulation of crude petroleum oil or natural gas or both. Each zone of a general structure which is completely separated from any other zone in the structure is covered by the term "reservoir" as used in this chapter.

page 10, line 10 - Dr. Bartlett feels that this should not be put into the code. It should be allowed to flucuate.

Page 10, lines 1-11 - This is unnecessary language if the bill is to be all-inclusive.

page 12, § 45.1-113.3 - Dr. Bartlett suggests a five-member Commission composed of a geologist or geological engineer, an oil and gas attorney, an oil and gas operator, a landowner who has leased his land for drilling, and one person yet to be decided upon.

#

To: the member addressed of the oil and gas subcommittee of the Virginia Coal and Energy Commission

From: David S. Castle

Re: conservation bill

Please find enclosed a copy of the oil and gas statute as prepared by this office. Also enclosed is a list of amendments proposed by Dr. Charles S. Bartlett.

DSC/mkh

Frederick C. Boucher
Walter C. Ayers
Herbert H. Bateman
Joseph A. Johnson
Lewis W. Parker, Jr.

W. Ward Teel
William E. Breen
George L. Jones, III
Robert W. Beard, Jr.
John A. Johansen
L. Blaine Carter
Charles S. Bartlett, Jr.

R. Neal Pierce
Arden R. Hodges
Juliana Smith
B. T. Fulmer
Charles J. Brown, III
G. S. Butler
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A FILL to amend and reenact § 2.1-20.4 and 45.1-106 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 12 of Title 45.1 an article numbered 2.1, consisting of sections numbered 45.1-113.1 through 45.1-113.11, the amended sections providing respectively for those commissions or boards which receive state funds and definitions as they pertain to oil and gas regulation; the new section creating the Oil and Gas Commission, setting out its powers and duties with respect to the regulation of the oil and gas resources of the Commonwealth.

Fe it enacted by the General Assembly of Virginia:

1. That § 2.1-20.4 and 45.1-106 of the Code of Virginia are amended and reenacted and the Code of Virginia is amended by adding in Chapter 12 of Title 45.1 an article numbered 2.1, consisting of sections numbered 45.1-113.1 through 45.1-113.11, as follows:

§ 2.1-20.4. Podies receiving compensation. -- A.

Notwithstanding any other provision of law to the contrary, the following commissions, boards, etc. shall be those which receive compensation from state funds pursuant to § 2.1-20.3:

Accountancy, State Board of
Agriculture and Consumer Services, Board of
Air Pollution Control Board, State
Airports Authority, Virginia
Apprenticeship Council
Architects, Professional Engineers and Land Surveyors,
State Board of

Athletic Commission, Virginia

Audiology and Speech Pathology, Virginia Board of

Examiners for

Aviation Commission, Virginia

Barber Examiners, Board of

Behavioral Sciences, Virginia Board of

Building Code Technical Review Board, State

Certification of Librarians, Board for

Certification of Water and Wastewater Work Operations,

Collection Agency Board, Virginia

College Building Authority

Commerce, Board of

Commercial Driver Training Schools, Board of

Conservation and Economic Development, Board of

Contractors, State Registration Board for

Corrections, Board of

Criminal Justice, Council on

Criminal Justice Services Commission

Deaf, Council for the

Dentistry, Virginia Board of

Development Disabilities Planning Council, Virginia

Drug and Alcoholism Counselor Certification Committees

Education, State Board of

Education Loan Authority, Virginia - Board of Directors

Elections, State Board of

Environment, Council on the
Examiners in the Division of Mines, Board of Fire Services Commission, Virginia State
Funeral Directors and Embalmers, Virginia Board of Game and Inland Fisheries, Commission of Health, State Board of Health Coordinating Council, Statewide Health Regulatory Boards, Commission of Hearing Aid Dealers and Fitters, Virginia Board of Higher Education, State Council of Highway and Transportation Commission, State Housing and Community Development, Board of Local Government, Commission on Marine Resources Commission Medical Complaint Investigation Committee Medicine, Virginia State Board of Mental Health and Mental Retardation Board, State Milk Commission Nursing, Virginia State Board of Nursing Home Administrators, State Board of Examiners for

Ji.. Gas.. Conservation Commission Opticians, Virginia State Board of Optometry, Virginia Board of Outdoor Recreation, Commission on Pharmacy, State Board of Physical Therapy, Advisory Committee on Pilots, Board of Commissioners to Examine Port Authority, Board of Commissioners of the Virginia
Professional Counselors, Virginia Board of
Professional Hairdressers, Virginia State Board of
Examiners of
Psychology, Virginia Board of
Public School Authority, Virginia
Purchases and Supply Appeals Board
Real Estate Commission, Virginia
Rehabilitative School Authority
Safety and Health Codes Commission
Sanitarian Examiners, State board of
Seed Potato Commission
Social Workers, Virginia Board of
Surface Mining Review, Board of
Treasury Board
Veterinary Medicine, Virginia Board of
Virginia Supplemental Retirement System, Board of
Trustees
Visually Handicapped, Virginia Commission for the
water Control Board, State
welfare, Board of
8. Individual members of boards, commissions,
committees, councils, and other similar bodies appointed at
the state level and receiving compensation for their
services on January 1, 1980, but who will not receive
compensation under the provisions of this article, shall
continue to receive compensation at the January 1, 1980 rate
until such member's current term expires.
§ 45.1-106. Definitions.—As used in §§ 45.1-106
through 45.1-144 unless the context clearly indicates otherwise:

(a) "Casing" means a string or strings of pipe commonly placed in wells drilled for petroleum and natural gas;

(b) "Casing-head gas" means any gas or vapor, or both gas and vapor, indigenous to an oil stratum and produced from such stratum with oil;

(c) "Cement" means hydraulic cement;

(d) "Chief" means the chief mine inspector or his designated assistant unless the context indicates otherwise;

(e) "Coal operator" means any person or persons, firm, partnership, partnership association or corporation that operates or does operate a coal mine;

(f) "Commissioner" means the commissioner of the Department of Labor and Industry;

(fll) "Correlative rights" means the rights of each owner of oil and gas interests in a single pool to have a fair and reasonable opportunity to obtain and produce his just and equitable share of the oil and gas in such pool, without being required to drill unnecessary wells or incur other unnecessary expense to recover or receive such oil or gas or its equivalent;

(fll) "Deep Well" (see under Well); (g) "Division" means the Division of Mines;

(h) "Gas" means the natural gas including casing-head gas obtained from gas or combination wells regardless of its
chemical analysis.

This "just and equitable share of production" means, as to each person, an amount of oil or gas or both substantially equal to the amount of recoverable oil and gas in that part of a pool underlying his tract or tracts.

(i) "Log" or "well log" means the written record progressively describing all strata, water, oil or gas encountered in drilling, depth and thickness of each bed or seam of coal drilled through, quantity of oil, volumes of gas, pressures, rate of fill-up, fresh and salt water-bearing horizons and depths, cavings strata, casing records, etc., as is usually recorded in the normal procedure of drilling; also includes the electrical survey records or logs;

(j) "Mine" means an underground or surface excavation or development with or without any shafts, slopes, drifts or tunnels for the extraction of coal, minerals or nonmetallic materials, commonly designated as mineral resources (excluding petroleum and natural gas), containing the same with hoisting or haulage equipment and appliances for the extraction of the said mineral resources; and embraces any and all of the land or property of the mining plant, and the surface and underground, that is used or contributes directly or indirectly to the mining property, concentration or handling of said mineral resources;

(k) "Mine operator" means any person or persons, firm, partnership, partnership association or corporation that proposes to or does operate a mine;
(1) "Mud-laden fluid" means any approved mixture of water and clay or other material as the term is commonly used in the industry;

(m) "Natural gas" (see gas);

(n) "Oil" means crude petroleum oil or petroleum;

oil," Unndaga Horizon" means the top of the Unndaga formation, except in those areas in which the Unndaga formation is not present, and in such areas the term shall be understood to mean either (i) the top of the stratigraphic horizon first appearing in the interval of the missing Unndaga formation, or (ii) the surface where strata older than the top of the Unndaga are exposed at the surface;

(o) "Operator" means any person who, duly authorized, is in charge of the development of a lease, drilling activities or the operator of a producing well—For purposes of Article 2.1 of this chapter "operator" means any owner of the right to develop, operate and produce oil and gas from a pool and to appropriate the oil and gas produced therefore, either for himself or for himself and others in the event that there is no oil and gas lease in existence with respect to the tract in question, the owner of the oil and gas rights therein shall be considered as "operator" to the extent of seven-eighths of the oil and gas in that portion of the pool underlying the tract owned by such owner, and as "royalty owner" as to one-eighth interest in such oil and gas and in the event the oil is owned separately from the gas, the owner of the substance being
produced or sought as to such pool;

(p) "Person" means any natural person, firm,

partnership, partnership association, association, company,
corporation, receiver, trustee, guardian, executor,
administrator, fiduciary or representative of any kind;

(q) "Petroleum" means the natural untreated oil

obtained from an oil well;

(r) "Pillar" means a solid block of coal or ore or in a
mine;

(s) "Pipeline" means any pipes above or below the gas;

(t) "Plot" or "map" means a map, drawing or print

showing the location of a well or wells, mines, quarries;

(u) "Plug" means the stopping of the flow of water, gas

or oil in connection with the abandoning of a producing or
nonproductive well;

(v) "Pool" means an underlying reservoir containing a

common accumulation of crude petroleum oil or natural gas or
both. Such zone of a general structure which is completely

separated from any other zone in the structure is covered by

the term "pool" as used in this chapter.

(vi) "Porosity" means the state of or quality of being

porous—the absorbent capacity of the material or the volume

of liquid held by the pores, a measure of the pore space, in

a fixed quantity of bulk rock, expressed as a percentage;

(vii) "Project area" means the well and any other
disturbed area, including roads and off-site disposal,
associated with the well;

(viii) "Royalty owner" means any owner of oil or gas in
place, oil, or gas rights, subject to a lease covering such oil, gas in place, or oil, or gas rights, "Royalty owner" also means any owner of an interest in an oil, or gas lease which entitles him to share in the production of the oil or gas under such lease or the proceeds therefrom without obligating him to pay any costs under such lease, "Royalty owner" also means the owner of any interest in the oil or gas in place, or oil, or gas rights, who has not executed an oil, or gas lease, to the extent that such owner is not designated an "operator" under subsection (e) of this section:

(v) "Shallow well", (see under "Well");

(w) "Shot" or "shooting" means exploding nitroglycerine or other high explosive in a hole, to shatter the rock and increase the flow of oil or gas;

(w) "Spoil" means any overburden or other material removed from its natural state in the process of preparing or utilizing a well location;

(x) "Tubing" means the conduit through which oil or gas is removed from a well;

(y) "Waste," in addition to its ordinary meaning, means physical waste as that term is generally understood in the oil and gas industry;

(z) "Well" means any excavation or hole drilled or bored into the earth, for the purpose of exploring for or producing, extracting or injecting any gas, petroleum, or other liquid, but excluding holes drilled or bored, to produce fresh water to be used as such, or vertical mine
ventilation holes—For the purposes of Article 2.1 of this chapter III "deep well" means a well drilled to a depth greater than 5,900 feet or to the top of the uppermost member of the Onondaga horizon, whichever is deeper, except that it does not mean wells which penetrate the Onondaga horizon if such penetration does not exceed 100 feet, does not result in production from the Onondaga or deeper horizons and is for the purpose of logging or stratigraphic testing or to permit the fracturing and completion of a horizon situated above the top of the Onondaga horizon, and Ill. "shallow well" means any well other than a deep well.

(a) "well operator" means any person or persons, firm, partnership, partnership association or corporation that proposes to or does locate, drill, operate or abandon any well as herein defined;

(b) "workable coal bed" means a coal bed in fact being operated commercially, or which, in the judgment of the Chief, can, and that is reasonably to be expected will be so operated, and which, when operated, will require protection if wells are drilled through it.

**ARTICLE 2.1**

**Oil and Gas Conservation—**

**Section 1.** Declaration of public policy:

Legislative findings—As it is hereby declared to be the public policy of this Commonwealth and in the public interest to—

1. Foster, encourage and promote exploration for and development, production, utilization and conservation of oil
and gas resources

* Prohibit waste of oil and gas resources and

unnecessary surface loss of oil and gas and their

constituents

* Encourage the maximum recovery of oil and gas,

while preserving capital and

* Safeguard, protect and enforce the correlative

rights of operators and royalty owners in a pool of oil or

gas to the end that each such operator and royalty owner may

gain his just and equitable share of production from such

pool of oil or gas.

* The General Assembly hereby determines and finds

that oil and natural gas found in Virginia in shallow sands

or strata have geological and other characteristics

different than those found in deeper formations and that in

order to encourage the maximum recovery of oil and gas from

all productive formations, it is in the public interest to

enact new statutory provisions relating to the production

and conservation of oil and gas from deep wells, as defined

in this article.

1351-1132. Applicability: exclusions:

* Construction: A. Except as provided in subsection B of this

section, the provisions of this article shall apply to all

lands located in this Commonwealth, whether publicly or

privately owned or administered.

* This article shall not apply to or affect:

1. Shallow wells;

2. Any well commenced or completed prior to the
1. effective date of this article. unless such well is, after
2. completion whether such completion is prior or subsequent
3. to the effective date of this article, deepened subsequent
4. to the effective date of this article, to a formation at or
5. below the top of the "Compensation Horizon" or at a depth
6. greater than 5,000 feet, whichever is deeper or
7. 2. Gas storage operations, or any well employed to
8. inject gas into or withdraw gas from a gas storage reservoir
9. or any well employed for storage observation.
10. I. The provisions of this article shall not be
11. construed to grant to the commissioner authority or power
12. to:
13. I. Limit production or output, except to erectate
14. production for the protection of correlative rights pursuant
15. to any order issued under § 45.1-112.5 of this article or
16. II. Fix prices of oil or gas.
17. II. 45.1-112.3. Oil and Gas Conservation Commission;
18. membership, qualifications, appointments and terms;
19. vacancies; meetings; compensation. There is hereby
20. created the "Virginia Oil and Gas Conservation Commission"
21. which shall be composed of three members.
22. One of the members shall be the chief of the
23. Division of Mineral Resources, and one shall be the chief oil
24. and gas inspector of the Division of Mines and Quarries.
25. The third member shall be appointed by the Governor.
26. I. The chief oil and gas inspector of the Division of
27. Mines and Quarries shall be the chairman of the Commission.
28. The Commission shall meet at such times and places as shall
be designated by the chairman. The chairman shall call a
meeting of the Commission upon the written request of
another member of the Commission. Notification of each
meeting shall be given in writing to each member by the
chairman at least five days in advance of the meeting. Any
two members, one of which may be the chairman, shall
constitute a quorum for the transaction of any business as
herein provided for. A majority of the Commission shall be
required to determine any issue brought before it.

4.45.1-113.4. Powers and duties of the Commission.--A.
The Commission shall have the power and duty to execute and
carry out the provisions of this article in the manner
provided herein.

b. The Commission is authorized to make such
investigations and inspections of records and facilities as
it deems necessary and proper to discharge its duties and
perform its functions under this article.

b. Without limiting its general authority, the
Commission is hereby granted specific authority:

1. To regulate the spacing of deep wells to achieve
the purposes of this article;

2. Upon proper application and notice to enter spacing
and pooling orders and to provide for the unitization of
interests within a drilling unit;

2. To classify pools as oil or gas or both, or wells
as oil or gas wells, for purposes material to the
interpretation or administration of this article under the
definitions set out in 4.45.1-106.
3. To make and enforce reasonable rules and regulations and orders reasonably necessary to prevent waste, protect correlative rights, govern the practice and procedure before the Commission, and otherwise administer the provisions of this article.

5. To collect data, make investigations and inspections, examine properties, leases, papers, books, and records, administer oaths and affirmations, and take testimony from witnesses, hold hearings, provide for the keeping of records and making reports and to take such actions as appear reasonably necessary to carry out the provisions of this article.

21.151-112.5. Drilling units for deep oil and gas wells: (A) To prevent waste of oil or gas, to avoid the drilling of unnecessary wells, or to protect correlative rights, the Commission, upon its own notice or upon application of any operator, after notice and hearing as herein provided, shall have the power to establish or modify drilling units covering any pool. Drilling units when established or modified shall to the extent reasonably possible be of uniform size and shape for the entire pool.

2. In establishing or modifying a drilling unit, the area to be embraced within each unit and the shape thereof shall be determined by the Commission from the evidence introduced at the hearing but shall be of an area that can be efficiently and economically drained by one well. If, at the time of a hearing to establish drilling units, there is not sufficient evidence from which to
determine the area which can be drained efficiently and
economically by one deep well, the Commission may enter an
order establishing provisional drilling units for the
orderly development of the pool, pending the obtaining of
information necessary to determine the ultimate spacing for
such pool.

[... on the date specified in the notice, the Commission
shall hold a public hearing to determine the area to be
included in the order and the acreage to be embraced within
each unit and the shape thereof and the area within which
deep wells may be drilled on such units. Evidence of the
following facts may be considered by the Commission in
entering its order:

1. The surface topography and property lines of the
lands underlaid by the pool.
2. The plan of well spacing then being employed or
proposed in such pool.
3. The depth at which production from such pool has
been found.
4. The nature and character of the producing formation
or formations, and whether the substances produced or sought
are gas or oils.
5. The maximum area which may be drained efficiently
and economically by one well.
6. By other available geological or scientific data
attaining to such pool, which may be of probative value to
the Commission in determining the proper spacing and well
drilling unit, therefore, with due and relative allowance for

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the correlative rights and obligations of the operators' and
royalty owners' interests therein.

An order establishing or modifying drilling units
shall specify the minimum distance from the nearest outside
boundary of the drilling unit at which a deep well may be
drilled. The minimum distance provided shall be the same in
all drilling units established or modified under said order
with necessary exceptions for deep wells drilled or being
drilled at the time of the filing of the application. If
the Commission finds that a deep well to be drilled in
compliance with the specified minimum distance would not be
likely to produce in paying quantities or will encounter
surface conditions which would substantially add to the
burden or hazard of drilling such deep well, or that a
location within the area permits by the order is
prohibited by the lawful order of any state agency or court,
the Commission is authorized after notice and hearing to
make an order permitting the deep well to be drilled at a
location within the minimum distance prescribed by the
reos ing order, with such conditions restricting production
from any such well as to provide that no operator or royalty
owner shall produce or receive more than his just and
equitable share of the production.

An order establishing or modifying drilling units
for a pool shall cover all lands determined by the
Commission to be underlaid by such pool, and may be modified
by the Commission from time to time to include
additional areas determined to be underlaid by such pool or
to delete areas determined not to be underlaid by such pool, and ill to change the size or shape of one or more drilling units, or to permit the drilling of an additional well or wells thereon.

5. The Commission shall within 45 days after issuing a notice of hearing to establish or modify drilling units for a pool, either enter an order establishing or modifying such units or dismiss the application.

6. After the issue date of a notice of hearing called to establish or modify drilling units, no additional deep well shall be commenced for production from the pool until the order establishing or modifying drilling units has been made, unless the commencement of the deep well is authorized by order of the Commission.

7. 15.1-113.6. Pooling of interests in drilling units. - When two or more separately owned tracts are embraced within a drilling unit, or when there are separately owned interests in all or a part of the drilling unit, then operators owning such interests may pool their interests for the development and operation of the drilling unit by voluntary agreement including the exercise of pooling and unitization rights granted in any oil and gas lease. In the absence of voluntary pooling, the Commission, upon the application of any operators, shall enter an order pooling all interests in the drilling unit for the development and operation thereof. Each such pooling order shall be made after notice and hearing and shall be upon terms and conditions that are just and reasonable. Such
hearing may in the discretion of the commissioner be
conducted in conjunction with or ancillary to the hearing to
create drilling units as set forth in § 45.1-113.5.
Operations incident to the drilling of a well upon any
portion of a unit covered by a pooling order shall be deemed
for all purposes to be the conduct of such operations upon
each separately owned tract in the unit by the several
owners thereof. That portion of the production allocated or
applicable to any tract included in a unit covered by a
pooling order shall be in the same proportion which the
acreage in that tract included in the unit bears to the
total acreage included in the unit and shall when produced,
be deemed for all purposes to have been produced from each
such tract by a well drilled thereon.

b. Any pooling order under the provisions of this
section shall authorize the drilling and operation of a well
for the production of oil or gas from the pooled
acreage. It shall designate the operator to drill and operate
such well; shall prescribe the time and manner in which
all other operators may elect to participate therein shall
provide that all reasonable costs and expenses of drilling,
completing, equipping, operations, plugging and abandoning
such deep well shall be borne, and all production therefrom
shall be divided among all operators in the proportion which acreage in
the pooled tracts owned or under lease to each operator
bears to the total acreage in the unit and shall make
provisions for payment of all reasonable costs thereof,
including a reasonable charge for the supervision and for
interest on past-due accounts, by all those who elect to participate therein. In the event of a dispute as to such costs, the Commission shall determine the proper costs.

If requested, each such pooling order shall provide just and equitable alternatives whereby an operator who does not elect to participate in the risk and cost of the drilling and operation, or operation, of a well may elect to surrender his leasehold interest to the participating operators on some reasonable basis and for a reasonable consideration which, if not agreed upon, shall be determined by the Commission, or may elect to participate in the drilling and operation, or operation, of the well on a limited or carried basis under the following conditions: in the event any operator in any portion of the pooled tract shall drill and operate, or pay the costs of drilling and operating, a deep well for the benefit of such nonparticipating operator as provided in the pooling order, then such operator shall be entitled to the share of production from the tracts or portions thereof pooled accruing to the interest of such nonparticipating operator, exclusive of any royalty or overriding royalty reserved in any leases, assignments thereof, or agreements relating thereto, of such tracts or portions thereof, or exclusive of one-eighth of the production attributable to all unleased tracts or portions thereof until the market value of such share equals three times the share of such costs payable by or sharable to the interest of such nonparticipating operator.

Validity of unit agreements. -- No
agreement between or among operators, entered into pursuant
to the provisions of this article or with a view to or for
the purpose of bringing about the unionized development or
operation of such properties, shall be held to violate the
statutory or common law of this Commonwealth prohibiting
monopolies or acts, arrangements, contracts, combinations or
conspiracies in restraint of trade or commerce.

45.1-113.8. Rules and regulations.--A. The
Commission shall prescribe rules and regulations governing
practice and procedure before the Commission in accordance
with the Administrative Process Act (Chapter 1.1:1 of Title
2 of the Code of Virginia).

4. The Commission shall not promulgate any substantive
rule or regulation or hold any hearing without first
publishing a notice of such regulation or hearing in a
newspaper of general circulation published at the state
capital at least 14 days in advance of any hearing relating
to such rules or regulations or other hearing which the
Commission shall hold.

In addition to the time, place and nature of the
proceedings, such notices shall include a brief statement as
to the subject, substance, issues, basis, and purpose or
possible terms of the regulation under consideration as well
as a reference to the legal authority of the agency to act
and the place at which any tentative draft thereof will be
available for public inspection. Such tentative draft shall
include a copy of all reporting forms which the agency
anticipates to be incorporated into or to be used in
The Commission may, in addition to such notice, publish similar notices in newspapers in localities which may be particularly affected as well as by news releases and other media as will best serve the purpose and subject involved.

1. In the case of any hearing held pursuant to §§ 45.1–113.2 or 45.1–113.6 of this article, the Commission in addition to providing notice in the manner described in subsection b of this section, shall give notice of such hearing by mail to each operator of record identified by the applicant or the Commission, as having an interest in the oil and gas underlying the tracts which are the subject of the hearing, provided that: The failure to identify any person as an operator having an interest or to provide notice to such operator, if not a willful or knowing failure on the part of any applicant or the Commission shall not constitute a basis for the rescission of any order issued pursuant to the provisions of §§ 45.1–112.5 or 17 45.1–113.6 of this article.

2. § 45.1–113.9—Court review.—Any person adversely affected by a decision of the Commission after a hearing held pursuant to this act shall be entitled to judicial review pursuant to the provisions of the Administrative Process Act.

3. § 45.1–113.10—Power of the Conservation Commission to restrain violations.—In the event any person violates or attempts to violate the provisions of §§ 45.1–112.1 through 42.1–112.7 of this chapter, the Oil and Gas Conservation
Commission may maintain suit to restrain such violation in
the same manner as provided in § 45-1-141.

§ 45-1-113. Standing of persons other than the
Commission to bring action for violation where the
Commission does not act. If the Commission shall refuse or
fail to apply for an injunction to enjoin a violation or
threatened violation of any provision of this article, any
reasonable rule and regulation promulgated by the Commission
thereunder or any order or final decision of the Commission,
within 10 days after receipt of a written request to do so
by any person who is or will be adversely affected
by such violation or threatened violation, the person making
such request shall have standing to bring a bill in equity
as set forth in § 45-1-142. The Commission shall be made a
party in such action in addition to the person or persons
violating or threatening to violate any provision of this
article, any reasonable rule and regulation promulgated by
the Commission thereunder or any order or final decision of
the Commission.
AMENDMENTS PROPOSED BY DR. CHARLES BARTLETT

delete "pool" and insert "reservoir" throughout the bill.

page 6, line 13 - strike "the electrical survey" and insert "all wire line"

page 7, lines 23-27 - Dr. Bartlett questions the validity of this statement.

page 8, lines 16-20 - delete entire definition.

page 8, line 28 - insert (V2) "Reservoir" means an underlying strata or rock formation containing a common accumulation of crude petroleum oil or natural gas or both. Each zone of a general structure which is completely separated from any other zone in the structure is covered by the term "reservoir" as used in this chapter.

page 10, line 10 - Dr. Bartlett feels that this should not be put into the code. It should be allowed to fluctuate.

Page 10, lines 1-11 - This is unnecessary language if the bill is to be all-inclusive.

page 12, § 45.1-113.3 - Dr. Bartlett suggests a five-member Commission composed of a geologist or geological engineer, an oil and gas attorney, an oil and gas operator, a landowner who has leased his land for drilling, and one person yet to be decided upon.