

*Title 38  
Legislative Rules  
Department of Energy*

~~WEST VIRGINIA  
ADMINISTRATIVE REGULATIONS~~

~~Office of Oil and Gas  
Department of Mines~~

FILED MARCH 20, 1984  
ADMINISTRATIVE LAW DIVISION  
OFFICE OF THE SECRETARY  
OF STATE

KB

~~Chapter 22~~

~~SERIES V~~

*Series #18 obsolete*

~~(1978; revised 1979 and 1983)~~

Subject: Oil and Gas Wells and Other Wells  
~~TYPE OF RULE: LEGISLATIVE~~

*Valid  
April 19, 1984*

~~PART I~~

*to June 11, 1987*

~~GENERAL REGULATIONS~~

*Section 1. General Introduction*

1.01. Scope. The Regulations set forth herein shall govern and apply to proceedings under Article 4, Chapter 22 of the Code concerning oil and gas wells and other wells, except proceedings with respect to the "Natural Gas Policy of 1978" covered by ~~Part II hereof.~~ *Sections 32 to 36*

1.02. Authority. These Regulations are promulgated pursuant to the authority of Code §§ 22-4-1a(b) and 22-4-13 and Article 3, Chapter 29A of the Code. *W.Va. Code 22-4-1a(b) + 22-4-13*

1.03. Effective Date. ~~Part I~~ of these Regulations were promulgated on the 7th day of December, 1978, and became effective on the 6th day of January, 1979 except for (1) the addition of Regulations 3.01, 3.03, 7.03, 7.04, 9.07, 15.05, 23.07, and 35.05, (2) the revision of Regulations 1.01, 1.02, 1.03, 1.04, 2.01, 2.02, 3.02, 7.02, 8.01, 8.02, 9.03, 10.02, 11.02, 15.04, 16.01, 17.01, 17.02, 18.01, 18.02, 20.04, 21.02, 23.01, 23.04, 24.03, 24.05, 32.02, 32.03, 33.00, 33.02 and 35.02, and (3) use of the title "Administrator" in place of "Deputy Director" throughout, in compliance with 1979 W. Va. Acts ch. 83, § 22-4-1(i) which were promulgated on the day of December 6, 1983, become effective on the ~~20th~~ *20th* day of April 1984, and were filed on the 7th day of December, 1983.

1.04. Filing Date. These Regulations were filed in the office of the Secretary of State on the 7th day of December, 1978 except for the addition of Regulations 3.01, 3.03, 7.03, 7.04 and 23.07 and the revision of Regulations 1.01, 1.02, 1.03, 1.04, 2.01, 2.02, 3.02, 7.02, 8.01, 8.02, 9.03, 10.02, 15.04, 16.01, 17.01, 18.01, 18.02, 23.01, 24.03, and 24.05, which were promulgated on the 6th day of December, 1983, become effective on the ~~20th~~ *20th* day of April 1984, and were filed on the 20 day of MARCH 1984.

1.05. Forms. An index of all current forms and copies of any forms

currently used under or required by Article 4, Chapter 22 of the Code of these Regulations may be obtained from the Administrator. The Department reserves the right to amend any forms prospectively to accord more fully with the Code or these Regulations.

*Section* 2. Definitions

2.01. Statutory Definitions. As used in these Regulations, the terms "Administrator", "casing", "cement", "Chairman", "Chief", "coal operator", "coal seam" or "workable coal bed", "deep well", "Department" or "Department of Mines", "expanding cement", "facility", "gas", "Office of Oil and Gas" or "Office", "oil", "owner", "person", "plat", "Review Board", "safe mining through of a well", "shallow well", "stimulate", "waste", "well", "well work", and "well operator" or "operator" shall have the meaning set forth in Code § 22-4-1.

2.02. Definitions Adopted by Regulation. Unless the context in which used clearly requires a different meaning, as used in these Regulations:

(a) The term "Code" shall mean the West Virginia Code of 1931, as amended.

(b) The term "barrel" shall mean 42 U. S. gallons of 231 cubic inches each of liquids, including slurries, at a temperature of 60 degrees Fahrenheit.

(c) The term "completion of the drilling process", as used in Article 4, Chapter 22 of the Code, shall mean the date on which a drilling rig ceases operation on the drilling site for more than 30 consecutive days.

(d) The term "cubic foot of gas" shall mean the volume of gas contained in one cubic foot of space at a standard pressure base of 14.73 pounds per square inch and a standard temperature base of 60 degrees Fahrenheit.

(e) The term "day" shall mean a period of 24 consecutive hours.

(f) The term "designated agent" shall mean a resident of the State of West Virginia designated by an operator as the agent or attorney in fact of the operator upon whom process, notices, orders or other communications issued pursuant to Chapter 22 of the Code may be served. See Regulation 7.01.

(g) The term "gas-oil ratio test" shall mean a test, by any means generally accepted in the industry, to determine the number of cubic feet of gas produced per barrel of oil produced.

(h) The term "gas well" shall mean any well which produces or appears capable of producing a ratio of 6,000 cubic feet of gas or more to each barrel of oil on the basis of the initial gas-oil ratio test.

(i) The term "initial gas-oil ratio test" shall mean the gas-oil ratio test performed for the purpose of completing Form IV-36, "Well Operator's Report of Initial Gas-Oil Ratio Test", to designate the type of well.

(j) The term "log" or "well log" shall mean a systematic, detailed geological record of all formations, including coal, fresh water and salt water encountered in the drilling of a well.

(k) The term "oil well" shall mean any well which produces or appears capable of producing a ratio of less than 6,000 cubic feet of gas to each barrel of oil on the basis of the initial gas-oil ratio test.

(i) The term "surface owner of record", and the term "owner of record of the surface" as used in Code § 22-4-1m, shall mean any person who is an owner of record of surface land or an undivided interest therein, whether the surface is severed from the oil and gas or other mineral or not.

(m) The term "underground storage well" shall mean a gas well subject to the provisions of Article 7, Chapter 22 of the Code.

*Section* 3. Regulations Related to Code § 22-4-1a.

3.01. Notice and Application Forms. Forms IV-2(A), IV-2(B), IV-3(A), IV-3(B), IV-4(A) and IV-4(B) shall accord the interested parties essentially the same notice, rights and statements of those rights and be in substantially the same form as the versions of those forms issued at the same time as this Regulation.

3.02. Report Forms. The report forms to be used by oil and gas inspectors or the supervising inspector upon inspections made under Chapter 22 of the Code are as follows:

Form IV-26, "Inspector's Well Report" for permitted well work (obverse) except plugging and abandonment (reverse);

Form IV-27, "Notice of Violation";

Form IV-28, "Imminent Danger Order";

Form IV-29, "Notice Extending Abatement Time";

Form IV-30, "Order for Failure to Abate Violation"; and

Form IV-31, "Notice of Abatement".

3.03 Regulations with Respect to the "Natural Gas Policy Act of 1978".  
See Part II of these Regulations.

4. Regulations Related to Code § 22-4-1d. [Reserved.]

5. Regulations Related to Code § 22-4-1e. [Reserved.]

6. Regulations Related to Code § 22-4-1g.

*Section 4 Reserved*  
*Section 5 Reserved*

Section 6

3.01. Violations Findings and Orders. Findings and orders of oil and gas inspectors concerning violations discovered during an inspection shall be recorded on the appropriate form listed in Regulation 3.01. Such findings and orders shall not be construed to limit the Department's power to initiate any other lawful proceedings for violation of Article 4, Chapter 22 of the Code, or these Regulations.

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7. Regulations Related to Code §§ 22-4-1k, 22-4-1l, 22-4-1m, 22-4-1n, and 22-4-1o.

7.01. Registration; Designated Agent; Transfer of Title. (a) All persons owning or operating or proposing to own or operate any well in West Virginia shall register with the Deputy Director. In all cases an agent or attorney in fact shall be designated on Form IV-1, "Designation of Agent by Well Owner or Operator", by and for each well owner or operator, upon whom process, notices, orders and other communications issued pursuant to Chapter 22 of the Code may also be served; but the designation shall not be effective until it has been accepted by the Designee and approved by the Department. Every well owner or operator who has designated such agent or attorney in fact shall, within five days after termination of such designation, notify the Department of such termination and designate a new agent on said Form IV-1. This regulation applies to all well operators, not merely those whom Code § 22-4-1k specifically requires to designate an agent: Provided, That a well operator who is a natural person and a resident of the state of West Virginia may list himself instead of an agent for service of all such papers.

(b) (1) When title to a well is transferred from one well owner to another, the Administrator shall be notified in writing within five days by the transferor well owner. A copy of such notification shall be delivered to the transferee well owner. Failure to notify the Administrator of such transfer shall be a violation of this Regulation by said transferor, punishable under Code § 22-4-17; and in addition, all bonds of such transferor under Article 4, Chapter 22 of the Code shall be forfeited.

(2) The transferee well owner shall forthwith register with the Department if he is not already registered. In any event, said transferee shall forthwith notify the Department of his designated agent or attorney in fact pursuant to Regulation 7.01 unless a designation has already been made and approved; and the transferor's previously designated agent shall be liable unless or until an agent or attorney in fact has been designated by the transferee well owner and approved by the Department.

(3) The bonds or other approved security of the transferor well owner will not be released by the Department until (i) satisfactory evidence of the transfer or change of ownership is furnished to the Department, (ii) the transferee has furnished acceptable bonds or other approved security to replace those of the transferor, and (iii) the transferee has notified the Department of his designated agent or attorney in fact.

7.02. Applications for Permit; Issuance, Conditions and Modification.

(a) An application for any well work permit required for an oil or gas well

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or an underground gas storage well by Code § 22-4-1k, except a permit to plug a well, shall be made on Form IV-2(B), "Application for a Well Work Permit", and shall be accompanied by (1) a "Notice of Application for a Well Work Permit" in the form prescribed by Regulation 7.04, (ii) a plat in the form prescribed by Regulation 11, (iii) a bond in one of the forms prescribed by Regulation 12, or in lieu thereof the other security allowed by Code § 22-4-2, if applicable, (iv) Form IV-9, "Construction and Reclamation Plan", applicable to the plan required by Code § 22-4-1k(d) and the reclamation required by Code § 22-4-12b and Regulation 23, (v) on the initial application to drill a well, the fees required by Code §§ 22-4-1a and 22-4-12a, and (vi) if applicable, the consent required by Code § 22-4-8a. A separate application shall not be required for stimulating a well where stimulating is to be a part of the well work for which a permit is sought and is noted as such on the Form IV-2(B) filed in connection therewith.

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(b) An application for any liquid injection or waste disposal well permit required by Code § 22-4-1k, except a permit to plug a well, shall be made on Form IV-3(B), "Liquid Injection or Waste Disposal Well Work Permit Application", and shall be accompanied by (1) a "Notice of Liquid Injection or Waste Disposal Well Work Permit Application" in the form prescribed by Regulation 7.04, (ii) a plat in the form prescribed by Regulation 11, (iii) a bond in one of the forms prescribed by Regulation 12, or in lieu thereof the other security allowed by Code § 22-4-2b, if applicable, (iv) Form IV-9, "Construction and Reclamation Plan", applicable to the reclamation required by Code § 22-4-12b and Regulation 23, and (v) on the initial application to drill a well, the fees required by Code §§ 22-4-1a and 22-4-12a. A separate application shall not be required for stimulating a well where stimulating is to be a part of the well work for which a permit is sought and is noted as such on the Form IV-3(B) filed in connection therewith.

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(c) An application for a permit to plug a well shall be made on Form IV-4(B), "Application to Plug and Abandon a Well", and shall be accompanied by (1) a "Notice of Application to Plug and Abandon a Well" in the form prescribed by Regulation 7.04, (ii) a plat in the form prescribed by Regulation 11, and (iii) a bond in one of the forms prescribed by Regulation 12, or in lieu thereof the other security required by Code § 22-4-9, if applicable.

(d) The applicant for any permit mentioned in this Regulation must file an original and two copies of the Application and an original and four copies of the Notice, plat, and, except for applications for a permit to plug a well, Construction and Reclamation Plan.

(e) The permit and any conditions to or modification of the proposed permitted well work shall be issued by endorsement on or attachment to the "Permit" copy of the Application (Form IV-2(B), IV-3(B), or IV-4(B), as applicable).

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(f) Any permit issued under this Regulation 7 shall expire automatically unless the permitted well work is commenced within 24 months of the date the permit was granted. No permit shall be extended to authorize the commencement of well work after the expiration date of 24 months.

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(g) No permit issued under this Regulation 7 shall be transferable.

(h) The determination to deny a permit under the provisions of Code § 22-4-1k(i), or to deny or condition a permit under the provisions of Code § 22-4-1o, will be in writing issued within 60 days from the date the Notice and Application in complete form with the required documents are filed.

(i) Irrespective of the scope of the well work for which a permit was originally issued, a new application shall be filed for any well work subsequent to the expiration of the six-month or extended period for reclamation prescribed by Code § 22-4-12b.

7.03. Compliance with the Provisions of Code § 22-4-11. (a) For any Application for a Well Work Permit subject to the provisions of Code § 22-4-11, the data required by subsection c thereof may be recorded on the applicable form of the Notice of Application, in lieu of filing the well operator's lease or leases or other continuing contract or contracts.

(b) If the applicant's right to extract, produce or market the oil or gas is based upon a lease or leases or other continuing contract or contracts providing for flat well royalty or any similar provision for compensation to the owner of the oil or gas in place which is not inherently related to the volume of oil and gas so extracted, produced and marketed, then the affidavit furnished pursuant to Code § 22-4-11(e) shall be on Form IV-60.

7.04. Notice to Surface Owners of Record; Proof of Notice; Comments.

(a) (1) For purposes of notice to surface owners of record, the applicant well operator shall be entitled to assume, subject to the check mentioned in paragraph (2) below, that the specific person(s) listed on the relevant tax ticket(s) maintained by the Sheriff pursuant to Code § 11A-1-8 (as distinguished from the listing of an estate, or of person(s) as "agent" or with "et. al." or "heirs" or other designation indicating unspecified owners of record) were in fact surface owners of record when the tax ticket was made up.

(2) To establish that a person identified from a tax ticket has not transferred an interest in the surface, the well operator must check from the date the surface owner acquired the surface, or for ten years prior to the date of the check, whichever period is shorter, (i) the "Grantor Index" and (ii) the "Fiduciary Index" in the office of the County Clerk. If these checks identify surface owner(s) in replacement of or in addition to the tax ticket listing, all successor names shall likewise be checked in the Grantor and Fiduciary Indexes, to establish the surface owner(s) of record on the date the check is made.

(3) Where the relevant tax ticket(s) list an estate, or list person(s) as "agent" or with "et.al." or "heirs" or other designation indicating unspecified owners of record, the applicant well operator shall check the records in the office of the County Clerk to determine (i) whether the total number is more than three, and (ii) if the total number is three or less, the name(s) of the surface owner(s) of the record on the date the check is made.

(4) If the identification of surface owners of record is made pursuant

to the preceding paragraphs (1) and (2) or paragraph (3) within 90 days of the filing of the application for a permit, the well operator need not check the records again prior to the filing.

(b) Except for notice by publication under the provisions of Code § 22-4-1m(b), the notice to surface owners of record required by Code § 22-4-1m shall consist of true, complete copies of (1) obverse and reverse sides of Form IV-2(A), IV-3(A) or IV-4(A), as applicable, (2) obverse and reverse sides the surface owner's copy of Form IV-2(B), IV-3(B) or IV-4(B), as applicable, (3) the plat in the form described in Regulation 11, and (4) for any application except to plug a well, all sides of the Construction and Reclamation Plan on Form IV-9. Photocopies are acceptable so long as all of the information on the forms is clearly legible. Copies may be made single-sided or front and back so long as all faces of the documents are included in the proper order. The verification of Form IV-2(A), IV-3(A) or IV-4(A) will be accepted as compliance with the requirement of prima facie "certification and evidence" of notice as required by Code § 22-4-1k(c)(1)(iii).

(c) Proof of personal service may be made by the return of any sheriff or other official empowered by law to serve process, or by affidavit of personal service on Form IV-70 by any person, including but not limited to any employee or agent of the well operator. If service is effected by certified mail, service is effective upon mailing; and the return receipt card or other postal receipt for certified mailing with postal stamp affixed or photocopy will be accepted as proof of service.

(d) Notice of publication under the provisions of Code § 22-4-1m(b) shall be substantially as provided in Form IV-71. Proof shall be by affidavit of publication from the newspaper.

(e) No permit will be issued until all proof of notice has been filed with the Administrator.

(f) All comments filed under the provisions of § Code 22-4-1n shall be in writing, and should contain the name, address and telephone number of the person filing the comment, the well operator's name and well number, and the approximate location of the proposed well site including district and county from the Application. Comments may be accompanied by other documents in support of the comment. Other than as prescribed in this Regulation, no particular form for the comment is required.

7.05. Identification Markings. (a) Every well shall have attached or stamped, in a permanent manner, the API identification number which consists of the State (47), County (001 through 109), and permit number. Such numbering shall be no less than one half inch in height and detectable by any interested persons approaching the well. Any additional information the well operator may desire to display may be incorporated into the permanent identification plat or stamp in such a manner that it will not confuse or distort the permanent API identification number.

(b) Except as provided below, upon the completion of the plugging and

filling of any abandoned well, a permanent monument or marker consisting of a length of pipe (minimum size, 6") filled with concrete (or the equivalent thereof if approved by the Administrator shall be erected over the well; the marker shall extend no less than 30 inches above the surface and not less than 10 feet into the well, below the surface, and shall be sealed with concrete for the purpose of making the marker permanent. The API well identification number which consists of State (47), County (001 through 109), and permit number shall be attached or stamped in a permanent manner to said monument; and such numbering shall be no less than one half inch in height and detectable by any interested person approaching the marker. The erection of the marker shall in no way interfere with the bleeder pipe from the well where such pipe is required, or the vent or other device installed pursuant to Code § 22-4-10. Such marker shall be accurately described on Form IV-38, "Affidavit of Plugging and Filling Well" (see Regulation 17.07) as to time and manner of plugging and filling the well and shall be accepted by the Administrator as a satisfactory landmark which may be used as such in the location of adjacent wells. Two permanent reference points with courses and distances from the abandoned well shall be designated and described on the plat required by Regulation 17.01 in the form prescribed by Regulation 11, accompanying Form IV-4, "Notice of Intention to Plug and Abandon a Well", or, if any change in the plat is necessary, accompanying Form IV-38, "Affidavit of Plugging and Filling Well" (see Regulation 17.07).

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7.06. Parties Responsible. All contractors and drillers, including all service companies carrying on business or doing work in oil and gas fields in West Virginia, as well as lease holders and operators generally, shall take notice of and are hereby directed to observe and apply the provisions of Article 4, Chapter 22 of the Code and these Regulations; and all contractors, drillers, service companies and operators shall be held responsible for violations thereof.

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7.07. Evidence of Performance. (a) After the completion of the work authorized to be done by any permit required by Code § 22-4-1k, the permittee shall comply with the filing requirements of Code § 22-4-8b and Regulation 16.

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(b) In addition to the requirements of Regulation 7.07(a), after completion of plugging a well, the permittee shall also comply with the affidavit requirements of Code § 22-4-9 and Regulation 17.

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8. Regulation Related to Code §§ 22-4-2, 22-4-2a, and 22-4-2b.

8.01. Plat. (a) The plat required by Code § 22-4-2 before "drilling for oil or gas, or before fracturing or stimulating a well". shall contain the information required thereby and otherwise by these Regulations in the form and manner provided in Regulation 11. A separate plat shall not be required for stimulating a well where stimulating is to be a part of the work for which a permit is sought and is noted as such on Form IV-2(B), "Application for a Well Work Permit".

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(b) A plat is hereby required to accompany all applications for "fracturing any well" under Code § 22-4-2a by means subsequent to and not an incident of previously permitted drilling, redrilling, deepening, pressuring or converting of such well. If the well to be fractured is an oil or gas well, the plat shall contain the same information required for plats by Code § 22-4-2 and otherwise by these Regulations, in the form and manner provided in Regulation 11; and if the well is a liquid injection or waste disposal well, the plat shall contain the same information required for plats by Code § 22-4-2b and otherwise by these Regulations, in the form and manner provided in Regulation 11. *Section*

(c) The plat required by Code § 22-4-2b before "drilling a well for the introduction of liquids for the purposes provided for in section ten-a of this article [Code § 22-4-10a] or for the introduction of liquids for the disposal of sewage, industrial waste or other waste or the effluent therefrom on any tract of land, or before converting an existing well for such purposes", shall contain the information required thereby and otherwise by these Regulations in the form and manner provided in Regulation 11. A separate plat shall not be required for stimulating such a well where stimulating is to be a part of the well work for which a permit is sought and is noted as such on the Form IV-3(B), "Liquid Injection or Waste Disposal Well Work Permit Application". *Section*

8.02. Notice to Coal Operators, Owners or Lessees. A copy of the completed notice and application for any permit required by Code § 22-4-1k, including the associated plat and Construction and Reclamation Plan required by Regulation 7, shall be used as the form of the notice which is required by Code §§ 22-4-2, 22-4-2a and 22-4-2b to be mailed by registered or certified mail to coal operators, owners or lessees. *Section*

*Section* 9. Operational Regulations on Liquid Injection and Waste Disposal Wells.

9.01. Tubing and Packer Arrangements; Variance; Regulation of Pressure.  
(a) Injection of water, other liquids, or wastes shall be accomplished through a tubing and packer arrangement with the packer set immediately above the injection zone, and the annulus between the tubing and casing shall be monitored by pressure sensitive devices or through production casing adequately seated and cemented that will allow monitoring of the annulus between the injection casing and last intermediate casing string or coal-fresh water casing string as the case may be. Upon a proposal made in detail in the Form IV-37, "Pre-Operation Certificate for Liquid Injection or Waste Disposal Well", a variance from any of the foregoing requirements may be granted upon a showing in the application or at the hearing by an individual operator that alternate prudent engineering practices will prevent migration outside the target formation.

(b) The injection pressure will be regulated to minimize the possibility of fracturing the confining strata; and the Form IV-37, "Pre-Operation Certificate for Liquid Injection or Waste Disposal Well", for each such well shall set forth the proposed operation in detail so as to demonstrate that this requirement will be satisfied.

9.02. Disposal of Connate or Polluted Water. No discharge of salt water, brackish water or other water unfit for domestic livestock or other general uses shall be made into the waters of the State. When underground disposal of such water is required, such disposal well and related facilities will be permitted only upon application and approval as required by Federal and State laws. Disposal into the same formation from which the water is produced is preferable.

9.03. Pre Operation Certificate. (a) The Administrator or his appointed representative shall be notified 24 hours prior to mechanical integrity testing to allow him the opportunity of witnessing the tests. Copies of the results of all tests shall be submitted along with Form IV-37 as provided in part (b) of this Regulation.

(b) Upon successful completion and mechanical integrity testing, and prior to injection into a permitted liquid injection or waste disposal well, the operator shall furnish the Department with a certification on Form IV-37, "Pre-Operation Certificate for Liquid Injection or Waste Disposal Well", indicating that all requirements of Regulations 9.01 and 9.02 have been met. The certification shall include: *Section*

(1) Identification of the injection zone by name of geological target formation and depth (top and bottom of zone), the number of perforations, if applicable, or the interval of open hole;

(2) The maximum bottom hole pressure in pounds per square inch and maximum rate of injection in barrels of liquids per hour or cubic feet of gases per hour;

(3) A detailed identification of the materials being injected, including additives;

(4) Specification of cathodic protection and other corrosion control measures;

(5) Filters, if any;

(6) The entire casing and cementing record, any packers and other special downhole equipment, and cement bond logs: Provided, That this data need not be included on Form IV-37, where the casing and cementing record is furnished on Form IV-35, "Well Operator's Report of Drilling, Fracturing and/or Stimulating", associated with the project;

(7) Certification that the mechanical integrity of the well has been tested, and statement of the test method;

(8) Facilities or systems to protect the integrity of the geological target formation or to prevent fracturing the confining strata; and

(9) Application for variance, if any, from *Section* regulation 9.01(a).

9.04. Partial Exemption for Certain Wells. Any liquid injection or waste disposal well in existence and used as such prior to July 1, 1969,

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shall be exempt from the requirements of Regulations 9.01, 9.02, and 9.03, provided the operator has, on or before July 1, 1979, filed an area plat or plats showing all of such operator's liquid injection or waste disposal wells. Such exemption shall remain effective until such time as in the opinion of the Administrator and upon notification thereof to the well owner or operator, it is determined that said well is leaking liquids to other wells or to the surface.

9.05. Monitoring by Operator. The well owner or well operator of a liquid injection or waste disposal well shall monitor daily and submit to the Department monthly the injection pressures and volumes on Form IV-40 "Report for Liquid Injection, Waste Disposal or Enhanced Recovery". The Administrator may require more frequent or continuous monitoring and more frequent reporting, if, in his opinion, good reason therefor exists.

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9.06. Limitation. Neither Code § 22-4-2b nor Regulations 9.01 through 9.05 are intended to apply or do apply to (1) injection of water or other liquids into a well for the purpose of fracturing or stimulating a well or (2) underground gas storage well operations, including injection periods.

9.07. Authorization and Re-testing of Wells. (a) No liquid injection or waste disposal well will be permitted to inject until a Pre-Operation Certificate (Form IV-37) is reviewed and approved by the Administrator.

(b) The mechanical integrity of a liquid injection or waste disposal well must be demonstrated again within five years from the last test date in order for injection to continue.

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10. Regulations Related to Code §§ 22-4-3, 22-4-3a, 22-4-3b.

10.01. Objection Filed by Coal Operators, Owners or Lessees. Objections by coal operators, owners, or lessees filed under Code §§ 22-4-3, 22-4-3a or 22-4-3b shall be made on Form IV-13, "Objection under Code § 22-4-3, Code § 22-4-3a or Code § 22-4-3b to Proposed Permitted Work".

10.02. Objection Made by the Department. Objections by the Department to any proposed well work under Code §§ 22-4-3, 22-4-3a or 22-4-3b shall be made in writing, and in the same detail required of objections by coal operators, owners or lessees.

10.3. Notice to Applicant of Objection. (a) If a coal operator, owner or lessee files or the Department makes objection under Code § 22-4-3 or Code § 22-4-3a, the Department shall notify the applicant well operator by means of Form IV-14, "Notice to Well Operator of Objection under Code § 22-4-3 or Code § 22-4-3a", attaching copies of all such objections.

(b) If a coal operator, owner or lessee files or the Department makes objection under Code § 22-4-3b, the Department shall notify the applicant well operator as provided by Regulation 10.04.

10.04. Notice to Review Board of Objection; Copies to Applicant. If a coal operator, owner or lessee files or the Department makes objection under Code § 22-4-3b, the Department shall notify the Chairman of the Review Board by means of Form IV-15, "Notice to Shallow Gas Well Review Board of Objection under Code § 22-4-3b to a Proposed Drilling Site", attaching copies of all objections made under Regulations 10.01 and 10.02, and all other information required by Code § 22-4-3b. Copies of all such documents shall be sent to the applicant well operator as his notice of objection.

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11. Form and Contents of Plats.

11.01. Statutory Requirements for Plats. Any plat required to be furnished under Code §§ 22-4-2 or 22-4-2b (see Regulation 7.02) shall contain all information specified in the statutory section requiring the plat.

11.02. Additional Requirements for Plats. Any plat required to be furnished under Code §§ 22-4-2 or 22-4-2b, or under Regulations 8.01(b) or 17.01, shall be recorded on Form IV-6, "Well Plat", and shall conform to the following standards of accuracy and depiction:

(1) Accuracy. An accuracy of one part in 2500 is required for location of wells on land containing workable coal beds which are tributary to operating coal mines. All other plats require a minimum accuracy of one part in 200. The attained accuracy standard shall be stated on every plat.

(2) Permanent Landmarks. At least two permanent monuments or landmarks with courses and distances to the subject well shall be shown on the basis of an on-the-ground survey; and, if any such monument or landmark is not a permanently established property corner, it shall be referenced to a property corner by courses and distances on the basis of an on-the-ground survey.

(3) Physical Location of Well. Every well shall be drilled within ten feet of the exact location designated on the plat. To facilitate compliance and, if desired, verification, the plat for a new well shall designate at least two reference points from which, after the drilling site has been cleared and graded, the proposed well location can be accurately reestablished by the well operator and, if desired, subsequently verified by the oil and gas inspector or any interested person. When the survey party stakes the proposed well location, it shall flag or otherwise mark the reference points, which may be permanent, such as standing trees, or temporary, such as set stakes; and they shall be beyond the limits of the drilling site but within 300 feet of the well location. A description of the reference points and their location with reference to the well location shall be indicated on a detail drawing or a narrative statement on the face of the plat.

(4) Description. Landmarks and permanently established property corners used shall be named and described on all plats. They shall include standing corner trees, set stones, iron pipes, T-rails, or other manufactured monuments; and existing wells (operating or abandoned) shall also be considered established

landmarks if said wells are platted and on file with the Department. If landmarks used are not property corners, they must be adequately referenced to property corners to permit their future location.

(5) Method of Showing Property Lines. The courses and distances of all farm lines adjoining and those connecting the said landmarks or farm corners within the scope of such well location plat, shall be shown thereon. All lines actually surveyed shall be shown on such plat in solid lines. Lines taken from deed descriptions only shall be shown by broken lines.

(6) Proven Elevation. The elevation of the surface of the location shall be given and it shall be tied to either a government bench or other point of proven elevation. The location of the government bench mark or the point of proven elevation shall be noted and described on the plat.

(7) North-South Line. A north and south line shall be given and point to the top of the plat.

(8) Scale and Size of Plat. If practicable, all plats shall be drawn to a scale of 1" = 2000' (1:24,000) or even multiples thereof for easy reduction of the plat photographically to a scale of 1" = 2000'. The plat shall be 8½ inches by 14 inches in size.

*start here*  
(9) Topographic Map Location of Well. The topographic map location of the well for which any permit under Code § 22-4-1k is being sought shall be shown on the plat by a "cross" with the measured distance in feet from the nearest 5 minute latitude and longitude intersection using the North East (upper right) border of the plat on the 15 minute (1:62,500 topographic map). If the 7.5 minute (1:24,000) topographic map is used, the topographic location shall be shown on the plat at a "cross" with the measured distance in feet from the nearest 2.5 minute latitude and longitude intersection using the North East (upper right) border of the plat. Each plat shall indicate the topographic map name and series whether 7.5 minute or 15 minute is used to show the well location.

(10) Wells. All wells within the scope of the plat, whether active, drilling or abandoned, shall be shown. The scope of every plat shall be sufficient to show all wells within 1,200 feet of the well which is the subject of the application; and in the case of an application for a shallow gas well with a depth of 3,000 feet or more that will penetrate a coal seam, the scope of the plat shall be sufficient to show all wells within 2,400 feet of the well which is the subject of the application. Each well so shown, including the subject well, shall bear a designation that permits the kind (oil, gas, liquid injection under Code § 22-4-4a, waste disposal, underground storage, or storage observation) and status (active, abandoned, or drilling) of each such well to be determined by the use of (i) API permit number (excluding State and County) for each well having such a permit number, (ii) in parentheses, and following the API number of such is listed, the kind and status numbers provided, below, and (iii) the symbols provided below. The kind and status numbers shall be as follows:

Oil wells

01- Shallow, active	04- Deep, active
02- Shallow, abandoned	05- Deep, abandoned
03- Shallow, drilling	06- Deep, drilling

Deep Gas wells

- 07- Production, active
- 08- Production, abandoned
- 09- Production, drilling
- 10- Underground storage, active
- 11- Underground storage, abandoned
- 12- Underground storage, drilling
- 13- Storage observation, active
- 14- Storage observation, abandoned
- 15- Storage observation, drilling

Shallow gas wells

- 16- Less than 3,000 feet, production, active
- 17- Less than 3,000 feet, production, abandoned
- 18- Less than 3,000 feet, production drilling
- 19- Less than 3,000 feet, underground storage, active
- 20- Less than 3,000 feet, underground storage, abandoned
- 21- Less than 3,000 feet, underground storage, drilling
- 22- Less than 3,000 feet, storage observation, active
- 23- Less than 3,000 feet, storage observation, abandoned
- 24- Less than 3,000 feet, storage observation, drilling
- 25- 3,000 feet or more, production, active
- 26- 3,000 feet or more, production, abandoned
- 27- 3,000 feet or more, production, drilling
- 28- 3,000 feet or more, underground storage, active
- 29- 3,000 feet or more, underground storage, abandoned
- 30- 3,000 feet or more, underground storage, drilling
- 31- 3,000 feet or more, storage observation, active
- 32- 3,000 feet or more, storage observation, abandoned
- 33- 3,000 feet or more, storage observation, drilling

Liquid injection wells under Code § 22-4-10a

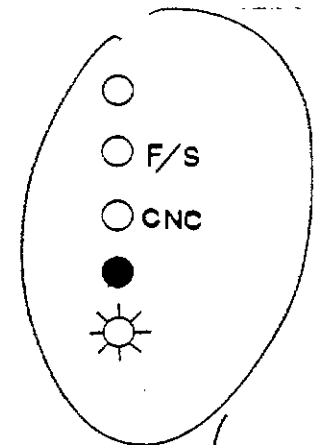
- 34- Active
- 35- Abandoned
- 36- Drilling or being converted

Waste disposal wells

- 37- Active
- 38- Abandoned
- 39- Drilling or being converted

The symbols shall be as follows:

- New drilling location
- New fracturing or stimulating location
- Cancelled application or permit
- Oil well
- Gas well



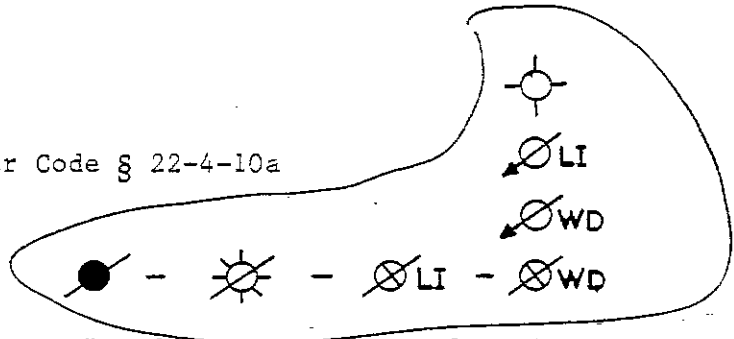
*leave space for dropping of symbols*

Dry hole

Liquid injection well under Code § 22-4-10a

Waste disposal well

Abandoned well



*Section*  
 (11) Other Surface Features. In addition to the surface features and owner identification data required by statute or by the foregoing specifications in this Regulation 11.02, the plat shall also show the following surface features lying within the scope of the plat: (i) water wells within two hundred feet of the well for which any permit under Code § 22-4-1k is being sought except for liquid injection or waste disposal wells, in which case water wells within one thousand feet of the well shall be shown; (ii) dwellings within two hundred feet of the well of which any such permit is being sought; (iii) streams; (iv) roads and highways; and (v) railroads, with the owners' names.

(12) Names. The plat shall state the names of the surface owners and the royalty owners of the land at the well location.

11.03. Plat Certification. Surveys and plats shall be made under the supervision of a registered professional engineer or licensed land surveyor entitled and licensed by law to practice in the State of West Virginia. The certificate shall be signed and certified by the registered professional engineer or licensed land surveyor in the following manner:

"I, the undersigned, hereby certify that this plat is correct to the best of my knowledge and belief and shows all the information required by law and the regulations issued and prescribed by the Department of Mines."

11.04. Re-use of Plats. After the initial permit for drilling a well, a subsequent application for any new permit involving the same well may be accompanied by an accurate copy of the plat accepted by the permit issued for the most recent previous application, updated as necessary to reflect new data or additional data now required by statute or these Regulations: Provided, That a new certification shall be necessary in the form required by Regulation 11.03.

*Section*  
 11.05. Permanent Character of Plats. Every plat submitted under Regulation 11 shall be of permanent character, that is, on linen or plastic or other material of comparable quality and with india or other ink of a nature to result in a depiction not subject to substantial degradation through time from exposure to ordinary conditions of temperature, humidity and light.

*Section*  
 12. Performance Bonds for Well Operators.

12.01. Separate Bonds. A separate bond furnished by a well operator in compliance with any section of Article 4, Chapter 22 of the Code shall be on Form IV-7, "Bond for Single Oil or Gas Well, Single Liquid Injection

Well or Single Waste Disposal Well".

12.02. Blanket Bonds. A blanket bond furnished by a well operator in compliance with any section of Article 4, Chapter 22 of the Code shall be on Form IV-8, "Blanket Bond for Oil and Gas Wells, Liquid Injection Wells, and Waste Disposal Wells".

*Section* 13. Regulations Related to Code § 22-4-3c. [Reserved.]

*Section* 14. Regulations Related to Code §§ 22-4-4 and 22-4-4a.

14.01. Certification of Record on Appeal. If an appeal is filed pursuant to Code §§ 22-4-4 or 22-4-4a, the Administrator shall be responsible for certifying and forwarding the entire record of the proceeding to the circuit court.

*Section* 15. Regulations Related to Code §§ 22-4-5, 22-4-6, 22-4-7, 22-4-8 and 22-4-8a.

15.01. Casing Not Exclusive. In addition to the casing required by Code §§ 22-4-5, 22-4-6, 22-4-7, 22-4-8, and 22-4-8a, there shall be used in each well such material and equipment and there shall be employed such additional procedures as are necessary for the purpose of separating high pressure zones from low pressure zones, the producing horizons, the water bearing strata, and mineable coal zones for the life of the well.

15.02. Multiple Casing Through Coal Seams.

(a) The coal protection string of casing required by Code §§ 22-4-5 through 22-4-8 to be installed through the workable coal seam or seams shall be in addition to the production string of casing.

(b) The coal protection string of casing required by Code § 22-4-5 shall have cement circulated in the annular space outside said casing. The volume of cement needed shall be calculated by using approved engineering methods to assure the return of the cement to the surface. In the event cement does not return to the surface, every reasonable attempt will be made to fill the annular space by introducing cement from the surface.

15.03. Fresh Water Casing. The fresh water protective string of casing required by Code § 22-4-8a shall extend 30 feet below the deepest fresh water horizon (being the deepest horizon which will replenish itself and from which fresh water or usable water for household, domestic, industrial, agricultural, or public use, may be economically feasibly recovered), and shall have cement circulated in the annular space outside said casing. The

volume of cement needed shall be calculated using approved engineering methods to assure the return of the cement to the surface. In the event cement does not return to the surface, every reasonable attempt will be made to fill the annular space by introducing cement from the surface. If the coal protection string of casing is cemented to the surface in accordance with prescribed procedure, this may also be considered a fresh water string for water strata above the coal.

15.04. Cement Strength. Cement placed in the annular space around any casing shall be allowed to set to a minimum compressive strength of 500 pounds per square inch using approved engineering data for the type of cement used. The waiting time for cement used in compliance with ~~Regulation~~ *Section* 15.05 shall be eight hours. The waiting time on any other cement shall in no case be less than eight hours.

15.05. Cement Type. Cement used to fill the annular space around the casing required in ~~Regulations~~ *Sections* 15.02 and 15.03 shall be American Petroleum Institute Class A Ordinary Portland cement with no greater than three percent calcium chloride and no other additives: Provided, That if the well operator furnishes satisfactory proof that different cement types are adequate, the Administrator may approve them.

*Section* 16. Regulations Related to Code § 22-4-8b. *Section*

16.01. Well Records during Permitted Work. The well operator or his drilling contractor or driller shall keep at the well location a copy of the application as permitted, including the associated plat and Construction and Reclamation Plan required by ~~Regulation~~ 7.02; and the well operator or his drilling contractor or driller shall make and preserve at the well location accurate records of the well work done under the permit. The records shall be complete enough to justify, as applicable, the entries of well work done and related data on Form IV-35, "Well Operator's Report of Drilling, Stimulating or Physical Change", Form IV-36, "Well Operator's Report of Initial Gas-Oil Ratio Test", Form IV-37, "Pre-Operation Certificate for Liquid Injection or Waste Disposal Well", and Form IV-38, "Affidavit of Plugging and Filling Well"; but such forms IV-35 through IV-38 shall reflect data discovered or changes made after the permitted well work has been finished and before the forms are filed. Unless such records of well work done are made by the well operator or owner, a copy of all such records shall be delivered to the well owner or operator.

16.02. Filing of Well Record and Related Forms. (a) Within 90 days after the completion of permitted well work, two copies of Form IV-35, "Well Operator's Report of Drilling, Fracturing and/or Stimulating or Physical Change", containing the geological information required by Code § 22-4-8b in the form specified by said Form, Form IV-36, "Well Operator's Report of Initial Gas-Oil Ratio Test" (except that, where the well has not been connected within such 90-day period to pipelines or production tanks, Form IV-36 shall be filed no more than 15 days after such connection), Form IV-37, "Pre-Operation Certificate for Liquid Injection or Waste Disposal Well", and Form IV-38, "Affidavit of Plugging and Filling Well", shall be filed

by the well owner or operator with the Administrator. Such forms need not repeat well record information for any work (whether permitted or not) done prior to and not part of the permitted work to which said forms apply. Such forms shall correct or add to the well log and other records made and preserved at the well location by specifying (i) the casing, treatment, or physical changes performed after completion of the permitted work, and (ii) the additional formations or corrected information discovered, by electric logs or other means, after completion of the permitted work.

(b) Deep Well Confidential Information; Filing of Well Logs. (1) Within 90 days after the completion of drilling or recompletion of a deep well, the well operator shall also file 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, the well operator 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 additional information shall be required unless the well operator has compiled such information in the ordinary course of business. No interpretation of the data is to be filed.

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

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

16.03. Restriction on New Applications. Except for good cause shown, no application required by Code § 22-4-1k may be filed for any work after the initial completion of a well unless all forms required by Regulation 16.02 have been completed and filed with the Department.

*Section*  
17. Regulations Related to Code § 22-4-9.

17.01. Notice and Application to Plug and Abandon; Time of Filing. (a) (1) The Notice of intention to plug and abandon a well, required by Code § 22-4-9, shall conform to ~~Regulation~~ *Section* 7.02(c).

(2) The well operator shall also submit copies of all logs in his possession when the Administrator specifically requests the same under Code § 22-4-1k(c)(10)(ii).

(b) The completed Forms IV-4(A) and IV-4(B) shall in all cases be filed with the Department and delivered to the coal operator, owner or

lessee in the manner and within the time limits set out in subsections (a), (b), and (c) of Code § 22-4-9 for the "notices" referred to therein.

(c) The owner or operator of every well presumed to have been abandoned under the provisions of Code § 22-4-7 shall file Form IV-4 within 60 days after such abandonment, unless the Department waives this requirement for good cause shown.

17.02. Work Order; Manner and Method of Plugging. <sup>Section</sup> (a) On Form IV-4B, "Application to Plug and Abandon a Well" (see Regulation 7.02(c)), the applicant for a permit to plug a well shall set forth a detailed statement of the manner in which the work of plugging and filling such well is to be done, including (1) location (by depth), (2) kind and length of plugs to be used and the method chosen to insure that no gap exists between the bottom of the coal protection string of casing and the expanding cement plug thereunder, (3) plans for mudding, cementing, and filling, (4) plans for testing, and for shooting and removing casing, and (5) all other pertinent information regarding said plugging and filling, all of which shall be in compliance with Code § 22-4-10.

(b) Where the well operator proposes to plug or to clean out and replug a well in the manner specified by Code § 22-4-10(c), he shall furnish the alternate cost estimates for performing such well work in the manner specified by Code § 22-4-10(d)(3) only when a coal operator, owner or lessee has filed a Form IV-16, "Request by Coal Operator, Owner or Lessee for Plugging under Code § 22-4-10(d)".

17.03. "Verbal Permission" to Plug. (a) The "verbal permission" under Code § 22-4-9(c) in the event the well to be plugged and abandoned is one on which drilling or reworking operations have been continuously progressing pursuant to authorization granted by the Department shall be by the Administrator, or the supervising inspector, or any inspector who is available to supervise the plugging work. Unless such verbal approval is given by the Administrator, the well operator shall notify the Administrator's office by telephone no later than the next regular working day.

(b) Unless the well operator proposes to plug the well in a manner allowed by Code § 22-4-10(d)(3), the well operator shall contact the coal operator or the coal owner or lessee who has filed a declaration under Code § 22-4-20, to give the best feasible opportunity for the coal operator or owner or lessee to make a plugging request under Regulation 17.05.

17.04. Objections to Proposed Plugging. <sup>Section</sup> Objections to the proposed plugging of a well, whether by the Department or by any affected person, shall not be made except for violation or impending violation of the provisions of Code § 22-4-9 or this Regulation or of Code § 22-4-10 or Regulation 19. The Administrator shall promptly rule on such objections at a hearing after no less than five days' notice to the applicant and objectors.

17.05. Plugging Method Request by Coal Operator or Coal Seam Owner.

(a) The request by a coal operator or coal seam owner made under Code

§ 22-4-10(d), for a well to be plugged in any manner allowed by Code § 22-4-10(d)(3) rather than by the method provided in Code § 22-4-10(c), shall be made on Form IV-16, "Request by Coal Operator, Owner or Lessee for Plugging under Code § 22-4-10(d)".

(b) The well operator or owner in his sole discretion may waive the provision in Code § 22-4-10(d) that such request "must be filed in writing with the department prior to the scheduled plugging of the well". In the event of such waiver, the cost of undoing any part of the plugging work in order to comply with the coal operator's or coal seam owner's request shall be treated as a part of the cost of complying.

(c) The Department shall make the findings and issue an order in accordance with Code § 22-4-10(d)(2) by endorsement on or attachment to said Form IV-4.

*Section*  
17.06. Statutory Affidavit. The affidavit required by Code § 22-4-9 and Regulation 16.02 shall be made on IV-38, "Affidavit of Plugging and Filling Well". The affidavit shall be executed by at least two parties doing the actual work, whether they are employees of a service company or a plugging contractor, or the well owner or well operator.

*Section*  
18. Regulations Related to Code § 22-4-10.

18.01. Materials Used in Plugging. The non-porous materials and cements mentioned in Code § 22-4-10 must be specified in the work order portion of Form IV-4(B), "Application to Plug and Abandon a Well". They must be of a kind and quality accepted by the oil and gas industry and approved by the Department as suitable for the intended purpose: Provided, That in case the well operator furnishes satisfactory proof that a non-standard material or cement is suitable for the intended purpose and otherwise complies with all provisions of law and accepted standards, the Administrator may approve such non-standard material or cement.

18.02. Cleaning Out and Replugging Application; Objections; Order.

(a) Application under Code § 22-4-10(e) to clean out and replug a previously plugged well shall be made by a completed Form IV-4, "Notice of Intention and Application to Plug and Abandon a Well", and by the associated documents required to accompany said Form IV-4 by Regulation 17.01.

*Section*      *Section*  
(b) Objections to a Form IV-4 application to clean out and replug a well whether by the Department or by any affected person, shall not be made except for violation or impending violation of the provisions of Code § 22-4-9 or Regulation 17 or of Code § 22-4-10. If such objection is filed or made, a hearing date shall be set and notice given by the Department by endorsement on the objection, mailed in accordance with Code § 22-4-10(e). The endorsement shall indicate the date, time and location of the hearing, identifying the well by reference to its API well number.

(c) The Department's order permitting or rejecting such application shall be endorsed on the Form IV-4 application, and shall be mailed to the parties indicated and in the method provided by Code § 22-4-10(e).

*Section*  
19. Regulations Related to Code § 22-4-10a.

*Section*  
[See Regulation 9, "Operational Regulations on Liquid Injection and Waste Disposal Wells".]

*Section*  
20. Regulations Related to Code § 22-4-11.

20.01. Coal Operator's Maps; Filing. All coal operators shall cause to be placed on their property maps the location of all oil or gas wells penetrating coal seams, whether they be active wells, wells being drilled, or abandoned wells; and all such wells coming within the scope of any mine map shall be shown thereon. All coal operators shall diligently endeavor to ascertain, collect and compile all available data concerning the location of all wells which have been drilled on said property and shall make and keep records of all such data.

20.02. Five-Hundred-Foot Notice of Intention to Extend Mine Workings; Maps. (a) The notice required by Code § 22-4-11 before extension of certain coal removal or mine workings within 500 feet of a well shall be either (1) on Form IV-44, "Notice by Coal Operator of Intention to Extend Mine Workings Within 500 Feet of Well", including on the reverse thereof maps and plans showing all the information required by Code § 22-4-11, or (2) if the operator intends to mine or conduct its mining operations within two hundred feet of any well or to mine through any well, by application under Regulation 20.03.

*Section*  
(b) The coal operator shall file two copies of Form IV-44 and maps and plans with the Department, and send additional copies thereof to each affected well operator, in the manner provided by Code § 22-4-11.

20.03. 200-Foot Petition; Plat and Other Maps; Notice of Receipt; Notice of Hearing; Approval. (a) The application required by Code § 22-4-11 of a coal operator "for leave to mine or remove coal or conduct its mining operations within two hundred feet of any well or to mine through any well" shall be made on Form IV-45, "Coal Operator's Petition to Operate within 200 Feet of or to Mine through a Well", including on the reverse thereof maps and plans showing all the information required by Code § 22-4-11. The maps and plans may be copies of those submitted earlier in connection with any other filing by the coal operator, updated as necessary to reflect new data or additional data now required by statute or these Regulations. The coal operator shall file two copies of said Form IV-45 and maps and plans with the Department, and send an additional copy thereof to each affected well operator, in the manner provided by Code § 22-4-11.

(b) The Department's statutory notice of hearing to the coal operator and the well operator shall be on Form IV-47, "Notice of Statutory Hearing on Coal Operator's Form IV-45 Petition".

(c) The Form IV-45 petition, being verified as required by Code § 22-4-11, shall be accepted as prima facie proof of the propriety of the coal operator's proposed extension of mine workings or mining through of a well. Accordingly, in the absence of contrary evidence offered by any person or by the Department, the petition may be approved without the necessity of appearance or additional evidence by the coal operator.

(d) If the coal operator does not appear at the hearing set above, and if evidence contrary to the Form IV-45 petition is offered, then the hearing will be adjourned until further notice, to give the coal operator an opportunity for cross-examination and for evidence in rebuttal.

(e) The Department's approval of a coal operator's Form IV-45 petition, and any conditions to or modification thereof, shall be recorded by endorsement on or attachment to the petition. The Department will mail copies of the approved petition to the coal operator and the well operator.

20.04. Progress Maps. After the coal operator has filed its Form IV-44 notice or the Department has approved a Form IV-45 petition, the coal operator shall submit a progress map to the Department at six-month intervals, on which shall be shown the permit number. Such maps shall be required until mining within 500 feet of the well has ceased or until the well has been mined through.

*Section*  
21. Regulations Related to Code § 22-4-12.

21.01. Annual Report of Oil and Gas Production. (a) An annual report of oil and gas production from each lease or tract shall be filed with the Administrator on or before the succeeding March 31. This report shall be on Form IV-39, "Report of Annual Production". The report must identify and state the production from every oil and gas well not yet plugged and abandoned, regardless of the status of the well. The first report under these Regulations must be filed by March 31, 1979, for the year 1978. The data shall be submitted by either the well operator or the well owner or a person specified by the operator or owner in the smallest units of measurement available, by well, lease or unit. Oil shall be measured in barrels, and gas shall be measured in thousand cubic feet.

(b) Measurement of Oil. The volume of oil production shall be determined through the standard practices of common carriers in the State of West Virginia. This volume of oil shall be that same volume on which the royalty interest was determined and will be of acceptable "pipeline quality."

(c) Measurement of Gas. (1) In case a meter has been set for each well, the gas production for each well shall be reported, with each well identified by API well number for each well having such a number, and otherwise by the operator's well number.

(2) In case of common or master meter measurement, when one meter measures gas production for more than one well, the production from each common meter will be reported, and the wells so measured shall be identified by API well number for each well having such a number, and otherwise by the operator's well number, and the production estimated for each well shall be reported if such estimates are made.

(3) In the case of calculated value, where no measurement of gas is available for an individual well or group of wells, the calculated volume of gas production using accepted engineering methods will be reported, and the wells so measured shall be identified by API well number for each well having such a number, and otherwise by the operator's well number, and the production estimated for each well shall be reported if such estimates are made.

21.02. Accidents. If any explosion or other accident causing loss of life or serious personal injury occurs in or about a well or well work on a well, the well operator or his contractor shall give immediate notice, stating the particulars of the explosion or accident, to the District Oil and Gas Inspector or the Administrator.

*Section* 22. ~~Regulations Related to Code § 22-4-12a.~~ [Reserved.]

*Section* 23. Regulations Related to Code § 22-4-12b.

23.01. Reclamation under the Construction and Reclamation Plan.

(a) A proposed reclamation method for construction of roads, drilling locations and pits, if any, or alternative overflow prevention facilities, shall be submitted on Form IV-9, "Construction and Reclamation Plan", with the application for any permit required by Code § 22-4-1k except a permit to plug a well. See ~~Regulation~~ *Section* 7.02.

(b) Such proposed reclamation methods shall be approved by the Administrator or his designate, prior to the issuance of the permit.

(c) All reclamation shall be done under the supervision of the Administrator. The reclamation may be altered from that set out in said Form IV-9, if found necessary, with the consent of the Administrator or his designate, due to topography or other conditions not apparent upon initial submission and approval of the proposed reclamation methods.

23.02. Access Roads. All access roads shall be constructed and maintained to prevent excess sedimentation; to maintain natural drainage areas; and if practicable, to direct or carry away from disturbed areas surface water run-off from undisturbed areas.

23.03. Drilling Sites. Drilling sites shall be constructed and maintained to prevent surface run-off from carrying excessive sedimentation away from the site; to confine all materials leaked or spilled as a result of drilling

operations to the drilling site and to prevent excess sedimentation by placing in any stream any material moved or cut. Upon the plugging of a non-productive well, whether as a continuous operation with other permitted well work or otherwise, all cementing and other waste materials resulting therefrom shall be retained on the drilling site.

23.04. Pits. All drilling pits shall be constructed, maintained and reclaimed in such manner as to prevent seepage, leakage and overflow; to divert surface water from the pit; and to provide impervious materials for the lining if existing soil is not impervious. If an operator is unable to prevent overflow from any drilling pit, the District Inspector shall be notified by the well operator; and additional drilling pits or alternative overflow facilities shall be constructed under the supervision of the Administrator to prevent said overflow. All drilling pits and alternative overflow prevention facilities shall be constructed, maintained and reclaimed so as not to be left in such condition as to constitute a hazard or to prevent use of the surface for agricultural purpose after the expiration of the six-month or extended period for reclamation prescribed by Code § 22-4-12b.

23.05. Surface and Underground Water Pollution. (a) Before commencing to drill any well for oil and gas, the well owner or operator shall make proper and adequate provision to prevent surface and underground water pollution.

(b) When rotary drilling penetrates a formation known to contain substantial amounts of salt water, drilling will continue to the next casing point by drilling with mud, foaming or other satisfactory method for the purpose of isolating the salt water in the formation or preventing the discharge of salt water per se into a fresh water horizon, or above the surface of the ground. In the case of foaming, it is recognized that a certain amount of salt water, mixed with cuttings, will be discharged above the surface of the ground which will be contained in sump pits no larger than necessary for this purpose, or handled in such a manner that salt water per se will not be discharged into fresh water.

23.06. Notifications Prior to Commencement of Work. Prior to the construction of roads, locations and pits for any permitted well work, the operator or his contractor shall notify the proper oil and gas inspector to allow him the opportunity of inspecting and approving the construction and method of reclamation for all proposed areas to be disturbed in siting, drilling, completing or producing the well. In addition, the well operator or his contractor shall notify the proper district oil and gas inspector 24 hours before actual permitted well work has commenced.

23.07. Requirements for Production and Gathering Pipelines. (a) This Regulation prescribes the minimum requirements for the safe and efficient installation of all production and gathering pipelines installed, relocated or replaced after June 9, 1983, which are not regulated under the jurisdiction of 49 C.F.R. Part 192.

(b) The Administrator reserves the right to direct the burial of any line installed under this Regulation to protect the public safety, by order issued after notice and hearing under Section 24 of these Regulations.

(c) Subject to the reservation in the preceding part (b) of this Regulation, production and gathering lines subject to this Regulation shall conform with the following:

(1) Lines shall be buried where practical and reasonable; and practical and reasonable shall be construed to mean lines should be buried in the following situations:

- (i) Where the line crosses agricultural land as defined in Code § 19-19-2;
- (ii) Where an unburied line would prohibit use of a pre-existing private roadway or other means of access to a part or all of surface land;
- (iii) Where the line can not more practically and reasonably be securely suspended to cross stream beds;
- (iv) Where the line crosses a public road, in which event it shall be buried and otherwise installed in accordance with the rules of the public agency having jurisdiction over the road; and
- (v) Where the Administrator decides prior to installation that burial would be practical and reasonable.

(2) All buried lines shall be installed with a minimum of 18 inches of cover, except where solid rock is encountered, in which case the minimum cover shall be six inches;

(3) Whenever a buried line crosses a pre-existing public or private roadway, the location of the line shall be clearly marked at the point of crossing by an appropriate marker; and

(4) A suitable conductive wire shall be installed with plastic pipe to facilitate locating it with an electronic pipe locator: Provided, That any other suitable material or means for accomplishing this purpose may be employed.

(d) Notwithstanding the preceding part (c) of this Regulation, the surface owner(s) of record of any tract subject to the provisions of Code § 22-4-12b(d) shall have the right to prescribe that a pipeline or specified parts thereof need not be buried. The prescription shall be on Form IV-75, "Prescription Not to Bury Production or Gathering Line", unless it is included in the recorded right-of-way or lease under which the pipeline is to be installed, which right-of-way or lease was granted by the then surface owner of record. Once executed and delivered to the person who proposes to install and operate the line, the prescription may not be revoked by any subsequent surface owner(s) of record.

(e) This Regulation shall not be construed to prohibit a surface owner from preparing a safe crossing of a pipeline for a new means of access to another part of his tract.

*Section*  
24. Regulations Related to Code § 22-4-13(b).

24.01. Hearings. All hearings conducted by the Department pursuant to Article 4, Chapter 22 of the Code or these Regulations shall be conducted in accordance with the provisions of Article 5, Chapter 29-A of the Code. If any provision of these Regulations is inconsistent with any provision of said Article 5, the provision of said Article 5 shall control.

Notice to the public shall be given as follows:

(1) The Department shall file with the Secretary of State's office a Notice containing the time, date and place of all regularly scheduled meetings of the Department.

(2) The Department shall file with the Secretary of State's office a Notice or Notices containing the time, date and place of all hearings to be heard by the Department pursuant to Code § 22-4B-7. Said Notice shall be filed with the Secretary of State at least ten (10) days before the date set for the hearing.

(3) The Department shall file with the Secretary of State's office a Notice containing the time, date, place and purpose of all special meetings to be held by the Department. Said Notice must be filed with that office at least twenty-four (24) hours in advance.

(4) Copies of all Notices required to be filed by this Regulation with the Secretary of State's office shall also be delivered to the Capitol News Media Office W-123, State Capitol Building.

(5) None of the provisions of this Regulation shall apply to Department actions taken in the event of an emergency requiring immediate official action.

24.02. Consolidation of Proceedings. The Department may at any time order a proceeding set for hearing under Article 4, Chapter 22 of the Code or these Regulations consolidated with any other proceeding then pending before the Department which involves the same parties and similar issues of law and fact.

24.03. Filing and Service of Documents. (a) Where to file. All documents required to be filed in a proceeding under Article 4, Chapter 22 of the Code or these Regulations shall be filed with the Office of Oil and Gas, West Virginia Department of Mines, 1615 Washington Street, East, Charleston, West Virginia.

(b) How to File. All filing may be accomplished by personal delivery or first class mail.

(c) When filing effected. Filing is effective upon delivery.

(d) Copies to be served. Copies of all documents filed in any proceeding under Article 4, Chapter 22 of the Code or these Regulations shall be served upon all other parties to the proceeding.

(e) Method of service; service of attorney. Service of documents shall be accomplished by personal delivery or by registered or certified.

mail, return receipt requested, unless otherwise provided in Article 4, Chapter 22 of the Code or these Regulations. Whenever a party is represented by an attorney who has signed any document filed on behalf of such party, service thereafter shall be made upon the attorney and may be made by first class mail.

(f) When service effected. In the case of personal delivery, service is effective upon delivery. In the case of mailing, service is effective upon mailing.

(g) Proof of service. All documents required to be served in a proceeding under Article 4, Chapter 22 of the Code or these Regulations shall be accompanied by proof of service in the form of a certificate of service. The certificate of service shall include a statement of how service was accomplished.

24.04. Notice of Hearings. Unless otherwise specified in Article 4, Chapter 22 of the Code, no hearing shall be conducted on less than 10 days' written notice to the parties.

24.05. Presiding Officer. The Administrator, or a hearing officer employed under Code § 22-4-1a(c)(6), shall preside over every hearing conducted pursuant to Article 4, Chapter 22 of the Code or these Regulations except for a hearing under Code §§ 22-4-1d or 22-4-1e.

24.06. Powers of Presiding Officer. The Presiding Officer over every hearing, subject to the rules set forth in this section, may:

- (1) Administer oaths and affirmations;
- (2) Issue subpoenas in accordance with the provisions of Code § 29-A-5-1;
- (3) Rule upon offers of proof and receive relevant evidence;
- (4) Permit evidentiary depositions to be taken and read as in civil actions in the circuit courts of this state;
- (5) Permit discovery depositions;
- (6) Regulate the course of a hearing;
- (7) Dispose of procedural requests or similar matters;
- (8) Hold conferences for the settlement or simplification of the issues with the consent of the parties; and
- (9) Take any other action in connection with such hearing authorized by law.

24.07. Representation at Hearings. At hearings held pursuant to Article 4 of this Code or these Regulations, any party may represent himself or be represented by an attorney at law admitted to practice before the courts of any state or the District of Columbia. In addition, any party which is also an operator may be represented by a full-time employee.

24.08. Conduct of Hearing. (a) Conduct of attorneys before the Department shall be the same as required of attorneys before the Circuit

Courts of the State of West Virginia. Any person testifying in response to a subpoena or subpoena duces tecum issued by a Presiding Officer 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 Presiding Officer. Witnesses shall be examined with courtesy and respect, and their good faith shall be presumed.

(b) Smoking shall not be permitted in the hearing room during session or during recess.

(c) Electronic recording of any hearing is prohibited except as may be required by the Department for preserving a record thereof for the use of the Department in connection with the matter being heard. The taking of photographs in or broadcasting of proceedings from any hearing room or so close thereto as to disturb the hearing is prohibited.

(d) At the presiding officer's discretion, or on motion of any party, a transcript of testimony shall be taken and preserved as part of the permanent record. Parties may examine the official transcript or purchase copies thereof from the court reporter or Department.

24.09. Hearings to be Public. All hearings to be conducted under these rules shall be open to the public.

24.10. Proposed Findings, Conclusions and Orders. The Presiding Officer may request the submission by parties of proposed findings of fact, conclusions of law and orders, together with a supporting brief. Such proposals and briefs shall be served upon all parties, and shall contain adequate references to the record and authorities relied upon.

24.11. Written Orders. (a) As soon as practicable after conclusion of a hearing, the Presiding Officer shall consider the evidence and any proposals or briefs filed under Regulation 24.10 and issue a written order which shall include a statement of:

(1) findings and conclusions and the reasons therefor on the material issues of fact and law; and

(2) the appropriate ruling or order granting the permit, granting the permit for an alternate location, or denying the permit.

(b) A copy of the order shall be served by certified mail upon all parties at the time the order is issued.

24.12. Re-opening; Re-hearing; Modification. (a) Applications for re-opening a proceeding after hearing and before written order shall be made by petition filed prior to service of an order. Such petition shall state specifically the grounds relied upon and, if it be for the purpose of introducing additional evidence, shall also state the nature and purpose of the evidence to be introduced.

(b) Applications for re-hearing after issuance of a written order shall be made by petition filed within 30 days after service of such order.

Such petition shall state specifically the grounds relied upon and, if any written order is sought to be vacated, reversed or modified by reason of (1) matters arising since the issuance of such order, (2) consequences which would result from compliance with the Department's order or (3) facts not in the possession of the petitioner prior to issuance of such order, such reasons shall also be stated.

(c) Applications for modification of written orders, which seek only a change in the date such order shall take effect, shall be made by petition filed within 30 days after service of the written order, except that, in the event of unforeseen emergencies satisfactorily shown by the petitioner, such relief may be sought informally by telegram or otherwise, upon notice to all parties or attorneys who appeared in the proceeding.

(d) A copy of each petition filed under this section shall be served on all other parties to the original proceeding and such petition shall be accompanied by a certificate showing service upon such parties. Within 15 days after such service, an adverse party may file and serve a reply to the petition.

(e) Upon the filing of the reply or upon the failure of an adverse party to reply within 15 days after service of a copy of the petition on such party, the Department shall consider the petition, the replies thereto, and the record of the proceeding, and, if it determines a hearing upon the petition to be necessary, shall, after 10 days' written notice to all parties, hold such hearing. As soon as practicable after consideration of the petition, the replies thereto and the record of the proceeding, the Department shall issue an order either granting in part or denying the relief requested in the petition.

(f) The filing of a petition seeking (i) re-hearing or re-argument after issuance of a written order or (ii) modification of a written order pursuant to subsections (b) and (c) of this section, shall not stay the time for appeal of such written order to the circuit court unless the Department orders re-hearing or re-argument or modifies the written order, in which case, the time for appeal pursuant to Code § 22-4-4 shall begin to run anew after the Department's final action.

24.13. Appeal. If an appeal is filed pursuant to Code § 22-4-4, the Administrator shall be responsible for certifying and forwarding the entire record of the proceedings to the circuit court.

*Section*  
25. Regulations Related to Code § 22-4-14.

25.01. Necessary Equipment. All well owners or operators, contractors, drillers, pipeline companies, or gas distributing companies producing or transporting oil or gas for any purpose, shall use every possible precaution in accordance with accepted and approved methods to prevent waste of oil or gas, and to prevent the pollution of the water of the State in drilling and producing operations, or in transporting or distributing such products, and shall not wastefully utilize oil or gas or allow the same to leak or escape from natural reservoirs, wells or pipelines.

25.02. Commercial Well Properly Equipped. Whenever oil or natural gas in commercial quantities, in a well-defined oil or gas-bearing stratum, known to contain oil or natural gas in such quantities, is encountered in any well drilled for oil or gas in this state, all such strata shall be adequately protected from infiltrating waters.

25.03. Protection of High Pressure Wells. On all wells where high pressure and large volumes can be reasonably expected, properly working pressure blow-out preventer equipment shall be used on the inner string of casing at all times. When the inner string of casing has been placed in the well and cemented in, said casing and blowout equipment (both blind and pipe rams, or equivalent) shall be installed and tested by operation and pressure to a minimum pressure which commensurates with the objective formation pressure before drilling is continued.

25.04. Preparation for Drilling In. Equipment for conserving oil and gas shall be provided before drilling in. In all proven or well-defined oil or gas fields or where it can be reasonably expected that oil or gas in commercial quantities will be encountered, adequate preparations shall be made for the conservation of oil or gas before drilling any well.

25.05. Multi-Zone Production. So far as it is practical to do so, gas being produced at a high pressure should be separated in the well from that being produced at a substantially lower pressure by means of casing, tubing, casing heads and packers, in order to eliminate the flow of high pressure gas into the low pressure sands.

25.06. Drilling Deeper. Nothing in this Regulation shall be construed to prevent or discourage drilling deeper in search for oil or gas in any well.

Section

26. ~~Regulations Related to Code § 22-4-15.~~ [Reserved.]

" 27. ~~Regulations Related to Code § 22-4-16.~~ [Reserved.]

" 28. ~~Regulations Related to Code § 22-4-17.~~ [Reserved.]

" 29. ~~Regulations Related to Code § 22-4-18.~~ [Reserved.]

" 30. ~~Regulations Related to Code § 22-4-19.~~ [Reserved.]

" 31. ~~Regulations Related to Code § 22-4-20.~~ [Reserved.]

P A R T I I

CERTIFICATION OF GAS WELLS  
UNDER THE NATURAL GAS POLICY ACT OF 1978  
AND CODE § 22-4-1a(c)

*Section* 32. General Introduction.

32.01. Introduction Findings. (a) The Natural Gas Policy Act of 1978 was signed into law by the President of the United States on November 9, 1978. Pursuant to the provisions of that Act and to regulations promulgated by the Federal Energy Regulatory Commission, the various states are permitted to make certain findings as to various classes of natural gas wells located within the State. The Office of Oil and Gas of the Department of Mines has been authorized to act as the jurisdictional agency for the State of West Virginia to implement the requirements of the Natural Gas Policy Act.

(b) Part 2 of these Regulations supersede the Emergency Regulations promulgated by the Oil and Gas Division to implement the provisions of the Natural Gas Policy Act of 1978 and which were promulgated, filed with the Secretary of State and made effective on December 27, 1978.

32.02. Scope. The regulations set forth herein shall govern and apply to proceedings under Chapter 22-4-1A(c)(11) of the Code concerning gas wells and implementing the Natural Gas Policy Act of 1978 and pertinent federal regulations.

32.03. Authority. These Regulations are promulgated pursuant to the authority of Code §§ 22-4-1a(c)(11) and 22-4-13, Article 3, Chapter 29A of the Code and Natural Gas Policy Act.

32.04. Effective Date. These Regulations were promulgated on the 28th day of March, 1979, and became effective on the 25th day of July, 1979, except for the specification of (i) an increased filing fee, and (ii) changes in the number of copies in filings, and (iii) definition of proration unit which were promulgated on the \_\_\_\_\_ day of \_\_\_\_\_, 1983, become effective on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and were filed on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

32.05. Filing Date. Part II of these Regulations were filed in the Office of the Secretary of State on the 28th day of March, 1979, except for the specification of (i) an increased filing fee, (ii) changes in the number of copies in filings, and (iii) definition of proration unit which were promulgated on the \_\_\_\_\_ day of \_\_\_\_\_, 1983, become effective on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and were filed on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

*Section*

33. Definitions. The Following Definitions are applicable to these regulations used for purposes of implementing the Natural Gas Policy Act of 1978 and are not intended to be used in any other context.

33.01. Statutory Definitions. As used in these Regulations, "Administrator", "Department" or "Department of Mines", "Operator", and "Person" shall have the meaning set forth in Code § 22-4-1.

33.02. Definitions Adopted by Regulation. (a) General. Unless the context in which used clearly requires a different meaning as used in these Regulations:

(1) The term "Code" shall mean the West Virginia Code of 1931, as amended.

(2) "FERC" shall mean the Federal Energy Regulatory Commission.

(3) "NGPA" shall mean the Natural Gas Policy Act of 1978.

(b) Specific Definitions.

(1) The term "natural gas" shall mean either natural gas unmixed or any mixture of natural and artificial gas.

(2) The term "well" shall mean any well for the discovery or production of natural gas, crude oil, or both.

(3) The term "new well" shall mean any well, the surface drilling of which began on or after February 19, 1977, or the depth of which was increased by means of drilling on or after February 19, 1977 to a completion location which is at least 1,000 feet below the depth of the deepest completion location of such well attained before February 19, 1977.

(4) The term "old well" shall mean any well other than a new well.

(5) The term "marker well" shall mean any well from which natural gas was produced in commercial quantities at any time after January 1, 1970 and before April 20, 1977, including a well, the depth of which was increased on or after February 19, 1977, to a completion location at least 1,000 feet below the depth of the deepest completion location of such well attained before February 19, 1977: Provided, That the term "marker well" shall not include a well the surface drilling, of which began on or after February 19, 1977.

(6) The term "reservoir" shall mean any producible natural accumulation of natural gas, crude oil, or both confined by impermeable rock or water barriers, and characterized by single natural pressure system or confined by lithologic or structural barriers which prevent pressure communication.

(7) The term "completion location" shall mean any subsurface location from which natural gas is being, or has been produced in commercial quantities.

(8) The term "marker well completion location" or completion location when used with reference to any marker well shall mean any subsurface location from which natural gas was produced in commercial quantities after January 1, 1970 and before April 20, 1977.

(9) The term "Mcf" used with respect to natural gas shall mean 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds per square inch (absolute) and a temperature of 60 degrees Fahrenheit.

(10) The term "Btu" shall mean British Thermal Unit.

(11) The term "month" shall mean a calendar month.

(12) The term "mile" shall mean a statute mile of 5,280 feet.

(13) The term "jurisdictional agency" shall mean the West Virginia Department of Mines, Office of Oil and Gas.

(14) The term "production in commercial quantities" shall mean production of natural gas from a well or reservoir which is either sold and delivered to one other than the operator, or retained by the operator or any owner of the production at severance for beneficial economic use: Provided, That natural gas used for the testing of natural gas wells or for other field uses which are production related, shall not be considered produced in commercial quantities.

(15) The term "recognized enhanced recovery techniques" shall mean processes or equipment, or both, which when performed or installed, increase the ultimate recovery of gas from the well, including mechanical or chemical stimulation of the reservoir formation, and devices installed in the well bore or on the surface: Provided, That normal well maintenance repair or replacement of equipment or facilities do not qualify as enhanced recovery techniques.

(16) The term "proration unit" shall mean an area around a well as per the following:

- (i) For all shallow wells with a depth less than 3,000 feet, the proration unit will have a 1,000 foot radius and is a proration unit for only the formations for which a well has been completed for production or target formations on wells spudded but not yet completed;
- (ii) For shallow wells with a depth of 3,000 feet or more, the proration unit will have a 1,500 foot radius and is a proration unit for only the formations for which a well has been completed for production or target formations on wells spudded but not yet completed;

and

- (iii) For all deep wells, the proration unit will be the drilling unit as defined in Code § 22-4A-2(14).

*Section*  
34. Filing Requirements.

34.01. General Requirements. (a) No application under these Regulations will be certified until such time as a copy of Form IV-1, "Designation of Agent by Well Owner or Operator", has been filed.

(b) All Series IV forms promulgated by the Office of Oil and Gas and required by these Regulations may be replaced by copies of any applicable predecessor form promulgated by the Oil and Gas Division or by equivalent company or operator forms.

(c) If an Operator wishes to seek a determination that a well qualifies for more than one category under NGPA, a separate application must be submitted for each category for which a determination is desired.

(d) Each application must be accompanied by a filing fee of forty dollars. Where an Operator is submitting several applications at one time, a single check may be submitted for a sum equal to the number of applications multiplied by forty dollars.

(e) Such other information as the Office of Oil and Gas may require in order to establish by substantial evidence that the well qualifies for the NGPA category for which a determination is sought.

34.02. New Onshore Wells Under § 102 of the NGPA. For each well for which certification is sought under § 274.202 of the FERC Regulations implementing the NGPA, the following shall be submitted by the Operator:

(a) For wells more than 2.5 miles from a marker well:

(1) 4 copies of FERC Form 121;

(2) 3 copies of Form IV-6; "Well Plat";

(3) 3 copies of Form IV-35; "Well Operator's Report of Drilling";

(4) 4 copies of Form IV-48WC, "State Application for Well Classification";

(5) 2 copies of Form IV-51WC, "Well Classification Form; Wells Drilled More than 2.5 Miles from a Marker Well";

(6) A plat to the scale of 1-inch equals 4,000 feet produced on some high-quality material, and prepared by a licensed land surveyor or registered engineer, showing all wells within 2.5 miles of the well for which certification is sought and also showing all wells which are producing, or produced after January 1, 1970, natural gas within said 2.5 mile radius and identifying

each such well by the last four digits of the API permit number;

(7) A separate sheet tabulating all wells identified on the plat required by subsection (a)(6) as to linear distance, depth of the top of the producing formation, and the geological name of the formation;

(8) Electric logs and directional drilling surveys, if performed in the normal course of drilling and completion of the well; and

(9) Satisfactory proof of service that a copy of the complete filing has been served on the first purchaser, if known.

(b) For wells more than 1,000 feet deeper than a marker well:

(1) 4 copies of FERC Form 121;

(2) 3 copies of Form IV-6, "Well Plat";

(3) 3 copies of Form IV-35, "Well Operator's Drilling Report;

(4) 4 copies of Form IV-48WC, "State Application for Well Classification;

(5) 2 copies of Form IV-52WC, "Well Classification Form; Wells Drilled More Than 1,000 Feet Deeper Than a Marker Well";

(6) A plat to the scale of 1-inch equals 4,000 feet produced on some high-quality material and prepared by a licensed land surveyor or registered engineer, showing all wells within 2.5 miles of the well for which certification is sought and also showing all wells which are producing or produced after January 1, 1970, natural gas within said 2.5 mile radius and identifying each such well by the last four digits of the API permit number; including specific identification of all market wells within the 2.5 mile radius, and also indicating the deepest completion locations for each such marker well identified on the plat;

(7) A separate sheet tabulating all wells identified on the plat required by subsection (b)(6) as to linear distance, depth of the top of the producing formation, and the geological name of the formation;

(8) Electric logs and directional drilling surveys if performed in the normal course of drilling and completion of the well; and

(9) Satisfactory proof of service that a copy of the complete filing has been served on the first purchaser, if known.

(c) For new onshore reservoir wells:

- (1) 4 copies of FERC Form 121;
- (2) 3 copies of Form IV-6, "Well Plat";
- (3) 3 copies of Form IV-35, "Well Operator's Drilling Report";
- (4) 4 copies of Form IV-48WC, "State Application for Well Classification";
- (5) 2 copies of Form IV-53WC, "Well Classification Form; New Onshore Reservoir Wells";
- (6) Subsurface cross-section charts;
- (7) Formation structure map;
- (8) A gas analysis;
- (9) Electric logs and directional drilling surveys if performed in the normal course of drilling and completion of the well; and
- (10) Satisfactory proof of service that a copy of the complete filing has been served on the first purchaser, if known.

34.03. New Onshore Production Wells Under § 103 of the NGPA. For each well for which certification is sought under § 274.204 of the FERC regulations implementing the NGPA, the following shall be submitted by the Operator:

- (1) 4 copies of FERC Form 121;
- (2) 3 copies of Form IV-6, "Well Plat";
- (3) 3 copies of Form IV-35, "Well Operator's Drilling Report";
- (4) 4 copies of Form IV-48WC, "State Application for Well Classification";
- (5) 2 copies of Form IV-54WC, "Well Classification Form; New Onshore Production Wells"; and
- (6) Satisfactory proof of service that a copy of the complete filing has been served on the first purchaser, if known.

34.04. High Cost-Natural Gas Under § 107 of the NGPA. For each well for which certification is sought under § 274.205 of the FERC regulations implementing the NGPA, the following shall be submitted by the Operator:

- (1) 4 copies of FERC Form 121;
- (2) 3 copies of Form IV-6, "Well Plat";

(3) 3 copies of Form IV-35, "Well Operator's Drilling Report";

(4) 4 copies of Form IV-48WC, "State Application for Well Classification";

(5) 2 copies of Form IV-55WC, "Well Classification Form; High Cost Natural Gas";

(6) Electric logs;

(7) Directional drilling surveys if made in the ordinary course of drilling and completing the well; and

(8) Satisfactory proof of service that a copy of the complete filing has been served on the first purchaser, if known.

34.05. Stripper Wells Under § 108 of the NGPA. For each well for which certification is sought under § 274.206 of the FERC regulations implementing the NGPA, the following shall be submitted by the Operator:

(1) 4 copies of FERC Form 121;

(2) 3 copies of Form IV-6, "Well Plat";

(3) 3 copies of Form IV-35, "Well Operator's Drilling Report";

(4) 3 copies of Form IV-39WC, "Report of Production", for 12 consecutive months ending within 180 days of the date of application;

(5) Production records for a period of 90 consecutive days ending within 180 days of the date of application;

(6) If items (4) and (5) are not available, tax records or verified copies of billing statements for 12 calendar months ending within 180 days of the days of filing.

(7) If the well for which a determination is sought has produced nonassociated natural gas at an average rate not in excess of 60 Mcf per production day for a 90-day production period ending within 180 days of the date of filing, but such an average rate of production has not been experienced for a 12-month period, the operator shall file as soon as practicable but no later than 10 months after the date of application, production records, if available, and if not, tax records or verified copies of billing statements for a 12-month period including any part of the indicated 90-day production period.

(8) 4 copies of Form IV-48WC, "State Application for Well Classification";

(9) 2 copies of Form IV-56WC, "Well classification

Form; Stripper Wells"; and

(10) Satisfactory proof of service that a copy of the complete filing has been served on the first purchaser, if known.

34.06. Report of Increase in Production; Enhanced Recovery; Seasonally Affected Wells. (a) Whenever a well, which had previously received a certification as being qualified as a stripper well, produced nonassociated natural gas at a rate exceeding an average 60 Mcf per production day for any 90-day production period, the operator or purchaser shall file a notice containing the following information with the Administrator:

(1) The names and addresses of the operator and purchaser indicating whether it is the operator or the purchaser who is filing the notice;

(2) Identification of the subject well and an accurate record reference to the original determination qualifying the well as a stripper well;

(3) The monthly production reports, tax records or billing statements upon which the notice is based for the period of production in question;

(4) A statement of the average production per production day for the period in question;

(5) A statement that all the information contained in the notice is true to the best of his information, knowledge and belief; and

(6) If the notice is filed by a purchaser, a statement that the notice has been served on the Operator.

(b) An Operator desiring a determination that an increase in production has been the result of enhanced recovery techniques shall file with the Administrator, within 30 days of the date of the notice of an increase in production:

(1) 1 copy of Form IV-57WC, "Request for Determination that Increased Production is the result of enhanced Recovery Techniques"; and

(2) 1 copy of Form IV-48WC, "State Application for Well Classification".

(c) An operator desiring a determination that a well previously certified to be a stripper well is seasonally affected, shall file with the Administrator within 30 days of the date of the notice of an increase in production;

(1) 1 copy of Form IV-58WC, "Request for Determination of a Seasonally Affected Well";

(2) Production records, tax records or billing statements for

a period of 24 months, including the 90-day or 12-month period which is the subject of a notice of an increase of production; and

(3) 1 copy of Form IV-48WC, "State Application for Well Classification".

*Section*

35. Certification Procedures.

35.01. Initial Action by the Office of Oil and Gas. Upon receipt of an application to certify a well for the maximum lawful price under §§ 102, 103, 107, or 108 of the NGPA, the Office of Oil and Gas will conduct a review of the submitted data along with other information available to it, and prepare a summary report for the Administrator. A file number and a hearing date will be assigned. One copy of FERC Form 121 and one copy of Form IV-48WC will be mailed to the Operator and the Purchaser (if known) notifying them of the file number, hearing date and the date of filing with the Office of Oil and Gas.

35.02. Periodical Circular. (a) The Office of Oil and Gas will publish from time to time, but not less often than monthly, a circular indicating the status of various applications filed under the Regulations. Copies of the circular will be filed with the Secretary of State and the Capitol News Media.

(b) The circular will identify each well by applicant and by a file number which will indicate:

- (1) The date received by the Office of Oil and Gas;
- (2) The NGPA category for which application is made; and
- (3) The A.P.I. county and permit number.

(c) The circular will constitute notice of the following:

(1) That the initial application was complete or incomplete as received;

(2) The scheduled hearing date;

(3) The determination made by the Office of Oil and Gas and the date of determination;

(4) The date on which the determination order was filed with FERC; and

(5) The date marking the end of the 45-day FERC review period provided for under the NGPA and applicable federal regulations.

35.03. Notice of Hearing. Notice of all filings and hearing dates for applications for certification under these regulations

will be filed by the Office of Oil and Gas with the Secretary of State and the Capitol News Media, indicating that interested persons may intervene in the application by filing written comments with the Office of Oil and Gas within 15 days from the date that the notice of hearing is published in the Weekly Circular and filed with the Secretary of State. If objections are made by any interested person, or by the Office of Oil and Gas, or if the Administrator determines that other information may be necessary in order to make a determination, a public hearing will be held on the date designated on Form IV-48WC, "State Application for Well Classification", and the notices filed with the Secretary of State and the Capitol News Media. On the hearing date, the applicant and all persons who have timely filed objections on or before the date of the hearing will be given an opportunity to present additional evidence.

35.04. <sup>Section</sup> Determinations. After a hearing has been held, a determination as to whether the well qualifies for certification will be made by the Administrator. If no objection is made within the time prescribed by Regulation 35.03, the Administrator will make a determination as to whether the well qualifies for certification at the time and date originally set for a hearing. A copy of FERC Form 121 and the order as described in Regulation 36.10 will be mailed to the FERC for final review pursuant to § 503 of the NGPA.

35.05. <sup>Section</sup> Extra powers of the Administrator. The Administrator may also certify or provide a waiver for a well located within a proration unit as defined in 32.02(b)(16) or any other well sought to be certified under these regulations after notice and hearing.

<sup>Section</sup> 36. Hearing Procedures.

36.01. Hearings. All hearings conducted by the Office of Oil and Gas under ~~Part II~~ of these Regulations shall be conducted in accordance with the provisions of Article 5, Chapter 29A of the Code. If any provision of these Regulations is inconsistent with any provision of said Article 5, the provision of said Article 5 shall control.

Notice to the public shall be given as follows:

(1) The Office of Oil and Gas shall file with the Secretary of State's Office a Notice or Notices containing the time, date and place of all hearings held under these Regulations pursuant to Code § 22-4-7. Said Notice shall be filed with the Secretary of State at least ten (10) days before the date set for the hearing.

(2) Copies of all Notices required to be filed by this Regulation with the Secretary of State's Office shall also be delivered to the Capitol-News Media Office, State Capitol Building.

36.02. Consolidation of Proceedings. The Office of Oil and Gas may at any time order a proceeding set for hearing under Chapter 22 of the Code or these Regulations consolidated with any other such

proceeding then pending which involves similar issues of law and fact.

36.03. Filing and Service Documents. (a) Where to File. All documents required to be filed in a proceeding under Chapter 22 of the Code or these Regulations shall be filed with the Office of Oil and Gas, 1615 Washington Street, East, Charleston, West Virginia.

(b) How to File. All filing may be accomplished by personal delivery or first class mail.

(c) When Filing Effected. Filing is effective upon delivery.

(d) Copies to be Served. Executed copies of the application filed in any proceeding under Chapter 22 of the Code or these Regulations shall be served upon all other parties to the proceeding.

(3) Method of Service; Service of Attorney. Service of documents shall be accomplished by personal delivery or by registered or certified mail, return receipt requested, unless otherwise provided in Chapter 22 of the Code or these Regulations. Whenever a person is represented by an attorney who has signed any document filed on behalf of such person, service thereafter shall be made upon the attorney and may be made by first class mail.

(f) When Service Effected. In the case of personal delivery, service is effective upon delivery. In the case of mailing, service is effective upon mailing.

(g) Proof of Service. All documents required to be served in a proceeding under Chapter 22 of the Code or these Regulations shall be accompanied by proof of service in the form of a Certificate of Service. The Certificate of Service shall include a statement of how service was accomplished.

36.04. Notice of Hearings. Unless otherwise specified in Chapter 22 of the Code, no hearing shall be conducted on less than 10 days written notice to the parties.

36.05. Presiding Officer. The Administrator or his designee shall preside over every hearing conducted pursuant to Chapter 22 of the Code or these Regulations.

36.06. Powers of Presiding Officer. The Presiding Officer over every hearing, subject to the rules set forth in this section, may:

- (1) Administer oaths and affirmations;
- (2) Rule upon offers of proof and receive relevant evidence.
- (3) Regulate the course of a hearing;
- (4) Dispose of procedural requests or similar matters;

(5) Hold conferences for the settlement or simplification of the issues with the consent of the parties; and

(6) Take any other action in connection with such hearing authorized by law.

36.07. Representation at Hearings. At hearings held pursuant to Chapter 22 of this Code or these Regulations, any party may represent himself or be represented by an attorney at law admitted to practice before the courts of any state or the District of Columbia.

36.08. Conduct of Hearing. (a) Conduct of attorneys before the Office of Oil and Gas shall be the same as required of attorneys before the Circuit Courts of the State of West Virginia. 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 Presiding Officer. Witnesses shall be examined with courtesy and respect, and their good faith shall be presumed.

(b) At the Presiding Officer's discretion, or on motion of any person, a transcript of testimony shall be taken and preserved as part of the permanent record. The person requesting that a transcript be made shall bear the costs of transcription. Persons may examine the official transcript or purchase copies thereof from the court reporter or Office of Oil and Gas.

36.09. Hearings to be Public. All hearings to be conducted under these rules shall be open to the public.

36.10. Written Orders. (a) Upon determination, the Administrator shall consider the evidence and issue a written order which shall include a statement of findings and conclusion and the reasons therefor on the material issues.

(b) A copy of the order shall be served by first class mail upon all persons at the time the order is issued.