

1 **H. B. 4348**

2  
3 (By Delegate Manypenny)

4 [Introduced January 30, 2012; referred to the  
5 Committee on the Judiciary then Finance.]  
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8  
9 A BILL to amend and reenact §22-6A-7 of the Code of West Virginia,  
10 1931, as amended, relating to revocation of current and future  
11 horizontal well permits when a driller or well operators  
12 violates conditions or road bonds or other well pad and site  
13 operating requirements.

14 *Be it enacted by the Legislature of West Virginia:*

15 That §22-6A-7 of the Code of West Virginia, 1931, as amended,  
16 be amended and reenacted to read as follows:

17 **ARTICLE 6A. NATURAL GAS HORIZONTAL WELL CONTROL ACT.**

18 **§22-6A-7. Horizontal well permit required; permit fee;**  
19 **application; soil erosion control plan; well site**  
20 **safety plan; site construction plan; water management**  
21 **plan; permit fee; installation of permit number;**  
22 **suspension revocation and denial of a permit.**

23 (a) It is unlawful for any person to commence any well work,

1 including site preparation work which involves any disturbance of  
2 land, for a horizontal well without first securing from the  
3 secretary a well work permit pursuant to this article.

4 (b) Every permit application filed under this section shall be  
5 on a form as may be prescribed by the secretary, shall be verified  
6 and shall contain the following information:

7 (1) The names and addresses of: (i) The well operator; (ii)  
8 the agent required to be designated under subsection (h) of this  
9 section; and (iii) every person whom the applicant shall notify  
10 under any section of this article, together with a certification  
11 and evidence that a copy of the application and all other required  
12 documentation has been delivered to all such persons;

13 (2) The names and addresses of every coal operator operating  
14 coal seams under the tract of land on which the well is or may be  
15 located, and the coal seam owner of record and lessee of record  
16 required to be given notice by subdivision (6), subsection (a),  
17 section five of this article, if any, if said owner or lessee is  
18 not yet operating said coal seams;

19 (3) The number of the well or such other identification as the  
20 secretary may require;

21 (4) The well work for which a permit is requested;

22 (5) The approximate total depth to which the well is to be  
23 drilled or deepened, or the actual depth if the well has been  
24 drilled; the proposed angle and direction of the well; the actual

1 depth or the approximate depth at which the well to be drilled  
2 deviates from vertical, the angle and direction of the nonvertical  
3 well bore until the well reaches its total target depth or its  
4 actual final depth and the length and direction of any actual or  
5 proposed horizontal lateral or well bore;

6 (6) Each formation in which the well will be completed if  
7 applicable;

8 (7) A description of any means used to stimulate the well;

9 (8) If the proposed well work will require casing or tubing to  
10 be set, the entire casing program for the well, including the size  
11 of each string of pipe, the starting point and depth to which each  
12 string is to be set and the extent to which each such string is to  
13 be cemented;

14 (9) If the proposed well work is to convert an existing well,  
15 all information required by this section, all formations from which  
16 production is anticipated and any plans to plug any portion of the  
17 well;

18 (10) If the proposed well work is to plug or replug the well,  
19 all information necessary to demonstrate compliance with the  
20 legislative rules promulgated by the secretary in accordance with  
21 section thirteen of this article;

22 (11) If the proposed well work is to stimulate a horizontal  
23 well, all information necessary to demonstrate compliance with the  
24 requirements of subdivision (7), subsection (a), section five of

1 this article;

2       (12) The erosion and sediment control plan required under  
3 subsection (c) of this section for applications for permits to  
4 drill;

5       (13) A well site safety plan to address proper safety measures  
6 to be employed for the protection of persons on the site as well as  
7 the general public. The plan shall encompass all aspects of the  
8 operation, including the actual well work for which the permit was  
9 obtained, completion activities and production activities, and  
10 shall provide an emergency point of contact for the well operator.  
11 The well operator shall provide a copy of the well site safety plan  
12 to the local emergency planning committee established pursuant to  
13 section seven, article five-a, chapter fifteen of this code, for  
14 the emergency planning district in which the well work will occur  
15 at least seven days before commencement of well work or site  
16 preparation work that involves any disturbance of land;

17       (14) A certification from the operator that: (i) It has  
18 provided the owners of the surface described in subdivisions (1),  
19 (2) and (4), subsection (b), section ten of this article, the  
20 information required by subsections (b) and (c), section sixteen of  
21 this article; (ii) that the requirement was deemed satisfied as a  
22 result of giving the surface owner notice of entry to survey  
23 pursuant to subsection (a), section ten of this article; or (iii)  
24 the notice requirements of subsection (b), section sixteen of this

1 article were waived in writing by the surface owner; and

2       (15) Any other relevant information which the secretary may  
3 reasonably require.

4       (c) (1) An erosion and sediment control plan shall accompany  
5 each application for a well work permit under this article. The  
6 plan shall contain methods of stabilization and drainage, including  
7 a map of the project area indicating the amount of acreage  
8 disturbed. The erosion and sediment control plan shall meet the  
9 minimum requirements of the West Virginia Erosion and Sediment  
10 Control Manual as adopted and from time to time amended by the  
11 department. The erosion and sediment control plan shall become  
12 part of the terms and conditions of any well work permit that is  
13 issued pursuant to this article and the provisions of the plan  
14 shall be carried out where applicable in the operation. The  
15 erosion and sediment control plan shall set out the proposed method  
16 of reclamation which shall comply with the requirements of section  
17 fourteen of this article.

18       (2) For well sites that disturb three acres or more of  
19 surface, excluding pipelines, gathering lines and roads, the  
20 erosion and sediment control plan submitted in accordance with this  
21 section shall be certified by a registered professional engineer.

22       (d) For well sites that disturb three acres or more of  
23 surface, excluding pipelines, gathering lines and roads, the  
24 operator shall submit a site construction plan that shall be

1 certified by a registered professional engineer and contains  
2 information that the secretary may require by rule.

3 (e) In addition to the other requirements of this section, if  
4 the drilling, fracturing or stimulating of the horizontal well  
5 requires the use of water obtained by withdrawals from waters of  
6 this state in amounts that exceed two hundred ten thousand gallons  
7 during any thirty day period, the application for a well work  
8 permit shall include a water management plan, which may be  
9 submitted on an individual well basis or on a watershed basis, and  
10 which shall include the following information:

11 (1) The type of water source, such as surface or groundwater,  
12 the county of each source to be used by the operation for water  
13 withdrawals, and the latitude and longitude of each anticipated  
14 withdrawal location;

15 (2) The anticipated volume of each water withdrawal;

16 (3) The anticipated months when water withdrawals will be  
17 made;

18 (4) The planned management and disposition of wastewater after  
19 completion from fracturing, refracturing, stimulation and  
20 production activities;

21 (5) A listing of the anticipated additives that may be used in  
22 water utilized for fracturing or stimulating the well. Upon well  
23 completion, a listing of the additives that were actually used in  
24 the fracturing or stimulating of the well shall be submitted as

1 part of the completion log or report required by subdivision (14),  
2 subsection (a), section five of this article;

3 (6) For all surface water withdrawals, a water management plan  
4 that includes the information requested in subdivisions (1) through  
5 (5) of this subsection and the following:

6 (A) Identification of the current designated and existing  
7 water uses, including any public water intakes within one mile  
8 downstream of the withdrawal location;

9 (B) For surface waters, a demonstration, using methods  
10 acceptable to the secretary, that sufficient in-stream flow will be  
11 available immediately downstream of the point of withdrawal. A  
12 sufficient in-stream flow is maintained when a pass-by flow that is  
13 protective of the identified use of the stream is preserved  
14 immediately downstream of the point of withdrawal; and

15 (C) Methods to be used for surface water withdrawal to  
16 minimize adverse impact to aquatic life; and

17 (7) This subsection is intended to be consistent with and does  
18 not supersede, revise, repeal or otherwise modify articles eleven,  
19 twelve or twenty-six of this chapter and does not revise, repeal or  
20 otherwise modify the common law doctrine of riparian rights in West  
21 Virginia law.

22 (f) An application may propose and a permit may approve two or  
23 more activities defined as well work, however, a separate permit  
24 shall be obtained for each horizontal well drilled.

1           (g) The application for a permit under this section shall be  
2 accompanied by the applicable bond as required by section fifteen  
3 of this article, the applicable plat required by subdivision (6),  
4 subsection (a), section five of this article and a permit fee of  
5 \$10,000 for the initial horizontal well drilled at a location and  
6 a permit fee of \$5,000 for each additional horizontal well drilled  
7 on a single well pad at the same location.

8           (h) The well operator named in the application shall designate  
9 the name and address of an agent for the operator who is the  
10 attorney-in-fact for the operator and who is a resident of the  
11 State of West Virginia upon whom notices, orders or other  
12 communications issued pursuant to this article or article eleven of  
13 this chapter may be served, and upon whom process may be served.  
14 Every well operator required to designate an agent under this  
15 section shall, within five days after the termination of the  
16 designation, notify the secretary of the termination and designate  
17 a new agent.

18           (i) The well owner or operator shall install the permit number  
19 as issued by the secretary and a contact telephone number for the  
20 operator in a legible and permanent manner to the well upon  
21 completion of any permitted work. The dimensions, specifications,  
22 and manner of installation shall be in accordance with the rules of  
23 the secretary.

24           (j) The secretary may waive the requirements of this section



1 and sections eight, ten, eleven and twenty-four of this article in  
2 any emergency situation, if the secretary deems the action  
3 necessary. In such case the secretary may issue an emergency  
4 permit which is effective for not more than thirty days, unless  
5 reissued by the secretary.

6 (k) The secretary shall deny the issuance of a permit if the  
7 secretary determines that the applicant has ~~committed a substantial~~  
8 ~~violation of~~ violated a condition of a previously posted road bond  
9 or a requirement of a previously issued permit for a horizontal  
10 well, including the applicable erosion and sediment control plan  
11 associated with the previously issued permit, or a ~~substantial~~  
12 violation of one or more of the rules promulgated under this  
13 article, and in each instance has failed to abate or seek review of  
14 the violation within the time prescribed by the secretary pursuant  
15 to the provisions of subdivisions (1) and (2), subsection (a),  
16 section five of this article and the rules promulgated hereunder,  
17 which time may not be unreasonable.

18 (l) ~~In the event the secretary finds that a substantial~~  
19 ~~violation has occurred and that the operator has failed to abate or~~  
20 ~~seek review of the violation in the time prescribed, the secretary~~  
21 ~~may suspend the permit on which said violation exists, after which~~  
22 ~~suspension the operator shall forthwith cease all well work being~~  
23 ~~conducted under the permit. However, the secretary may reinstate~~  
24 ~~the permit without further notice, at which time the well work may~~

1 ~~be continued.~~ In the event a driller or well operator violates  
2 conditions of a road bond or other well pad or site operating  
3 requirements, the secretary shall revoke the current permit and  
4 deny all future permits. The secretary shall make written findings  
5 of any such ~~suspension~~ revocation or denial and may enforce the  
6 same in the circuit courts of this state. The operator may appeal  
7 a ~~suspension~~ revocation or denial pursuant to the provisions of  
8 subdivision (23), subsection (a), section five of this article.  
9 The secretary shall make a written finding of any such  
10 determination.

NOTE: The purpose of this bill is to require revocation of permit and denial of future permits in the event a driller or well operator violates conditions of a road bond or well pad or site operating requirements.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.