



State of West Virginia

Department of Mines
Oil and Gas Division

Charleston 25305

WALTER N. MILLER
DIRECTOR

ROBERT L. DODD - P. E.
DEPUTY DIRECTOR

May 2, 1979

Mr. John R. Homburg, Attorney
West Virginia Legislature
Joint Committee on Government and Finance
Charleston, West Virginia 25305

Dear Mr. Homburg:

Attached are seventeen (17) copies of proposed administrative regulations in compliance with the requirements of Chapter 29A, Article 3, Section 11 of the Code.

These regulations are the initial regulations and will replace emergency regulations in effect at this time to implement and carry out our responsibilities as designated State Jurisdictional Agency in regard to the National Gas Policy Act of 1978 and the provisions of Senate Bill Number 385, 1979 Regular Session of the Legislature.

The regulations were initially filed with the Secretary of State on March 28, 1979. A public hearing was held on April 30, 1979. Final filing was made with the Secretary of State's Office on May 2, 1979.

If there are any questions or additional information needed, please let me know.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Robert L. Dodd".

Robert L. Dodd, Administrator
State of West Virginia
Office of Oil and Gas

RLD/osh

Attachments

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 5-2-79

WEST VIRGINIA ADMINISTRATIVE REGULATIONS

Department of Mines

Chapter 22-4

PART II.

SERIES V

1979

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA
THIS DATE 5-2-79

Subject: Certification of Gas Wells Under NGPA and
West Virginia Code 22-4-1a, As Amended.

32. General Introduction.

32.01. Introductory 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) 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 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 § 22-4-13, Article 3, Chapter 29A of the Code and the Natural Gas Policy Act of 1978.

32.04. Effective Date. These Regulations were promulgated on the _____ day of _____, 1979, and become effective on the _____ day of _____, 1979.

32.05. Filing Date. These Regulations were filed in the Office of the Secretary of State on the _____ day of _____, 1979.

33. Definitions.

33.01. Statutory Definitions. As used in these Regulations, "Administrator", "Department" or "Department of Mines",

"Deputy Director", "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.

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 twenty-five 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 twenty-five 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) 3 copies of FERC Form 121;
 - (2) 1 copy of Form IV-6, "Well Plat";
 - (3) 1 copy of Form IV-35; "Well Operator's Report of Drilling";
 - (4) 3 copies of Form IV-48Wc, "State Application for Well Classification";
 - (5) 1 copy 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)(9) 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) 3 copies of FERC Form 121;
- (2) 1 copy of Form IV-6, "Well Plat";
- (3) 1 copy of Form IV-35, "Well Operator's Drilling Report";
- (4) 3 copies of Form IV-48WC, "State Application for Well Classification";
- (5) 1 copy 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 radius and identifying each such well by the last four digits of the API permit number; including specific identification of all marker 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)(9) 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) 3 copies of FERC Form 121;

- (2) 1 copy of Form IV-6, "Well Plat";
- (3) 1 copy of Form IV-35, "Well Operator's Drilling Report";
- (4) 3 copies of Form IV-48WC, "State Application for Well Classification";
- (5) 1 copy 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:

- (a) 3 copies of FERC Form 121;
- (b) 1 copy of Form IV-6, "Well Plat";
- (c) 1 copy of Form IV-35, "Well Operator's Drilling Report";

- (d) 3 copies of Form IV-48WC, "State Application for Well Classification";
- (e) 1 copy of Form IV-54WC, "Well Classification Form; New Onshore Production Wells"; and
- (f) 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:

- (a) 3 copies of FERC Form 121;
- (b) 1 copy of Form IV-6, "Well Plat";
- (c) 1 copy of Form IV-35, "Well Operator's Drilling Report";
- (d) 3 copies of Form IV-48WC, "State Application for Well Classification";
- (e) 1 copy of Form IV-55WC, "Well Classification Form; High Cost Natural Gas";
- (f) Electric logs;
- (g) Directional drilling surveys if made in the ordinary course of drilling and completing the well; and
- (h) 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:

- (a) 3 copies of FERC Form 121;
- (b) 1 copy of Form IV-6, "Well Plat";
- (c) 1 copy of Form IV-35, "Well Operator's Drilling Report";
- (d) 1 copy of Form IV-39, "Report of Production", for 12 consecutive months ending within 120 days of the date of application;
- (e) Production records for a period of 90 consecutive days ending within 120 days of the date of application;
- (f) If items (d) and (e) are not available, tax records or verified copies of billing statements for 12 calendar months ending within 120 days of the date of filing.
- (g) 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 120 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.

- (h) 3 copies of Form IV-48WC, "State Application for Well Classification";
- (i) 1 copy of Form IV-56WC, "Well Classification Form; Stripper Wells"; and
- (j) 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".

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. Weekly Circular. (a) The Office of Oil and Gas will publish, each week a circular indicating the status of various applications filed under the Regulations. Publication will be on the last regular working day of each week and copies of the circular will be filed with the Secretary of State and the Capitol News Media.

(b) The weekly 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 weekly 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. 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.

36. Hearing Procedures.

36.01. Hearings. All hearings conducted by the Office of Oil and Gas pursuant to 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 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 W-123, 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.

(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 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 reported 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 conclusions 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.