

WEST VIRGINIA ADMINISTRATIVE REGULATIONS

Department of Mines

Chapter 22-4

SERIES I [EMERGENCY]

1978

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 12-26-78

Subject: Certification of Gas Wells under NGPA and
West Virginia Code 22-4-1a, as amended.

1. General Introduction.

1.01. Finding as to the Existence of an Emergency.

The Oil and Gas Division of the Department of Mines finds that due to the December 1, 1978 effective date of the Natural Gas Policy Act of 1978, an emergency exists requiring the promulgation of emergency Regulations in order to begin implementation of the Natural Gas Policy Act and to prevent the possibility of disruption and uncertainty in the production of natural gas supplies in the State of West Virginia.

1.02. 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.

1.03. Authority. These Regulations are promulgated pursuant to the authority of Code § 22-4-1(a)(10), Article 3, Chapter 29A of the Code and the Natural Gas Policy Act of 1978.

1.04. Effective Date. These emergency Regulations become effective upon filing.

1.05. Filing Date. These Regulations were filed in the Office of the Secretary of State on the _____ day of _____, 1978.

1.06. Forms. An index of all current forms and copies of any forms currently used under or required by Chapter 22 of the Code pursuant to these Regulations may be obtained from the Deputy Director. The Department reserves the right to amend any forms prospectively to accord more fully with the Code or these Regulations.

2. Definitions.

2.01. Statutory Definitions. As used in these Regulations, "Department" or "Department of Mines", "Deputy Director", and "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) Terms defined in the Natural Gas Policy Act of 1978 or applicable Federal Energy Regulatory Commission Rules or Regulations shall be used and have the meaning set forth in said Act and Regulations.

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

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

3. Filing Requirements.

3.01. 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 Oil and Gas Division Form IV-1, "Designation of Agent by Well Owner or Operator";
 - 3) 1 copy of Oil and Gas Division Form IV-2, "Oil and Gas Permit Application";

- 4) 1 copy of Oil and Gas Division Form IV-6, "Well Plat";
- 5) 1 copy of Oil and Gas Division Form IV-35; "Well Operator's Report of Drilling";
- 6) 1 copy of Oil and Gas Division Form IV-36, "Well Operator's Report of Initial Gas-Oil Ratio Test";
- 7) 3 copies of Oil and Gas Division Form IV-48WC, "State Application for Well Classification";
- 8) 1 copy of Oil and Gas Division Form IV-51WC, "Well Classification Form; Wells Drilled More than 2.5 Miles from a Marker Well";
- 9) A plat to the scale of 1-inch equals 4,000 feet produced on some high-quality material, 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;
- 10) A separate sheet tabulating all wells as to linear distance, depth of the top of the producing formation, and the geological name of the formation; and

- 11) Electric logs and directional drilling surveys, if performed in the normal course of drilling and completion of the well; and
- 12) 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 Oil and Gas Division Form IV-1, "Designation of Agent or Well Owner-Operator";
- 3) 1 copy of Oil and Gas Division Form IV-2, "Oil and Gas Well Permit Application";
- 4) 1 copy of Oil and Gas Division Form IV-6, "Well Plat";
- 5) 1 copy of Oil and Gas Division Form IV-35, "Well Operator's Drilling Report";
- 6) 1 copy of Oil and Gas Division Form IV-36, "Well Operator's Report of Initial Gas-Oil Ratio Test";
- 7) 3 copies of Oil and Gas Division Form IV-48WC, "State Application for Well Classification";
- 8) 1 copy of Oil and Gas Division Form IV-52WC, Well Classification Form; "Wells Drilled More Than 1,000 Feet Deeper Than a Marker Well";

- 9) A plat to the scale of 1-inch equals 4,000 feet produced on some high quality material 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;
 - 10) A separate sheet tabulating all wells as to linear distance, depth of the top of the producing formation, and the geological name of the formation; and
 - 11) Electric logs and directional drilling surveys if performed in the normal course of drilling and completion of the well; and
 - 12) 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 Oil and Gas Division Form IV-1, "Designation of Agent by Well Owner or Operator";

- 3) 1 copy of Oil and Gas Division Form IV-2, "Oil and Gas Well Permit Application";
- 4) 1 copy of Oil and Gas Division Form IV-6, "Well Plat";
- 5) 1 copy of Oil and Gas Division Form IV-35, "Well Operator's Drilling Report";
- 6) 1 copy of Oil and Gas Division Form IV-36, "Well Operator's Report of Initial Gas-Oil Ratio Test";
- 7) 3 copies of Oil and Gas Division Form IV-48WC, "State Application for Well Classification";
- 8) 1 copy of Oil and Gas Division Form IV-53WC, Well Classification Form; New Onshore Reservoir Wells;
- 9) Subsurface cross-section charts;
- 10) Formation structure map;
- 11) A gas analysis; and
- 12) Electric logs and directional drilling surveys if performed in the normal course of drilling and completion of the well; and
- 13) Satisfactory proof of service that a copy of the complete filing has been served on the first purchaser, if known.

3.02. 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 Oil and Gas Division Form IV-1, "Designation of Agent by Well owner or Operator";
- (c) 1 copy of Oil and Gas Division Form IV-2, "Oil and Gas Permit Application";
- (d) 1 copy of Oil and Gas Division Form IV-6, "Well Plat";
- (e) 1 copy of Oil and Gas Division Form IV-35, "Well Operator's Drilling Report";
- (f) 1 copy of Oil and Gas Division Form IV-36, "Well Operator's Report of Initial Gas-Oil Ratio Test";
- (g) 3 copies of Oil and Gas Division Form IV-48WC, "State Application for Well Classification";
- (h) 1 copy of Oil and Gas Division Form IV-54WC, "Well Classification Form; New Onshore Production Wells";
- (i) Satisfactory proof of service that a copy of the complete filing has been served on the first purchaser, if known.

3.03. 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 Oil and Gas Division Form IV-1, "Designation of Agent by Well Owner or Operator";

- (c) 1 copy of Oil and Gas Division Form IV-2, "Oil and Gas Well Permit Application";
- (d) 1 copy of Oil and Gas Division Form IV-6, "Well Plat";
- (e) 1 copy of Oil and Gas Division Form IV-35, "Well Operator's Drilling Report";
- (f) 1 copy of Oil and Gas Division Form IV-36, "Well Operator's Report of Initial Gas-Oil Ratio Test";
- (g) 3 copies of Oil and Gas Division Form IV-48WC, "State Application for Well Classification";
- (h) 1 copy of Oil and Gas Division Form IV-55WC, "Well Classification Form; High Cost Natural Gas";
- (i) Electric logs;
- (j) Directional drilling surveys if made in the ordinary course of drilling and completing the well; and
- (k) Satisfactory proof of service that a copy of the complete filing has been served on the first purchaser, if known.

3.04. 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 Oil and Gas Division Form IV-1, "Designation of Agent by Well Owner or Operator";
- (c) 1 copy of Oil and Gas Division Form IV-2, "Oil and Gas Well Permit Application";
- (d) 1 copy of Oil and Gas Division Form IV-6, "Well Plat";
- (e) 1 copy of Oil and Gas Division Form IV-35, "Well Operator's Drilling Report";
- (f) 1 copy of Oil and Gas Division Form IV-36, "Well Operator's Report of Initial Gas-Oil Ratio Test";
- (g) 1 copy of Oil and Gas Division Form IV-39, "Report of Annual Production", for the two years prior to the date of application;
- (h) If Oil and Gas Division Form IV-39, "Report of Annual Production", is not available, file Form IV-40, "Ninety (90) Day Production Report" for a period of 90 days out of the 120 days preceding the date of application.
- (i) If items (g) and (h) are not available, tax records or verified copies of billing statements for 12 calendar months ending on the last day of the 90-day production period upon which the application is based;

- (j) 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 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 the 12-month period including any part of the 90-day production period upon which the application is based;
- (k) 3 copies of Oil and Gas Division Form IY-48WC, "State Application for Well Classification";
- (l) 1 copy of Oil and Gas Division Form IY-56WC, "Well Classification Form; Stripper Wells";
- (m) Satisfactory proof of service that a copy of the complete filing has been served on the first purchaser, if known.

3.05. Report of Increase in Production; Enhanced Recovery; Seasonally Effected Wells.

- (a) Whenever a well, which had previously received a certification as being qualified as a stripper

well, produces 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 Deputy Director:

- 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) 1) An operator desiring a determination that an increase in production has been the result of enhanced recovery techniques shall file with the

Deputy Director a copy of Oil and Gas Division Form IV-57WC, "Request for Determination that Increased Production is the Result of Enhanced Recovery Techniques", within 30 days of the date of the notice of an increase in production.

2) Oil and Gas Division Form IV-48WC, "State Application for Well Classification".

(c) 1) An operator desiring a determination that a well previously certified to be a stripper well is seasonally affected, shall file with the Deputy Director within 30 days of the date of the notice of an increase in production a copy of Oil and Gas Division Form IV-58WC, "Request for Determination of a Seasonally Affected Well" and 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.

2) Oil and Gas Division Form IV-48WC, "State Application for Well Classification".

4. Certification Procedures.

4.01. Initial action by the Oil and Gas Division. Upon receipt of an application to certify a well for the maximum lawful price under §§ 102, 103, 107 or 108 of the NGPA, the Oil and Gas Division will conduct a review of the submitted data along with --

other information available to it, and prepare a summary report for the Deputy Director. A file number and a hearing date will be assigned. A copy of the FERC Form 121 and a copy of Oil and Gas Division Form IV-48WC will be mailed to the applicant/operator and the purchaser (if known) notifying them of this information.

4.02. Notice of Hearing. Notice of all filings and hearing dates for applications for certification under these regulations will be filed by the Oil and Gas Division 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 Oil and Gas Division within 15 days from the date of the notice. If objections are made by any interested party, or by the Oil and Gas Division, or if the Deputy Director determines that other information may be necessary in order to make a determination, a public hearing will be held on the date designated on the Oil and Gas Division 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.

4.03. Determinations. After a hearing has been held or if no objections have been filed, a determination as to whether

the well qualifies for certification will be made by the Deputy Director. A copy of FERC Form 121 and the order as described in § 5.10 of these Regulations will be mailed to the FERC for final review pursuant to § 503 of the NGPA.

5. Hearing Procedures.

5.01. Hearings. All hearings conducted by the Department 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 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 § 22-4-7. 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.

5.02. Consolidation of Proceedings. The Department 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 before the Department which involves similar issues of law and fact.

5.03. 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 West Virginia Department of Mines, Oil and Gas Division, 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 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 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.

5.04. 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.

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

5.06. 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.

5.07. 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.

5.08. 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 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 party, a transcript of testimony shall be taken and preserved as part of the permanent record. The party requesting that a transcript be made shall bear the costs of transcription. Parties may examine the official transcript or purchase copies thereof from the court reporter or Department.

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

5.10. Written Orders. (a) Upon determination, the Presiding Officer 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 certified mail upon all parties at the time the order is issued.