

NOTICE OF AGENCY APPROVAL

LEGISLATIVE RULE: Rules of the Department of Energy,  
(title)

Division of Oil and Gas - Series 1 through 8

The attached legislative rule constitutes the official rule approved by the Department of Energy - Division of Oil & Gas  
(agency)

on 15th day of August, 1986 and filed pursuant to law with the West Virginia Secretary of State and the Legislative Rule-Making Review Committee.

  
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Signature of Commissioner

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WEST VIRGINIA

WEST VIRGINIA LEGISLATIVE RULE  
DEPARTMENT OF ENERGY  
DIVISION OF OIL AND GAS  
CHAPTERS 22-1 and 22B-1  
SERIES 2

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Title: Certification of Gas Wells

	<u>Page</u>
Section 1. General	1
1.1 Scope	1
1.2 Authority	1
1.3 Filing Date	1
1.4 Effective Date	1
1.5 Former Rule Superseded	1
2. Definitions	1
2.1 W.Va. Code	1
2.2 FERC	1
2.3 NGPA	1
2.4 Natural gas	2
2.5 Wells	2
2.6 New wells	2
2.7 Old well	2
2.8 Marker well	2
2.9 Reservoir	2
2.10 Completion location	2
2.11 Marker well completion location	2
2.12 Mcf	2
2.13 Btu	3
2.14 Month	3
2.15 Mile	3
2.16 Jurisdictional agency	3
2.17 Production in commercial quantities	3
2.18 Recognized enhanced recovery techniques	3
2.19 Proration unit	3
3. Filing Requirements	3
3.1 General requirements	3
3.2 New onshore wells under §102 of the NGPA	4
3.3 New onshore production wells under §103 of the NGPA	7
3.4 High cost-natural gas under §107 of the NGPA	7
3.5 Stripper wells under §108 of the NGPA	8

Department of Energy  
Division of Oil and Gas  
Leg. Rule, 22-1 and 22B-1  
Series 2

3.6	Report of increase in production; enhanced recovery; seasonally affected wells	9
4.	Certification Procedures Abatement	10
4.1	Initial action by the Division of Oil and Gas	10
4.2	Periodical circular	10
4.3	Notice of hearing	11
4.4	Determinations	11
4.5	Extra powers of Director	11

WEST VIRGINIA LEGISLATIVE RULE  
DEPARTMENT OF ENERGY  
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CHAPTER 22-1 AND 22B-1  
SERIES 2

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Title: Certification of Gas Wells

Section 1. General

1.1 Scope - This legislative rule shall govern and apply to proceedings under W. Va. Code §22B-1-2(c)(11) concerning gas wells and implementation of the Natural Gas Policy Act of 1978 and pertinent federal regulations.

1.2 Authority - W. Va. Code §§22-1-13; 22-1-15; 22B-1-2; and 22B-1-2(c)(11).

1.3 Filing Date -

1.4 Effective Date -

1.5 Former Rules Superseded - This legislative rule supersedes West Virginia Legislative Rule "Office of Oil and Gas, Department of Mines, Chapter 22-4, Series V, Part II, Certification of Gas Wells under the Natural Gas Policy Act of 1978 and Code §22-4-1(a)(c)," in effect on July 11, 1985. Such rule was continued in effect pursuant to W. Va. Code §22-1-15 for the benefit of the Department of Energy inasmuch as it pertained to the provisions of The West Virginia Energy Act.

Section 2. Definitions

Unless the context in which used clearly requires a different meaning, the definitions contained in W. Va. Code §§22-1-3 and 22B-1-1 shall apply to this rule in addition to the definition expressly set forth in this Section 2. Each definition adopted by this Section 2, whether statutory or by rule, are for the purpose of implementing the Natural Gas Policy Act of 1978 are not intended to be used in any other context:

2.1 "W. Va. Code" shall mean the West Virginia Code of 1931, as amended.

2.2 "FERC" shall mean the Federal Energy Regulatory Commission.

2.3 "NGPA" shall mean the Natural Gas Policy Act of 1978.

Department of Energy  
Division of Oil and Gas  
Leg. Rule, 22-1 and 22B-1  
Series 2, Sec. 2

2.4 "Natural gas" shall mean either natural gas unmixed or any mixture of natural and artificial gas.

2.5 "Well" shall mean any well for the discovery or production of natural gas, crude oil, or both.

2.6 "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.

2.7 "Old well" shall mean any well other than a new well.

2.8 "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.

2.9 "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.

2.10 "Completion location" shall mean any subsurface location from which natural gas is being, or has been produced in commercial quantities.

2.11 "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.

2.12 "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.

2.13 "Btu" shall mean British Thermal Unit.

2.14 "Month" shall mean a calendar month.

2.15 "Mile" shall mean a statute mile of 5,280 feet.

2.16 "Jurisdictional agency" shall mean the Division of Oil and Gas of the West Virginia Department of Energy.

2.17 "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, or 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.

2.18 "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.

2.19 "Proration unit" shall mean an area around a well as per the following:

2.19.1 For all shallow wells with a depth less than 3,000 feet, the proration unit will have a 1,000 foot radius and shall constitute 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;

2.19.2 For shallow wells with a depth of 3,000 feet or more, the proration unit will have a 1,500 foot radius and shall constitute 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

2.19.3 For all deep wells, the proration unit will be the drilling unit as defined in W. Va. Code §22-8-2(13).

### Section 3. Filing Requirements

#### 3.1 General Requirements -

Department of Energy  
Division of Oil and Gas  
Leg. Rule, 22-1 and 22B-1  
Series 2, Sec. 3

3.1.1 No application under this rule will be certified until such time as a copy of Form OP-1, "Operator Registration Form and Designation Form", has been filed.

3.1.2 All forms promulgated by the Division of Oil and Gas and required by this rule may be replaced by copies of any applicable predecessor form promulgated by the Division of Oil and Gas or by equivalent company or operator forms.

3.1.3 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.

3.1.4 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.

3.1.5 Such other information as the Division 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.

3.2 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:

3.2.1 For wells more than 2.5 miles from a marker well:

3.2.1.1 1 copy of FERC Form 121;

3.2.1.2 1 copy of Form WW-6, "Well Plat";

3.2.1.3 1 copy of Form WR-35, "Well Operator's Report of Drilling";

3.2.1.4 1 copy of Form FC-48, "State Application for Well Classification";

3.2.1.5 1 copy of Form FC-51, "Well Classification Form; Wells Drilled More than 2.5 Miles from a Marker Well";

Department of Energy  
Division of Oil and Gas  
Leg. Rule, 22-1 and 22B-1  
Series 2, Sec. 3

3.2.1.6 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;

3.2.1.7 A separate sheet tabulating all wells identified on the plat required by Section 3.2.1.6 as to linear distance, depth of the top of the producing formation, and the geological name of the formation;

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

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

3.2.2 For wells more than 1,000 feet deeper than a marker well:

3.2.2.1 1 copy of FERC Form 121;

3.2.2.2 1 copy of Form WW-6, "Well Plat";

3.2.2.3 1 copy of Form WR-35, "Well Operator's Drilling Report";

3.2.2.4 1 copy of Form FC-48, "State Application for Well Classification";

3.2.2.5 1 copy of Form FC-52, "Well Classification Form; Wells Drilled More Than 1,000 Feet Deeper Than a Marker Well";

3.2.2.6 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 marker

Department of Energy  
Division of Oil and Gas  
Leg. Rule, 22-1 and 22B-1  
Series 2, Sec. 3

wells within the 2.5 mile radius, and also indicating the deepest completion locations for each such marker well identified on the plat;

3.2.2.7 A separate sheet tabulating all wells identified on the plat required by section 3.2.2.6 as to linear distance, depth of the top of the producing formation, and the geological name of the formation;

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

3.2.2.9 Satisfactory proof of service that a copy of the complete filing has been served on the first purchase, if known.

3.2.3 For new onshore reservoir wells:

3.2.3.1 1 copy of FERC Form 121;

3.2.3.2 1 copy of Form WW-6, "Well Plat";

3.2.3.3 1 copy of Form WR-35, "Well Operator's Drilling Report";

3.2.3.4 1 copy of Form FC-48, "State Application for Well Classification";

3.2.3.5 1 copy of Form FC-53, "Well Classification Form; New Onshore Reservoir Wells";

3.2.3.6 Subsurface cross-section charts;

3.2.3.7 Formation structure map;

3.2.3.8 A gas analysis;

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

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

Department of Energy  
Division of Oil and Gas  
Leg. Rule, 22-1 and 22B-1  
Series 2, Sec. 3

3.3 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:

3.3.1 1 copy of FERC Form 121;

3.3.2 1 copy of Form WW-6, "Well Plat";

3.3.3 1 copy of Form WR-35, "Well Operator's Drilling Report";

3.3.4 1 copy of Form FC-48, "State Application for Well Classification";

3.3.5 1 copy of Form FC-53, "Well Classification Form; New Onshore Reservoir Wells";

3.3.6 Subsurface cross-section charts;

3.3.7 Formation structure map;

3.3.8 A gas analysis;

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

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

3.4 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:

3.4.1 1 copy of FERC Form 121;

3.4.2 1 copy of Form WW-6, "Well Plat";

3.4.3 1 copy of Form WR-35, "Well Operator's Drilling Report";

3.4.4 1 copy of Form FC-48, "State Application for Well Classification";

Department of Energy  
Division of Oil and Gas  
Leg. Rule, 22-1 and 22B-1  
Series 2, Sec. 3

3.4.5 1 copy of Form FC-53, "Well Classification Form; New Onshore Reservoir Wells";

3.4.6 Electric logs;

3.4.7 Directional drilling surveys if made in the ordinary course of drilling and completing the well; and

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

3.5 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:

3.5.1 1 copy of FERC Form 121;

3.5.2 1 copy of Form WW-6, "Well Plat";

3.5.3 1 copy of Form WR-35, "Well Operator's Drilling Report";

3.5.4 1 copy of Form WR-39, "Report of Production", for 12 consecutive months ending within 180 days of the date of application;

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

3.5.6 If items required by Sections 3.5.4 and 3.5.5 are not available, tax records or verified copies of billing statements for 12 calendar months ending within 180 days of the days of filing;

3.5.7 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.

3.5.8 1 copy of Form FC-48, "State Application for Well Classification";

3.5.9 1 copy of Form FC-56, "Well classification Form; Stripper Wells"; and

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

3.6 Report of Increase in Production; Enhanced Recovery; Seasonally Affected Wells -

3.6.1 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:

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

3.6.1.2 Identification of the subject well and an accurate records reference to the original determination qualifying the well as a stripper well;

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

3.6.1.4 A statement of the average production per production day for the period in question;

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

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

3.6.2 An Operator desiring a determination that an increase in production has been the result of enhanced recovery techniques shall file with the Director within 30 days of the date of the notice of an increase in production:

Department of Energy  
Division of Oil and Gas  
Leg. Rule, 22-1 and 22B-1  
Series 2, Sec. 3

3.6.2.1 1 copy of Form FC-57WC, "Request for Determination that Increased Production is the Result of Enhanced Recovery Techniques"; and

3.6.2.2 1 copy of Form FC-48WC, "State Application for Well Classification".

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

3.6.3.1 1 copy of Form FC-58WC, "Request for Determination of a Seasonally Affected Well";

3.6.3.2 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

3.6.3.3 1 copy of Form FC-48WC, "State Application for Well Classification".

#### Section 4. Certification Procedures

4.1 Initial Action by the Division 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 Division 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 Director. A file number and a determination date will be assigned. One copy of FERC Form 121 and one copy of Form FC-48WC will be mailed to the Operator and the Purchaser (if known) notifying them of the file number, determination date and the date of filing with the Division of Oil and Gas.

#### 4.2 Periodical Circular -

4.2.1 The Division 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 this rule. Copies of the circular will be filed with the Secretary of State and the Capitol News Media.

4.2.2 The circular will identify each well by applicant and by a file number which will indicate:

Department of Energy  
Division of Oil and Gas  
Leg. Rule, 22-1 and 22B-1  
Series 2, Sec. 4

4.2.2.1 The date received by the Division of Oil and Gas;

4.2.2.2 The NGPA category for which application is made; and

4.2.2.3 The A.P.I. county and permit number.

4.2.3 The circular will constitute notice of the following:

4.2.3.1 That the initial application was complete or incomplete as received;

4.2.3.2 The scheduled determination date;

4.2.3.3 The determination made by the Division of Oil and Gas and the date of determination; and

4.2.3.4 The date on which the determination order was filed with FERC.

4.3 Notice of Hearing - Notice of all filings for applications for certification under this rule will be filed by the Division 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 Division of Oil and Gas within 15 days from the date that the circular is filed with the Secretary of State. If objections are made by any interested person, or by the Division of Oil and Gas, or if the Director determines that other information may be necessary in order to make a determination, a public hearing will be held. 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.

4.4 Determinations - After a hearing has been held, a determination as to whether the well qualifies for certification will be made by the Director. If no objection is made within the time prescribed by Section 4.3, the Director will make a determination as to whether the well qualifies for certification. A copy of FERC Form 121 and the order will be mailed to the FERC for final review pursuant to §503 of the NGPA.

4.5 Extra Powers of Director - The Director may also certify or provide a waiver for a well located within a proration

Department of Energy  
Division of Oil and Gas  
Leg. Rule, 22-1 and 22B-1  
Series 2, Sec. 4

unit as defined in Section 2.2.2.16 or any other well sought to  
be certified under this rule after notice and hearing.