

WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION

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OFFICE WEST VIRGINIA
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Form #6

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Department of Environmental Protection TITLE NUMBER: 35

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 7

TITLE OF RULE BEING AMENDED: "Certification of Gas Wells"

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) HB 2663

SECTION _____, PASSED ON April 14, 2001

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: May 7, 2001



Authorized Signature

\$4.60

TITLE 35
LEGISLATIVE RULE
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF OIL AND GAS

FILED

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SERIES 7
CERTIFICATION OF GAS WELLS

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§35-7-1. General.

1.1. Scope. -- This legislative rule shall govern and apply to proceedings under West Virginia Code §22-6-2(c)(11) concerning gas wells and implementation of the Natural Gas Policy Act of 1978, and pertinent federal regulations.

1.2. Authority. -- WV Code §§22-1-3; 22-1-10; 22-6-2; and 22-6-2(c)(11).

1.3 Filing Date. --

1.4. Effective Date. --

§35-7-2. Definitions.

Unless the context in which used clearly requires a different meaning, the definitions contained in West Virginia Code §§22-1-4 and 22-6-1 shall apply to this rule, in addition to the definition expressly set forth in this section. Each definition adopted by this section, whether statutory or by rule, is for the purpose of implementing the Natural Gas Policy Act of 1978, and is intended to be used in any other context:

2.1. "Btu" means British Thermal Unit.

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

2.3. "FERC" means the Federal Energy Regulatory Commission.

2.4. "Jurisdictional agency" means the Office of Oil and Gas of the West Virginia Division of Environmental Protection.

2.5. "Marker well" means 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 one thousand (1,000) feet below the depth of the deepest completion location to 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.

2.6. "Marker well completion location" or completion location when used with reference to any marker well, means any subsurface location from which natural gas was produced in commercial quantities after January 1, 1970, and before April 20, 1977.

2.7. "Mcf" used with respect to natural gas means 1,000 cubic feet of natural gas measured at a standard pressure base of 14.73 pounds per square inch (absolute), and a temperature of 60 degrees Fahrenheit.

2.8. "Mile" means a statute mile of five thousand two hundred eighty feet (5,280').

2.9. "Month" means a calendar month.

2.10. "Natural gas" means either natural gas unmixed or any mixture of natural and artificial gas.

2.11. "New well" means 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 one thousand (1,000) feet below the depth of the deepest completion location of such well attained before February 19, 1977.

2.12. "NGPA" means the Natural Gas Policy Act of 1978.

2.13. "Old well" means any well other than a new well.

2.14. "Production in commercial quantities" means 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.

2.15. "Proration unit" means an area around a well as per the following:

2.15.a. For all shallow wells with a depth less than three thousand (3,000) feet, the proration unit will have a one thousand (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;

2.15.b. For shallow wells with a depth of three thousand (3,000) feet or more, the proration unit will have a one thousand five hundred (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

2.15.c. For all deep wells, the proration unit will be the drilling unit as defined in WV Code §22C-9-2(13).

2.16. "Recognized enhanced recover techniques" means 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.

2.17. "Reservoir" means 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.

2.18. "Well" means any well for the discovery of production of natural gas, crude oil, or both.

§35-7-3. Filing Requirements.

3.1. General Requirements.

3.1.a. 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.b. All forms promulgated by the Office of Oil and Gas and required by this rule, may be replaced by copies of any applicable predecessor form promulgated by the Office of Oil and Gas, or by equivalent company or operator forms.

3.1.c. If an Operator wishes to seek a determination that a well qualifies for more than one (1) category under NGPA, a separate application must be submitted for each category for which a determination is desired.

3.1.d. Each application must be accompanied by a filing fee of one hundred dollars (\$100.00). Where an Operator is submitting several applications at one (1) time, a single check may be submitted for a sum equal to the number of applications multiplied by one hundred dollars (\$100.00).

3.1.e. Applications may be submitted electronically if approved by the Chief

3.1.f. Such other information as the Office of Oil and Gas may require in order to establish by substantial evidence that the well qualifies for 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.a. For wells more than 2.5 miles from a marker well:

3.2.a.1. One (1) copy of FERC Form 121;

3.2.a.2. One (1) copy of Form WW-6, "Well Plat";

3.2.a.3. One (1) copy of Form WR-35, "Well Operator's Report of Drilling";

3.2.a.4. One (1) copy of Form FC-48, "State Application for Well Classification";

3.2.a.5. One (1) copy of Form FC-51, "Well Classification Form; Wells Drilled More than 2.5 miles from a Marker Well";

3.2.a.6. A plat to the scale of one inch (1") equals four thousand (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 (4) digits of the API permit number;

3.2.a.7. A separate sheet tabulating all wells identified on the plat required by paragraph 3.2.a.6 of this section as to linear distance, depth of the top of the producing formation, and the geological name of the formation;

3.2.a.8. Electric logs and directional drilling surveys, if performed in the normal course of drilling and completion of the well; and

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

3.2.b. For wells more than one thousand feet (1,000') deeper than a marker well:

3.2.b.1. One (1) copy of FERC Form 121;

3.2.b.2. One (1) copy of Form WW-6, "Well Plat";

3.2.b.3. One (1) copy of Form WR-35, "Well Operator's Drilling Report";

3.2.b.4. One (1) copy of Form FC-48, "State Application for Well Classification";

3.2.b.5. One (1) copy of Form FC-52, "Well Classification Form; Wells Drilled More than One Thousand Feet (1,000') Deeper than a Marker Well";

3.2.b.6. A plat to the scale of one inch (1") equals four thousand (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;

3.2.b.7. A separate sheet tabulating all wells identified on the plat required by paragraph 3.2.b.6. of this section as to linear distance, depth of the top of the producing formation, and the geological name of the formation; and

3.2.b.8. Electric logs and directional drilling surveys if performed in the normal course of drilling and completion of the well.

3.2.c. For new onshore reservoir wells:

3.2.c.1. One (1) copy of FERC Form 121;

3.2.c.2. One (1) copy of Form WW-6, "Well Plat";

3.2.c.3. One (1) copy of Form WR-35, "Well Operator's Drilling Report";

3.2.c.4. One (1) copy of Form FC-48, "State Application for Well Classification";

3.2.c.5. One (1) copy of Form FC-53, "Well Classification Form; New Onshore Reservoir Wells";

3.2.c.6. Subsurface cross-section charts;

3.2.c.7. Formation structure map;

3.2.c.8. A gas analysis; and

3.2.c.9. Electric logs and directional drilling surveys if performed in the normal course of drilling and completion of the well.

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.a. One (1) copy of FERC Form 121;

3.3.b. One (1) copy of Form WW-6, "Well Plat";

3.3.c. One (1) copy of Form WR-35, "Well Operator's Drilling Report";

3.3.d. One (1) copy of Form FC-48, "State Application for Well Classification";

3.3.e. One (1) copy of Form FC-53, "Well Classification Form; New Production Onshore Wells";

3.3.f. Sub-surface cross-section charts;

3.3.g. Formation structure map;

3.3.h. A gas analysis; and

3.3.i. Electric logs and directional drilling surveys if performed in the normal course of drilling and completion of the well.

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.a. One (1) copy of FERC Form 121;

3.4.b. One (1) copy of Form WW-6, "Well Plat";

3.4.c. One (1) copy of Form WR-35, "Well Operator's Drilling Report";

3.4.d. One (1) copy of Form FC-48, "State Application for Well Classification";

3.4.e. One (1) copy of Form FC-55, "Well Classification Form; High Cost Gas";

3.4.f. Electric logs; and

3.4.g. Directional drilling surveys if made in the ordinary course of drilling and completing the well.

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.a. One (1) copy of FERC Form 121;

3.5.b. One (1) copy of Form WW-6, "Well Plat";

3.5.c. One (1) copy of Form WR-35, "Well Operator's Drilling Report";

3.5.d. One (1) copy of Form WR-39, "Report of Production", for twelve (12) consecutive months ending within ninety (90) days of the date of application;

3.5.e. Production records for a period of ninety (90) consecutive days ending within ninety (90) days of the date of application;

3.5.f. If items required by subdivision 3.5.d. and 3.5.e. of this section are not available, tax records or verified copies of billing statements for twelve (12) calendar months ending within ninety (90) days of the date of filing;

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

for a twelve (12) month period, including any part of the indicated ninety (90) day production period;

3.5.h. One (1) copy of Form FC-48, "State Application for Well Classification"; and

3.5.i. One (1) copy of Form FC-56, "Well Classification Form; Stripper Wells".

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

3.6.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 sixty (60) Mcf per production day for any ninety (90) day production period, the operator or purchaser shall file a notice containing the following information with the Chief:

3.6.a.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.a.2. Identification of the subject well and accurate records reference to the original determination qualifying the well as a stripper well;

3.6.a.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.a.4. A statement of the production per production day for the period in question;

3.6.a.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.a.6. If the notice is filed by a purchaser, a statement that the notice has been served on the operator.

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

3.6.b.1. One (1) copy of Form FC-57WV, "Request for Determination that Increased Production is the Result of Enhanced Recovery Techniques"; and

3.6.b.2. One (1) copy of Form FC-48WC, "State Application for Well Classification".

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

3.6.c.1. One (1) copy of FC-58WC, "Request for Determination of Seasonally Affected Well";

3.6.c.2. Production records, tax records or billing statements for a period of twenty-four (24) months, including the ninety (90) day or twelve (12) month period which is the subject of a notice of an increase of production;

3.6.c.3. One (1) copy of Form FC-48WV, "State Application for Well Classification"; and

3.6.c.4. Applications may be submitted electronically if approved by the Chief.

§35-7-4. Certification Procedures.

4.1 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 Chief. 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 notifying them of the file number, determination date, and the date of filing with the Office of Oil and Gas.

4.2. Periodical Circular - The Office of Oil and Gas will publish from time to time a circular indicating the status of various applications filed under this rule. Such circular may be published on the Division of Environmental Protection's Website.

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

4.2.a.1. The date received by the Office of Oil and Gas;

4.2.a.2. The NGPA category for which application is made; and

4.2.a.3. The API county and permit number.

4.2.b. The circular will constitute notice of the following:

4.2.b.1. That the initial application was complete or incomplete as received;

4.2.b.2. The scheduled determination date;

4.2.b.3. The determination made by the Office of Oil and Gas and the date of determination; and

4.2.b.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 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 fifteen (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 Office of Oil and Gas, or if the Chief 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. Determination - After a hearing has been held, a determination as to whether the well qualifies for certification will be made by the Chief. If no objection is made within the time prescribed by subsection 4.3, the Chief 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 Chief - The Chief may also certify or provide a waiver for a well located within a proration unit as defined in subsection 2.15 of this rule, or any other well sought to be certified under this rule, after notice and hearing.