

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #1

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RECEIVED
JUN 17 11 17 AM '99
OFFICE OF THE SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: BUREAU OF ENVIRONMENT
OIL AND GAS CONSERVATION COMMISSION TITLE NUMBER: 39

RULE TYPE: Legislative; CITE AUTHORITY 22C-9

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: "Rules of the Commission"

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

DATE OF PUBLIC HEARING: July 19, 1999 TIME: 6:00 p.m.

LOCATION OF PUBLIC HEARING: DIVISION ENVIRONMENTAL PROTECTION'S Training Room

#10 McJunkin Road

Nitro, WV 25143-2506

COMMENTS LIMITED TO: ORAL _____, WRITTEN _____, BOTH

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: Oil & Gas Conservation

Commission

#10 McJunkin Rd.


Nitro, WV 25143-2506

ATTN: BRETT LOFLIN

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL


Authorized Signature

5.40



Executive Office
10 McJunkin Road
Nitro, West Virginia 25143-2506
Telephone: 304-759-0515
Fax: 304-759-0526

West Virginia Bureau of Environment

Cecil H. Underwood
Governor

Michael P. Miano
Commissioner

June 15, 1999

Ms. Judy Cooper
Director, Administrative Law Division
Office of the Secretary of State
Capitol Complex
Charleston, West Virginia 25305

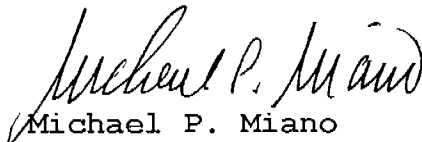
RE: 39CSR1 - "Rules of the Commission"

Dear Ms. Cooper:

This is to advise that I am giving approval to file the above-referenced Legislative rule with your Office as "Notice of Public Hearing/Comment Period."

If you should have questions or require additional information, please contact Brett Loflin, West Virginia Oil and Gas Conservation Commission, at 759-0516. Your cooperation in this regard is very much appreciated.

Sincerely yours,


Michael P. Miano
Commissioner

MPM:cc

Attachment

cc: Brett Loflin

BUREAU OF ENVIRONMENT
OIL AND GAS CONSERVATION COMMISSION

BRIEFING DOCUMENT

Rule Title: 39CSR1

A. AUTHORITY: WV Code 22C-9

B. SUMMARY OF RULE: Rule is in place to enforce provisions WV Code 22C-9. The rule pertains to the permitting and drilling of deep wells in West Virginia. The rule has not been revised since 1988. It was necessary to clean up language to comport with the revisions made to WV Code 22C-9. Two substantial changes were made. First, language in subsection 4.4.a was changed (requirement for surface owners consent and easement) to comport with court decision. Second, additional notice requirements found in subsection 4.5 to apply to operators applying for a deep well drilling permit.

C. STATEMENT OF CIRCUMSTANCES WHICH REQUIRE RULE:
39CSR1 has not been revised since 1988. Rule will be filed as a legislative rule instead of procedural. Changes to WV Code 22C-9 warranted changes to the applicable rule.

D. FEDERAL COUNTERPART REGULATIONS - INCORPORATION BY REFERENCE/DETERMINATION OF STRINGENCY:

N/A

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 39, Series 1 Rules of the Commission

Type of Rule: X **Legislative** **Interpretive** **Procedural**

Agency Oil and Gas Conservation Commission

Address #10 McJunkin Road

Nitro, West Virginia 25143-2506

1. Effect of Proposed Rule

| | ANNUAL FISCAL YEAR | | | | |
|-----------------------------------|--------------------|----------|---------|-------|------------|
| | INCREASE | DECREASE | CURRENT | NEXT | THEREAFTER |
| ESTIMATED TOTAL COST | \$ | \$ | \$ | \$ | \$ |
| PERSONAL SERVICES | | | | | |
| CURRENT EXPENSE | 2,430 | | -0- | 2,430 | 2,430 |
| REPAIRS & ALTERNATIONS | | | | | |
| EQUIPMENT | | | | | |
| OTHER | | | | | |

2. Explanation of above estimates:

Estimates based on Rule resulting in six additional administrative hearings before the Commission. Each hearing cost is approximately \$405.00 for per diem for members, legal advertisement and court reporter.

3. Objectives of these rules:

Revised statute necessitated rule revisions. The revisions are mostly clean up. However, two substantial changes were made. Amendment to the surface owners consent and easement provision was made to comport with the interpretation of the court. Also, an additional notice provision when a permit to drill a deep well is sought will further protect the correlative rights of adjoining operator and mineral owner interests.

Rule Title: Title 39, Series 1 Rules of the Commission

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

Same as outlined in the Effect of Proposed Rule.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

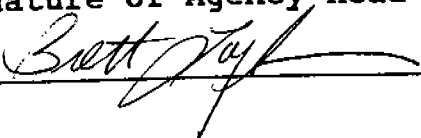
Operators of deep wells will bear the cost of Class II legal advertisement when they apply for a permit to drill. Any other additional cost associated with attending possible administrative hearings.

C. Economic Impact on Citizens/Public at Large.

None.

Date: June 16, 1999

Signature of Agency Head or Authorized Representative



FILED

TITLE 39

JUN 17 11 24 AM '99

**LEGISLATIVE RULES
WEST VIRGINIA OIL AND GAS CONSERVATION COMMISSION**

OFFICE OF THE SECRETARY OF STATE
SECRETARY OF STATE

**SERIES 1
RULES OF THE COMMISSION**

§39-1-1. General.

1.1. Scope. -- All rules of a general nature herein promulgated are to prevent waste, protect correlative rights and to conserve oil and gas in the State of West Virginia and are applicable in all pools and fields developed subsequent to their adoption, except as may be amended, modified, altered or enlarged generally or in specific pools or fields by orders hereafter issued by the Commission. Where special field rules apply, the special field rules shall govern to the extent of any conflict.

1.2. Authority. -- W.Va. Code §22C-9

1.3. Filing Date. --

1.4. Effective Date. --

1.5 Repeal of Former Rule. -- This rule repeals and replaces 39CSR1, filed December 20, 1988, effective December 20, 1988

§39-1-2. General Rules.

2.1. Duties of the Commission. -- The duties of the Commission shall be as described in the statute.

2.2. Access to records. -- The Commission and/or its authorized agent shall have access to such deep well and lease records, wherever located, as may be necessary in the performance of its statutory duties. All persons or operators, drilling or servicing deep wells, shall permit the Commission and/or its authorized agent, to come upon any lease, property or deep well operated or controlled by them, and to inspect the record and operation of such deep wells and to have access at reasonable time to such records of deep wells; Provided, that information so obtained shall be kept confidential.

2.3. Reports. -- All operators and purchasers of oil and gas within the state shall, from time to time, file such reports containing such information and covering such periods as the Commission, in order to perform its statutory duties, may require by rule.

2.4. Tests and surveys. -- When deemed necessary or advisable in the performance of its statutory duties, the Commission, by rule or regulation, may require tests and surveys to determine the occurrence of waste of oil, gas, water or reservoir energy and the magnitude thereof.

2.5. Corrective action. -- The Commission shall require correction of any condition which is causing or is likely to cause waste of oil or gas and require

the proper plugging and abandonment of any deep well or wells no longer used or useful.

2.6. Well designations. -- The operator, upon completion of any deep well, shall install and maintain, upon the deep well site, proper identification thereof, including, but not limited to, the operator's name, name of lease, number of the well, and API number (composed of state, county and permit number).

2.7. Naming of fields. -- All oil and gas fields subject to the statute discovered subsequent to the adoption of this rule shall be named by the Commission or at its direction.

2.8. Forms upon request. -- Forms required by the Commission will be furnished upon request.

§38-1-3. Definitions.

3.1. "Commission" means the West Virginia Oil and Gas Conservation Commission, composed of three (3) members appointed by the Governor, the Director of the Division of Environmental Protection and the Chief of the Office of Oil and Gas of the Division of Environmental Protection

3.2. "Commissioner" means the person appointed by the West Virginia Oil and Gas Conservation Commission to the position of Commissioner.

3.3. "Code" means the Code of West Virginia, 1931, as amended.

3.4. "Statute" means WV Code §22C-9.

3.5. "Hearing" means a proceeding in which any matter is heard before the Commission.

3.6. "Day" means a period of twenty-four (24) consecutive hours.

3.7. "Barrel" means forty-two (42) United States gallons of 231 cubic inches each at a temperature of sixty (60) degrees Fahrenheit.

3.8. "Cubic Foot of Gas" means in this rule, the volume of gas contained in 1 cubic foot of space at a standard pressure base and a standard temperature base. The standard pressure base shall be fourteen and seventy-three hundredths (14.73) psia, and the standard temperature base shall be sixty degrees Fahrenheit.

3.9. "Log or Well Log" means a systematic detailed geological record of formations encountered in the drilling of a well.

3.10. The words, "Person, Operator, Royalty Owner, Independent Producer, Oil, Gas, Pool, Well, Shallow Well, Deep Well, Drilling Unit, Waste, Correlative Rights, and Just and Equitable Share of Production", are defined by the statute and said definitions are hereby adopted in this rule.

3.11. "Oil Well" means any well which produces less than 6,000 cubic feet of gas to each one barrel of oil on initial gas-oil ratio test, defining oil and gas as in the statute.

3.12. "Gas Well" means any well which produces 6,000 cubic feet or more than 6,000 cubic feet of gas to each one barrel of oil on initial gas-oil ratio test, defining oil and gas as in the statute.

3.13. "Completion" - An oil well shall be considered completed when the well is first capable of producing new oil through wellhead equipment into lease tanks from the ultimate producing interval after the producing string has been run. A gas well shall be considered completed when the well is capable of producing gas through wellhead equipment from the ultimate producing zone after the producing string has been run. A dry hole shall be considered completed when all provisions of plugging have been performed. A multiple completion is the completion of more than one pool of hydrocarbon fluids into one wellbore.

3.14. "Purchaser" means any person who directly or indirectly purchases, transports, takes or otherwise removes oil, gas or other hydrocarbon to his account from a well, lease, drilling unit or pool.

3.15. "Field" means a geographic area which is underlaid or appears to be underlaid by at least one pool; and "Field" shall include the underground reservoir or reservoirs containing oil or gas or both. The words "Field" and "Pool" are synonymous when only one underground reservoir is involved; however, "Field" may relate to two or more pools.

3.16. "Well Spacing" means the pattern or minimum distances from drilling unit boundary lines and from other deep wells drilling to or producible from the same pool, at which deep wells may be located on the surface.

3.17. "Unit" means a lease or two or more leases which have been combined in such a manner that the combined leases may be regarded as a common lease for the drilling and operation of a deep oil or gas well.

3.18. "Designated Agent" - The designated agent shall be a resident of the State of West Virginia upon whom process, notices, orders or other communications issued pursuant to this rule may be served. Change in designated agent must be received by the Commission within five days after such change.

3.19. "Authorized Agent" means a representative of the Commission.

3.20. "Special Field Rules" are rules ordered after a deep well has been drilled establishing a field or pool and an application is filed by the operator of the deep well or by the operator of any lands directly and immediately affected by the drilling of such deep well or wells in the field or pool. The special field rules will designate the field or pool by name, the area to which they are applicable, the acreage of each drilling unit, the shape thereof, the minimum distance from the outside boundary of each drilling unit at which a deep well may be drilled and a minimum distance between deep wells. The Commission may conform the size and shape of the drilling unit upon which a deep well is situated to the applicable special field rules.

3.21. "Test well" shall mean a well intended to discover a "new " pool in accordance with WV Code §22C-9-2(a)(9).

3.22. "Annual" shall mean twelve calendar months beginning January 1 and ending December 31.

39-1-4. Operational Rules.

4.1. Notices - General and Emergency.

Any written notice of intention to do work which requires the Commission's approval or to change plans previously approved by the Commission must be filed with the Commission in triplicate, unless otherwise directed, and must receive its approval before the work is begun.

In case of emergency or a situation where operations might be unduly delayed, any written notice or approval required by this rule to be given to or received from the Commission may be given or received orally or by wire, and, if approval is obtained, the transaction shall be confirmed in writing within ten working days as a matter of record.

4.2. Location of Wells.

To prevent waste, in the absence of an application for special field rules or special field rules ordered by the Commission establishing drilling units or authorizing different deep well spacing or location patterns for a particular field or pool or parts thereof, each deep well drilled shall be not less than 3,000 feet from a permitted deep well location or from an existing well capable of producing hydrocarbons from the objective pool of the deep well and no deep well shall be less than 400 feet from a lease or unit boundary.

The Commission shall have the discretion to determine pattern location of deep wells adjacent to an area governed by special field rules where there is sufficient evidence to indicate that the pool or reservoir spaced by the special field rules may extend beyond the boundary of the spacing order and the uniformity of the spacing pattern is necessary to ensure orderly development of the pool or field.

4.3. Exception to Location of Wells.

When exception to subsection 4.2 of this rule or a special field rule applicable to the location of deep wells is desired, the operator shall file a supplemental application to the application required by subsection 4.4 of this rule with the Commission.

The supplemental application shall be accompanied by a plat or sketch with appropriate coordinates drawn to the scale of 1 inch equaling to 2,000 feet accurately showing to scale all other completed, drilling, or permitted deep oil and gas wells on said property or surrounding property within a distance of two miles if the plat or sketch submitted under subsection 4.4 of this rule does not accurately reflect the hereinabove information. The plat shall show:

4.3.a. The location at which a deep oil or gas well could be drilled in compliance with the applicable order, or rule;

4.3.b The location at which the applicant requests permission to drill; and

4.3.c. The location at which deep oil or gas wells have been drilled or could be drilled in accordance with the applicable special field order or rule, directly or diagonally offsetting the proposed exception.

The Commission, after notice and hearing, may grant or deny the application and require the withholding or approve issuing of a permit pursuant to subsection 4.4 of this rule.

No exception shall prevent any operator from drilling a deep oil or gas well on adjacent lands, directly or diagonally offsetting the exception, at locations permitted by any applicable special field rules ordered by the Commission.

4.4. Application for Permit.

All applications submitted to the Chief of the Office of Oil and Gas for a permit to drill, redrill, stimulate, operate, plug, abandon, deepen, case fracture, pressure, convert or combine any deep well, or physically change any deep well to allow the migration of fluid from one formation to another shall be reviewed by the Commission or by an authorized agent to ascertain compliance with this rule. The Commission will provide the Chief of the Office of Oil and Gas with a statement either approving or disapproving the application based upon its compliance with Oil and Gas Conservation rule and the statute. The permit will be issued by the Chief of the Office of Oil and Gas when the applicant has complied with this rule. The application shall contain, or show by plat or sketch, in addition to the requirements of WV Code §22C-9-1(k), and this rule, the following:

4.4.a. For all wells drilled within an area that has been established through special field rules pursuant to WV Code §22C-9-7, a certificate of consent and easement from all owners of the surface of the tract on which the deep well is to be drilled;

4.4.b. A tabulation of all deep wells within one mile of the proposed location, including the API number of the deep well, well name and the name and address of the operator;

4.4.c. Shown on a plat for a proposed deep well location in an area covered by special field rules, the boundaries of the drilling unit, the distances from the proposed deep well location to the nearest outside boundary and the acreage of each tract within the drilling unit. Such plat shall accompany the application and shall be drawn to a scale of 1 inch to 2,000 feet. The plat shall be prepared by a licensed land surveyor or registered engineer showing the district and county in which the tract of land upon which the well to be drilled is located, the acreage of the tract, the name of mineral owners or lessees of adjacent tracts, the proposed or actual location of the well determined by survey, the courses and distances of such locations from two permanent points or landmarks on said tracts and the number to be given the deep well. The

plat will show all deep oil and gas including abandoned deep oil and gas wells within one mile of the proposed or actual deep well for which a permit is being sought and the distances to each;

4.4.d. An affidavit of publication of the public notice as required in subsection 4.5 of this rule; and

4.4.e. Any other information which the Commission, by rule, or order, may require to perform its statutory duties.

4.5. Notice Requirements.

4.5.a. Prior to filing any application for the drilling of a new deep well a public notice shall be given by the operator making the application. Notice shall be given by Class II Legal Advertisement in the primary newspaper for the county in which the well is to be drilled. The notice shall include: the name of the operator making application, a section of the county highway map, or comparable map at a scale of one inch equals one mile, indicating the proposed location and showing, at a minimum the area within one square mile of the proposed well, with the well being located in the center, a statement that any owner or lessee affected may contact the West Virginia Oil and Gas Conservation Commission within 15 days of the notice, the telephone number and address for the Oil and Gas Conservation Commission.

4.5.b. In the event an owner or lessee of any lands within the one square mile area of the proposed location requests a prehearing conference for the purpose of establishing a drilling unit, or special field rules, the Commission shall set a day, time, and place for the prehearing conference to be held.

4.5.c. If at the prehearing conference the parties cannot reach an agreement, the Commission shall set a day, time and place for a hearing to be held.

4.5.d. If the proposed well is located in an area where special field rules exist the Commission waives the requirement for public notice found in this subsection.

4.6. Annual Report of Monthly Oil and Gas Production.

For each deep oil or gas well, an annual report of production by month shall be filed with the Commission. The report will be filed on or before the succeeding March 31st. The report will be filed regardless of the status of the deep well.

The report to be submitted by the operator or a person specified by the operator shall include the operator's name, place of business, lease or well name, API number (composed of state, county and permit number), days produced during the report month, volume of oil measured in barrels or gas measured in thousand cubic feet, and other pertinent information as the Commission, by rule, may require in the performance of its statutory duties.

4.7. Filing of Well Logs.

Within ninety days after the completion of drilling or recompletion of a deep well, the operator shall submit to the Commission a copy of the well log and the electrical, radioactive or other similar conventional log if they have been run. In addition, and upon the request of the Commission, operators shall file a copy of drill stem test charts, formation water analysis, porosity, permeability or fluid saturation measurements, core analysis and lithologic log or sample description as compiled within 90 days of completion: **Provided**, that no such information shall be required unless the operator has compiled such information in the ordinary course of business. No interpretation of the data is to be filed.

All information furnished to the Commission hereunder with respect to a deep well marked "confidential" shall be kept confidential for one year after the date the information is required to be filed hereunder, unless the owner gives written permission to release such information at an earlier date.

4.8. Measurement of Oil.

The volume of production of oil shall be computed in terms of barrels of clean oil on the basis of meter measurement or tank measurements of oil level difference, made and recorded to the nearest 1/4 inch of one hundred percent (100%) capacity tables, subject to the following corrections:

4.8.a. Correction for impurities. - The percentage of impurities (water, sand and other foreign substances, not constituting a natural component of the oil) shall be determined to the satisfaction of the Commission and the observed gross volume of oil shall be corrected to exclude the entire volume of such impurities; and

4.8.b. Temperature correction. - The observed volume of oil corrected for impurities shall be further corrected to the standard volume at sixty degrees Fahrenheit in accordance with A.S.T.M.D. - 1250, Table 7, or any revisions thereof and any supplements thereto or any close approximation thereof approved by the Commission.

4.9. Measurement of Gas. -- All gas except gas used on the lease for development purposes, lease operations or free gas, when produced or sold shall be measured by an approved meter of sufficient capacity. The standard pressure base for reporting purposes shall be 14.73 psia regardless of atmospheric pressure at the point of measurement and the standard temperature base shall be sixty degrees Fahrenheit.

4.10. Multiple Pool Completion or Commingling in One Well Bore.

In the absence of special field rules, an operator will, within seventy-two hours after commencing to complete a deep well in more than one pool, file a written notice to the office of the Conservation Commission of the intended multiple completion. Within fourteen days after the multiple completion and before any production for the deep well is marketed, the operator shall file a report stating whether the production is segregated or commingled, include a diagrammatic sketch of the mechanical installation, name and address of the operators, and a plat showing the location of the deep well and deep wells within two miles of the deep multiple completion well which have been or may be capable of being completed in the same pool or pools.

The Commission will provide all operators of deep wells within two miles of the multiple completion a copy of the report. If, within 15 days no protest is received and the Commission determines that no waste will result from the completion, the completion will be approved without notice and hearing.

In the event the pools are segregated, the Commission may require tests as it deems necessary to determine the effectiveness of the segregation of the different producing pools.

4.11. Intentional and Unintentional Deviation in Drilling.

Before beginning intentional directional drilling, other than sidetracking due to hole conditions, when the intent is to direct the bottom of the hole away from the vertical, notice of intention to do so shall be filed with the permit application and approval obtained. Such notice include the name and address of the operator, the well or farm name, lease name, field or pool, county, the depth, exact surface location of the well bore, proposed direction of deviation and proposed horizontal distance between the bottom of the hole and surface location, reason for intentional deviation and a list of offset operators. The applicant shall notify via certified mail offset operators of the applicant's intention. If an objection is received by the Commission within ten days the application will be set for hearing. If no objection is received, the application shall be approved. If approval is obtained, the operator shall file, with the Commission within sixty days after the completion of the work, an accurate and complete copy of the directional survey.

In all deep wells, all operators shall, when the safety of the well bore is not in jeopardy, survey their well bore for unintentional deviation from the vertical at least every 500 feet or every bit change if less than 500 feet, but no more frequently than 250 feet. The operator shall calculate the cumulative random drift of the bore hole from such survey as drilling progresses. The operator shall file a copy of such record within sixty days after completion of the drilling operation and before the sale of hydrocarbons is made from the well.

In the event safety precludes a survey being performed as described above, the operator shall, before the sale of hydrocarbons from the well, run cased hole deviation surveys or directional surveys on the well bore to determine that the bore hole is within the confines of the drilling unit.

If the operator has reason to suspect that cumulative random drift exceeds the surface distance of the well from the nearest drilling unit boundary, the operator shall run a directional survey on the bore hole to determine where the bore hole actually lies and file a copy of such record within sixty days after completing the survey.

4.12. Production potential, shut-in pressure and gas-oil ratio testing and reports. -- Production potential, shut-in pressure and gas-oil ratio testing and reporting may be required by the Commission to perform its statutory responsibilities. In deep well gas testing, the methods prescribed in the Interstate Oil Compact Commission's "Manual of Gas Well Testing" shall be used.

4.13. Gas-oil ratio test. -- Each operator shall take a gas-oil ratio test not later than thirty days following the completion or recompletion of any deep well producing from a pool which contains both oil and gas. The results of such test shall be reported to the Commission within fifteen days after the completion of the test. Upon request, the Commission may waive or extend the time for making a gas-oil ratio test. Additional tests may be taken at any time and shall be taken as required by the Commission to perform its statutory responsibilities.

§39-1-5. Secondary Recovery Rules.

5.1. Waterflooding and Other Recovery Operation. -- Applications for secondary or additional recovery operations, whether by waterflooding or repressuring or pressure maintenance operations, for a pool productive of oil shall contain:

5.1.a. A plat drawn to a scale of 1 inch equal to 2,000 feet showing the area involved, together with the well or wells, including shallow wells and dry and abandoned wells located thereon, all of which shall be properly designated;

5.1.b. The name, description and depth of the formations to be affected;

5.1.c. The log of any injection well or such similar information as is available;

5.1.d. A description of any injection well's casing or the proposed casing program and the proposed method for testing casing before use in any injection well;

5.1.e. A statement as to the type of fluid to be used for injection, its source and the estimated amounts to be injected daily;

5.1.f. A full description of the particular operation for which approval is requested, including the additional oil recovery anticipated and the economic feasibility of the project;

5.1.g. A copy of the unit agreement showing the approval of the plan and its terms of operation by the operators of at least three fourths (3/4) of the acreage (calculating partial interests on a pro rata basis for operator interests on any parcel owned in common) and the royalty owners of at least three fourths (3/4) of the acreage (calculating partial interests on a pro rata basis for royalty interests on any parcel owned in common); and

5.1.h. A statement of the designated operator for the unit.

5.2. Unit Operations. -- Subsequent to notice and hearing, at which the applicant will provide a copy of the unit agreement showing the approval of the plan and its terms of operation by the operators of at least three fourths (3/4) of the acreage (calculating partial interests on a pro rata basis for operator interests on any parcel owned in common) and the royalty owners of at least three fourths (3/4) of the acreage (calculating partial interests on a pro rata

basis for royalty interests on any parcel owned in common), the Commission may enter an order as provided in WV Code §22C-9-8.

5.3. Monthly Report. -- A monthly report of fluids injected and withdrawn shall be filed in a form prescribed by the Commission.

5.4. Notice of commencement and discontinuance of injection operations. -- The Commission shall be notified in writing within three days of commencement of injection operations and within ten days of ceasing injection operations. No injection well will be plugged without a permit.

§39-1-6. Rules of Practice and Procedure.

6.1. All proceedings relating to the determination of special field rules for the conservation of oil and gas, shall, in addition to the provisions of WV Code §22C-9-10, require evidence from an applicant as follows:

6.1.a. A topographic map at a scale of 1 inch equals 2,000 feet with an outline of the area for which special field rules are requested;

6.1.b. Known lease ownership of the area for which special field rules are requested by plat at a scale of 1 inch equals 2,000 feet and/or a tabulation of such ownership;

6.1.c. Geologic mapping, records and testimony relevant to the area to be spaced;

6.1.d. Reservoir data anticipated for an average proposed drilling unit within the spaced area; and

6.1.e. A comparative economic evaluation of spacing patterns, based on estimated production and rate of production of oil and/or gas of the average proposed drilling unit within the spaced area.

6.2. Conduct of attorneys before the Commission shall be the same as required of attorneys before the Circuit Courts of the State of West Virginia. Attorneys or persons representing themselves shall stand when addressing the Commission or a witness. Any person testifying in response to a subpoena or subpoena duces tecum issued by the Commission and 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 Commission. Witnesses shall be examined with courtesy and respect and their good faith shall be presumed.

The conduct and demeanor of attorneys and persons when present during the proceedings shall be such as to reflect respect for the dignity and authority of the Commission and to maintain the proceedings as an objective search for the applicable facts and the correct principles of law.

The electronic and/or photographic recording of any session is prohibited except as may be required by the Commission for preserving a record thereof for the use of the Commission in connection with the matter being heard. A transcript of testimony shall be taken and preserved as part of the permanent record. Interested parties may examine the official transcript or purchase a copy from the Commission.

6.3. Any operator intending to apply for special field rules, shall, along with the application which shall show applicant's name and address and describe the area for which a spacing order is requested, send a notice of a prehearing conference to the Commission and the operators of any lands directly or immediately affected by the proposal. The prehearing notice shall include a list of the names and addresses of all operators to whom it was sent, a statement that a diligent effort has been made to determine to whom the notice must be sent, a statement that opponents to the application must file written notice with the Commission within ten days or the conference will not be held, and the evidence required in subsection 6.1 of this rule. The Commission shall set a day, time and place for the prehearing conference to be not less than twenty days following the date of the prehearing notice. If no written opposition to the application is received by the Commission within the ten days after the date of the prehearing notice, the Commission will advise all persons to whom the prehearing notice was sent that a conference will not be held. If any operator relates in writing to the Commission opposition to the applicant's proposal, within ten days, a conference will be held. Any operator may attend and participate in the conference even though he did not request it. Opponents to the application shall present evidence, as required of an applicant in subsection 6.1 of this rule, indicating where there is disagreement with the applicant, sufficient to permit all operators to attempt to resolve the difference.

6.4. The Commission shall assign the application a cause number and enter the proceeding along with the date of filing on a separate page of the docket. Notice of the docket and the time and place of the hearing shall be in accordance with the provisions of the statute. A hearing shall not be less than 20 days and not more than 45 days following receipt of the application.

In addition to any other notice required by law or this rule, any person who believes that he may be interested in any hearing before the Commission who has filed a request for notices, in writing, shall be entitled to receive a copy of the docket for the hearing mailed by the Commission not later than ten days before the date of the hearing. Upon request, such person will be furnished a copy of the application filed with the Commission.

6.5. The applicant will open the hearing and present testimony and exhibits offered in support of the application. The applicant's witnesses will be subject to cross-examination by the Commission or any interested parties. The Commission shall determine the order of the appearances of the other participants in the hearing. Each interested party affected by the application who has complied with the Rules of Practice and Procedure, may present testimony and exhibits in support of or in opposition to the applicant's proposals. All witnesses shall be subject to cross-examination as previously set forth.

The applicant may offer rebuttal testimony and exhibits, but the witnesses will again be subject to cross-examination. Surrebuttal testimony and exhibits and subsequent testimony and exhibits may be permitted at the discretion of the Commission.

Closing statements and statements of position may be made by the participants and all other interested persons before the hearing is closed or at

such time as designated by the Commission. No order shall be made which is not supported by competent legal evidence.

6.6. In addition to any special hearings which may be held, regular monthly hearings shall be held before the Commission. Where circumstances permit, the Commission, after sounding the docket, may first call up and dispose of all noncontested matters and motions for continuance.

6.7. Any interested party may petition the Commission for the promulgation, amendment or repeal of any rule by filing a written petition setting forth such facts and arguments as support the petition. Upon receiving such petition, the Commission, as soon as practicable, shall either:

6.7.a. Deny the petition in writing (stating its reasons for denial),
or

6.7.b. Initiate rule-making proceedings pursuant to WV Code §29A-3 or other appropriate provisions of the WV Code.

6.8. The Commission shall enter a spacing order or dismiss the application within 45 days after the application for a spacing order has been filed.

6.9. Any person who is bound by any order of the Commission shall have the right to compel a hearing on the matter if no such hearing has been held.