

Division of Gas and Oil

Code of Virginia

Title 45.1 – Mines and Mining

Chapter 22.1 – The Virginia Gas and Oil Act

Table of Contents

45.1-361.1	Definitions
45.1-361.2	Regulation of coal surface mining not affected by chapter
45.1-361.3	Construction
45.1-361.4	Duties and responsibilities of the Director
45.1-361.5	Exclusivity of regulation and enforcement
45.1-361.6	Confidentiality
45.1-361.7	Expenditure of funds
45.1-361.8	Violations; penalties
45.1-361.9	Appeals; venue; standing
45.1-361.10	Duplicate leases
45.1-361.11	Objections by coal owner
45.1-361.12	Distance limitations of certain wells
45.1-361.13	Virginia Gas and Oil Board; membership; compensation
45.1-361.14	Meetings of the Board; notice; general powers and duties
45.1-361.15	Additional duties and responsibilities of the Board
45.1-361.16	Applicability and construction
45.1-361.17	Statewide spacing of wells
45.1-361.18	Voluntary pooling of interests in drilling units; validity of unit agreements
45.1-361.19	Notice of hearing; standing; form of hearing
45.1-361.20	Field rules and drilling units for wells; hearings and orders
45.1-361.21	Pooling of interests in drilling units
45.1-361.21:1	Coalbed methane gas; ownership.
45.1-361.22	Pooling of interests for coalbed methane gas wells; conflicting claims to ownership
45.1-361.22:1	Conflicting claims of ownership; arbitration.
45.1-361.23	Appeals of the Director's decisions; notices; hearings and orders
45.1-361.24	Enforcement
45.1-361.25	Standing when Director or Board fails to act
45.1-361.26	Recording of orders
45.1-361.27	Duties, responsibilities and authority of the Director
45.1-361.28	Powers, duties and responsibilities of the Inspector
45.1-361.29	Permit required; gas, oil, or geophysical operations; coalbed methane gas wells; environmental asse...
45.1-361.30	Notice of permit applications and permit modification applications required; content
45.1-361.31	Bonding and financial security required
45.1-361.32	Gas and Oil Plugging and Restoration Fund

45.1-361.33	Expiration of permits
45.1-361.34	Abandonment or cessation of well or corehole operation; plugging required
45.1-361.35	Objections to permits; hearing
45.1-361.36	Appeals of Director's decisions to the Board
45.1-361.37	Persons required to register; designated agents
45.1-361.38	Report of permitted activities and production required; contents
45.1-361.39	Developing a gas or oil well as a water well
45.1-361.40	Orphaned Well Fund; orphaned wells
45.1-361.41	Interference by injection wells with ground water supply
45.1-361.42	Safety in coalbed methane gas, oil and geophysical operations
45.1-361.43	Operator's right to sample water and quality
45.1-361.44	Replacement of water supply

Code of Virginia

§ 45.1-361.1. Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

"Abandonment of a well" or "cessation of well operations" means the time at which (i) a gas or oil operator has ceased operation of a well and has not properly plugged the well and reclaimed the site as required by this chapter, (ii) the time at which a gas or oil operator has allowed the well to become incapable of production or conversion to another well type, or (iii) the time at which the Director revokes a permit or forfeits a bond covering a gas or oil operation.

"Associated facilities" means any facility utilized for gas or oil operations in the Commonwealth, other than a well or a well site.

"Barrel" means forty-two U.S. gallons of liquids, including slurries, at a temperature of sixty degrees Fahrenheit.

"Board" means the Virginia Gas and Oil Board.

"Coalbed methane gas" means occluded natural gas produced from coalbeds and rock strata associated therewith.

"Coalbed methane gas well" means a well capable of producing coalbed methane gas.

"Coalbed methane gas well operator" means any person who has been designated to operate or does operate a coalbed methane gas well.

"Coal operator" means any person who has the right to operate or does operate a coal mine.

"Coal owner" means any person who owns, leases, mines and produces, or has the right to mine and produce, a coal seam.

"Coal seam" means any stratum of coal twenty inches or more in thickness, unless a stratum of less thickness is being commercially worked, or can in the judgment of the Department foreseeably be commercially worked and will require protection if wells are drilled through it.

"Correlative rights" means the right of each gas or oil owner having an interest in a single pool to have a fair and reasonable opportunity to obtain and produce his just and equitable share of production of the gas or oil in such pool or its equivalent without being required to drill unnecessary wells or incur other unnecessary expenses to recover or receive the gas or oil or its equivalent.

"Cubic foot of gas" means the volume of gas contained in one cubic foot of space at a standard pressure base of 14.73 pounds per square foot and a standard temperature base of sixty degrees Fahrenheit.

"Disposal well" means any well drilled or converted for the disposal of drilling fluids, produced waters, or other wastes associated with gas or oil operations.

"Drilling unit" means the acreage on which one gas or oil well may be drilled.

"Enhanced recovery" means (i) any activity involving injection of any air, gas, water or other fluid into the productive strata, (ii) the application of pressure, heat or other means for the reduction of viscosity of the hydrocarbons, or (iii) the supplying of additional motive force other than normal pumping to increase the production of gas or oil from any well, wells or pool.

"Exploratory well" means any well drilled (i) to find and produce gas or oil in an unproven area, (ii) to find a new reservoir in a field previously found to be productive of gas or oil in another reservoir, or (iii) to extend the limits of a known gas or oil reservoir.

"Field rules" means rules established by order of the Virginia Gas and Oil Board that define a pool, drilling units, production allowables, or other requirements for gas or oil operations within an identifiable area.

"First point of sale" means, for oil, the point at which the oil is sold, exchanged or transferred for value from one person to another person, or when the original owner of the oil uses the oil, the point at which the oil is transported off the permitted site and delivered to another facility for use by the original owner; and for gas, the point at which the gas is sold, exchanged or transferred for value to any interstate or intrastate pipeline, any local distribution company, any person for use by such person, or when the gas is used by the owner of the gas for a purpose other than the production or transportation of the gas, the point at which the gas is delivered to a facility for use.

"Fund" means the Gas and Oil Plugging and Restoration Fund.

"Gas" or "natural gas" means all natural gas whether hydrocarbon or nonhydrocarbon or any combination or mixture thereof, including hydrocarbons, hydrogen sulfide, helium, carbon dioxide, nitrogen, hydrogen, casing head gas, and all other fluids not defined as oil pursuant to this section.

"Gas or oil operations" means any activity relating to drilling, re-drilling, deepening, stimulating, production, enhanced recovery, converting from one type of a well to another, combining or physically changing to allow the migration of fluid from one formation to another, plugging or re-plugging any well; ground disturbing activity relating to the development, construction, operation and abandonment of a gathering pipeline; the development, operation, maintenance, and restoration of any site involved with gas or oil operations; or any work undertaken at a facility used for gas or oil operations. The term embraces all of the land or property that is used for or which contributes directly or indirectly to a gas or oil operation, including all roads.

"Gas or oil operator" means any person who has been designated to operate or does operate any gas or oil well or gathering pipeline.

"Gas or oil owner" means any person who owns, leases, has an interest in, or who has the right to explore for, drill or operate a gas or oil well as principal or as lessee. In the event that the gas is owned separately from the oil, the definitions contained herein shall apply separately to the gas owner or oil owner.

"Gathering pipeline" means (i) a pipeline which is used or intended for use in the transportation of gas or oil from the well to a transmission pipeline regulated by the United States Department of Transportation or the State Corporation Commission or (ii) a pipeline which is used or intended for use in the transportation of gas or oil from the well to an off-site storage, marketing, or other facility where the gas or oil is sold.

"Geophysical operator" means a person who has the right to explore for gas or oil using ground disturbing geophysical exploration.

"Gob" means the de-stressed zone associated with any full-seam extraction of coal that extends above and below the mined-out coal seam.

"Ground disturbing" means any changing of land which may result in soil erosion from water or wind and the movement of sediments into state waters, including, but not limited to, clearing, grading, excavating, drilling, and transporting and filling of land.

"Ground disturbing geophysical exploration" or "geophysical operation" means any activity in search of gas or oil that breaks or disturbs the surface of the earth, including but not limited to road construction or core drilling. The term shall not include the conduct of gravity, magnetic, radiometric and similar geophysical surveys, and vibroseis or other similar seismic surveys.

"Injection well" means any well used to inject or otherwise place any substance associated with gas or oil operations into the earth or underground strata for disposal, storage or enhanced recovery.

"Inspector" means the Virginia Gas and Oil Inspector, appointed by the Director pursuant to § 45.1-361.4, or such other public officer, employee or other authority as may in emergencies be acting in the stead, or by law be assigned the duties of, the Virginia Gas and Oil Inspector.

"Log" means the written record progressively describing all strata, water, oil or gas encountered in drilling, depth and thickness of each bed or seam of coal drilled through, quantity of oil, volume of gas, pressures, rate of fill-up, fresh and salt water-bearing horizons and depths, cavings strata, casing records and such other information as is usually recorded in the normal procedure of drilling. The term shall also include electrical survey records or electrical survey logs.

"Mine" means an underground or surface excavation or development with or without shafts, slopes, drifts or tunnels for the extraction of coal, minerals or nonmetallic materials, commonly designated as mineral resources, and the hoisting or haulage equipment or appliances, if any, for the extraction of the mineral resources. The term embraces all of the land or property of the mining plant, including both the surface and subsurface, that is used or contributes directly or indirectly to the mining, concentration or handling of the mineral resources, including all roads.

"Mineral" shall have the same meaning as ascribed to it in § 45.1-180.

"Mineral operator" means any person who has the right to or does operate a mineral mine.

"Mineral owner" means any person who owns, leases, mines and produces, or who has the right to mine and produce minerals and to appropriate such minerals that he produces therefrom, either for himself or for himself and others.

"Nonparticipating operator" means a gas or oil owner of a tract included in a drilling unit who elects to share in the operation of the well on a carried basis by agreeing to have his proportionate share of the costs allocable to his interest charged against his share of production from the well.

"Offsite disturbance" means any soil erosion, water pollution, or escape of gas, oil, or waste from gas, oil, or geophysical operations off a permitted site which results from activity conducted on a permitted site.

"Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoir.

"Orphaned well" means any well abandoned prior to July 1, 1950, or for which no records exist concerning its drilling, plugging or abandonment.

"Participating operator" means a gas or oil owner who elects to bear a share of the risks and costs of drilling, completing, equipping, operating, plugging and abandoning a well on a drilling unit and to receive a share of production from the well equal to the proportion which the acreage in the drilling unit he owns or holds under lease bears to the total acreage of the drilling unit.

"Permittee" means any gas, oil, or geophysical operator holding a permit for gas, oil, or geophysical operations issued under authority of this chapter.

"Person under a disability" shall have the same meaning as ascribed to it in § 8.01-2.

"Pipeline" means any pipe above or below the ground used or to be used to transport gas or oil.

"Plat" or "map" means a map, drawing or print showing the location of a well or wells, mine, quarry, or other information required under this chapter.

"Pool" means an underground accumulation of gas or oil in a single and separate natural reservoir. It is characterized by a single natural pressure system so that production of gas or oil from one part of the pool tends to or does affect the reservoir pressure throughout its extent. A pool is bounded by geologic barriers in all directions, such as geologic structural conditions, impermeable strata, or water in the formation, so that it is effectively separated from any other pool which may be present in the same geologic structure. A coalbed methane pool means an area which is underlain or appears to be underlain by at least one coalbed capable of producing coalbed methane gas.

"Project area" means the well, gathering pipeline, associated facilities, roads, and any other disturbed area, all of which are permitted as part of a gas, oil, or geophysical operation.

"Restoration" means all activity required to return a permitted site to other use after gas, oil, or geophysical operations have ended, as approved in the operations plan for the permitted site.

"Royalty owner" means any owner of gas or oil in place, or owner of gas or oil rights, who is eligible to receive payment based on the production of gas or oil.

"State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction and which affect the public welfare.

"Stimulate" means any action taken by a gas or oil operator to increase the inherent productivity of a gas or oil well, including, but not limited to, fracturing, shooting or acidizing, but excluding (i) cleaning out, bailing or workover operations and (ii) the use of surface-tension reducing agents, emulsion breakers, paraffin solvents, and other agents which affect the gas or oil being produced, as distinguished from the producing formation.

"Storage well" means any well used for the underground storage of gas.

"Surface owner" means any person who is the owner of record of the surface of the land.

"Waste from gas, oil, or geophysical operations" means any substance other than gas or oil which is (i) produced or generated during or results from the development, drilling and completion of wells and associated facilities or the development and construction of gathering pipelines or (ii) produced or generated during or results from well, pipeline and associated facilities' operations, including, but not limited to, brines and produced fluids other than gas or oil. In addition, this term shall include all rubbish and debris, including all material generated during or resulting from well plugging, site restoration, or the removal and abandonment of gathering pipelines and associated facilities.

"Waste" or "escape of resources" means (i) physical waste, as that term is generally understood in the gas and oil industry; (ii) the inefficient, excessive, improper use, or unnecessary dissipation of reservoir energy; (iii) the inefficient storing of gas or oil; (iv) the locating, drilling, equipping, operating, or producing of any gas or oil well in a manner that causes, or tends to cause, a reduction in the quantity of gas or oil ultimately recoverable from a pool under prudent and proper operations, or that causes or tends to cause unnecessary or excessive surface loss or destruction of gas or oil; (v) the production of gas or oil in excess of transportation or marketing facilities; (vi) the amount reasonably required to be produced in the proper drilling, completing, or testing of the well from which it is produced, except gas produced from an oil well or condensate well pending the time when with reasonable diligence the gas can be sold or otherwise usefully utilized on terms and conditions that are just and reasonable; or (vii) underground or above ground waste in the production or storage of gas, oil, or condensate, however caused. The term "waste" does not include gas vented from methane drainage boreholes or coalbed methane gas wells, where necessary for safety reasons or for the efficient testing and operation of coalbed methane gas wells; nor does it include the plugging of coalbed methane gas wells for the recovery of the coal estate.

"Water well" means any well drilled, bored or dug into the earth for the sole purpose of extracting therefrom potable, fresh or usable water for household, domestic, industrial, agricultural or public use.

"Well" means any shaft or hole sunk, drilled, bored or dug into the earth or into underground strata for the extraction, injection or placement of any gaseous or liquid substance, or any shaft or hole sunk or used in conjunction with such extraction, injection or placement. The term shall not include any shaft or hole sunk, drilled, bored or dug into the earth for the sole purpose of pumping or extracting therefrom potable, fresh or usable water for household, domestic, industrial, agricultural, or public use and shall not include water boreholes, methane drainage boreholes where the methane is vented or flared rather than produced and saved, subsurface boreholes drilled from the mine face of an underground coal mine, any other boreholes necessary or convenient for the extraction of coal or drilled pursuant to a uranium exploratory program carried out pursuant to the laws of this Commonwealth, or any coal or non-fuel mineral core hole or borehole for the purpose of exploration.

(1982, c. 347, § 45.1-288; 1984, c. 590; 1987, c. 452; 1988, c. 160; 1990, c. 92; 1992, c. 812; 1993, c. 254.)

§ 45.1-361.2. Regulation of coal surface mining not affected by chapter.

Nothing in this chapter shall be construed as limiting the powers of the Director relating to coal surface mining operations and reclamation. The provisions of Chapters 17 (§ 45.1-198 et seq.) and 19 (§ 45.1-226 et seq.) of this title, including but not limited to requirements for permits and bonds, shall apply to gas, oil, or geophysical operations located on areas for which a coal surface mining permit is in effect and shall be in addition to the requirements for gas, oil, or geophysical operations set forth in this chapter, except that well work and the operation of pipelines on areas which have been reclaimed by the surface mine operator or the Director shall be treated as postmining uses. The Director shall give special consideration to the development and promulgation of variances from the postmining use requirements of Chapter 19 of this title for gas, oil,

or geophysical operations; however, all such variances shall be consistent with the provisions of the Virginia Coal Surface Mining Control and Reclamation Act of 1979 (§ 45.1-226 et seq.).

(1982, c. 347, § 45.1-289; 1984, c. 590; 1990, c. 92.)

§ 45.1-361.3. Construction.

The provisions of this chapter shall be liberally construed so as to effectuate the following purposes:

1. To foster, encourage and promote the safe and efficient exploration for and development, production, utilization and conservation of the Commonwealth's gas and oil resources;
2. To provide a method of gas and oil conservation for maximizing exploration, development, production and utilization of gas and oil resources;
3. To recognize and protect the rights of persons owning interests in gas or oil resources contained within a pool;
4. To ensure the safe recovery of coal and other minerals;
5. To maximize the production and recovery of coal without substantially affecting the right of a gas or oil owner proposing to drill a gas or oil well to explore for and produce gas or oil;
6. To protect the citizens and the environment of the Commonwealth from the public safety and environmental risks associated with the development and production of gas or oil; and
7. To recognize that use of the surface for gas or oil development shall be only that which is reasonably necessary to obtain the gas or oil.

(1982, c. 347, § 45.1-290; 1990, c. 92.)

§ 45.1-361.4. Duties and responsibilities of the Director.

A. The Director shall have the jurisdiction and authority necessary to enforce the provisions of this chapter. The Director shall have the power and duty to regulate gas, oil, or geophysical operations, collect fees, and perform other responsibilities as may be prescribed in regulations promulgated by the Department or the Board.

B. The Director shall appoint the Gas and Oil Inspector.

(1990, c. 92.)

§ 45.1-361.5. Exclusivity of regulation and enforcement.

No county, city, town or other political subdivision of the Commonwealth shall impose any condition, or require any other local license, permit, fee or bond to perform any gas, oil, or geophysical operations which varies from or is in addition to the requirements of this chapter. However, no provision of this chapter shall be construed to limit or supersede the jurisdiction and requirements of other state agencies, local land-use ordinances, regulations of general purpose, or §§ 58.1-3712, 58.1-3712.1, 58.1-3713, 58.1-3713.1, 58.1-3713.2 and 58.1-3713.3.

(1990, c. 92.)

§ 45.1-361.6. Confidentiality.

The Director shall hold confidential all logs, surveys and reports relating to the drilling, completion and testing of a well which are filed by gas or oil operators under this chapter for a period of ninety days after the completion of the well or eighteen months after the total depth of the well has been reached, whichever occurs first. Upon receipt of a gas, oil, or geophysical operator's written request, the Director shall hold confidential this information concerning an exploratory well or corehole for a period of two years after completion of the well or four years from the date such well or hole reaches total depth, whichever occurs first. The Director, for good cause shown by the gas, oil, or geophysical operator, may annually extend the period of time for which information regarding exploratory drilling is held confidential. However, the Director shall upon request provide a copy of any survey or log for strata through the lowest coal seam to the coal owner.

(1990, c. 92.)

§ 45.1-361.7. Expenditure of funds.

All funds, except civil charges collected pursuant to § 45.1-361.8, collected by or appropriated to the Department pursuant to the provisions of this chapter shall be expended only for the purpose of carrying out the provisions of this chapter.

(1990, c. 92.)

§ 45.1-361.8. Violations; penalties.

A. Any person who violates or refuses, fails or neglects to comply with any regulation or order of the Board, Director, or Inspector, any condition of a permit or any provision of this chapter shall be guilty of a Class 1 misdemeanor.

B. In addition, any person who violates any provision of this chapter, any condition of a permit, or any regulation or order of the Board, Director, or Inspector shall, upon such finding by an appropriate circuit court, be assessed a civil penalty of not more than \$10,000 for each day of such violation. All civil penalties under this section shall be recovered in a civil action brought by the Attorney General in the name of the Commonwealth. The court shall direct that all civil penalties assessed under this section be paid into the treasury of the county or city wherein lies the gas, oil, or geophysical operation determined by the court to be in violation.

C. The Board, with the consent of the gas, oil, or geophysical operator, may provide, in an order issued by the Board against such operator, for the payment of civil charges for past violations in specific sums not to exceed the limit specified in subsection B of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under this section and shall not be subject to the provision of § 2.2-514. Civil charges collected under this section shall be paid into the treasury of the county or city wherein lies the gas, oil, or geophysical operation subject to the order issued by the Board.

(1982, c. 347, §§ 45.1-358, 45.1-360; 1984, c. 590; 1990, c. 92.)

§ 45.1-361.9. Appeals; venue; standing.

A. Any order or decision of the Board may be appealed to the appropriate circuit court. Whenever a coal owner, coal operator, gas owner, gas operator, or operator of a gas storage field certificated by the State Corporation Commission is a party in such action, the court shall hear such appeal de novo. The court shall have the power to enter interlocutory orders as may be necessary to protect the rights of all interested parties pending a final decision.

B. Unless the parties otherwise agree, the venue for court review shall be the county or city wherein lies the gas, oil, or geophysical operation which is the subject of such order or decision.

C. The Director and all parties required to be given notice of hearings of the Board pursuant to the provisions of § 45.1-361.19 shall have standing to appeal any order or decision of the Board which directly affects them. The permittee or permit applicant, the Director, and those parties with standing to object, pursuant to the provisions of § 45.1-361.30, shall have standing to appeal any order or decision of the Board which directly affects them; provided, however, with the exception of an aggrieved permit applicant or the Director, no person shall have standing to appeal a decision of the Board concerning a permit application unless such person has previously filed an objection with the Director pursuant to the provisions of § 45.1-361.35. The filing of any petition for appeal concerning the issuance of a new permit which was objected to pursuant to the provisions of § 45.1-361.11, § 45.1-361.12 or by a gas storage field operator who asserts that the proposed well work will adversely affect the operation of a State Corporation Commission certificated gas storage field shall automatically stay the permit until such stay is dissolved or the appeal is decided by the circuit court. However, in an appeal by a gas storage field operator such automatic stay shall not apply to oil, gas or coalbed methane wells completed more than one hundred feet above the cap rock above the storage stratum.

(1990, c. 92; 1997, c. 759.)

§ 45.1-361.10. Duplicate leases.

Any person, either as principal or agent, who executes a lease of land or right therein for drilling for gas or oil, or for the development or production of gas or oil, shall do so in duplicate. One copy of the lease, duly executed by the lessee, shall be furnished to the lessor.

(1982, c. 347, § 45.1-352; 1990, c. 92.)

§ 45.1-361.11. Objections by coal owner.

A. In deciding on objections by a coal owner to a proposed permit modification or drilling unit modification, only the following questions shall be considered:

1. Whether the work can be done safely with respect to persons engaged in coal mining at or near the well site; and
2. Whether the well work is an unreasonable or arbitrary exercise of the well operator's right to explore for, market and produce oil and gas.

B. In deciding on objections by a coal owner to the establishment of a drilling unit, a permit for a new well, or the stimulation of a coalbed methane gas well, the following safety aspects shall first be considered, and no order or permit shall be issued where the evidence indicates that the proposed activities will be unsafe:

1. Whether the drilling unit or drilling location is above or in close proximity to any mine opening or shaft, entry, travelway, airway, haulageway, drainageway or passageway, or to any proposed extension thereof, in any operated or abandoned or operating coal mine, or in any coal mine already surveyed and platted but not yet being operated;
2. Whether the proposed drilling can reasonably be done through an existing or planned pillar of coal, or in close proximity to an existing well or such pillar of coal, taking into consideration the surface topography;
3. Whether the proposed well can be drilled safely or the proposed coalbed methane gas well can be stimulated safely, taking into consideration the dangers from creeps, squeezes or other disturbances due to the extraction of coal; and
4. The extent to which the proposed drilling unit or drilling location or stimulation of the coalbed methane gas well unreasonably interferes with the safe recovery of coal, oil and gas.

C. The following questions with respect to the drilling unit or drilling location of a new well or stimulation of a new coalbed methane gas well shall also be considered:

1. The extent to which the proposed drilling unit or drilling location or coalbed methane gas well stimulation will unreasonably interfere with present or future coal mining operations;
2. The feasibility of moving the proposed drilling unit or drilling location to a mined-out area, below the coal outcrop or to some other area;
3. The feasibility of a drilling moratorium for not more than two years in order to permit the completion of coal mining operations;
4. The method proposed for the recovery of coal and gas;

5. The practicality of locating the unit or the well on a uniform pattern with other units or wells;

6. The surface topography and use; and

7. Whether the decision will substantially affect the right of the gas operator to explore for and produce the gas.

The factors in subsection C of this section are not intended to and shall not be construed to authorize the Director, or the Board under § 45.1-361.36, to supersede, impair, abridge or affect any contractual rights or obligations now or hereafter existing between the respective owners of coal and gas or any interest therein.

(1982, c. 347, § 45.1-318; 1990, c. 92.)

§ 45.1-361.12. Distance limitations of certain wells.

A. If the well operator and the objecting coal owners present or represented at the hearing to consider the objections to the proposed drilling unit or location are unable to agree upon a drilling unit or location for a new well within 2,500 linear feet of the location of an existing well or a well for which a permit application is on file, then the permit or drilling unit shall be refused.

B. The minimum distance limitations established by this section shall not apply if the proposed well will be drilled through an existing or planned pillar of coal required for protection of a preexisting well drilled to any depth, and the proposed well will neither require enlargement of the pillar nor otherwise have an adverse effect on existing or planned coal mining operations.

(1982, c. 347, § 45.1-319; 1990, c. 92.)

§ 45.1-361.13. Virginia Gas and Oil Board; membership; compensation.

A. The Virginia Gas and Oil Board is hereby established. The Board shall be composed of seven members and shall have the powers and duties as specified under this chapter.

B. The Governor shall appoint, subject to confirmation by the General Assembly, the chairman and six additional members of the Board as follows: two for an initial term of two years, two for an initial term of four years, and three for an initial term of six years. Thereafter, the members shall be appointed for terms of six years. At all times, the Board shall consist of the following qualified members: the Director or his designee; one but not more than one individual who is a representative of the gas and oil industry; one but not more than one individual who is a representative of the coal industry; and four other individuals who are not representatives of the gas, oil or coal industry. All vacancies occurring on the Board shall be filled by the Governor, subject to confirmation by the General Assembly, for the unexpired term within sixty days of the occurrence of the vacancy. As the terms of office, respectively, of the members expire, the Governor shall appoint, subject to confirmation by the General Assembly, to fill the vacancies so occasioned, qualified persons whose terms shall be for six years from the day on which

that of their immediate predecessor expired. The Governor shall seek to appoint persons who reside in localities with significant oil or gas production or storage.

C. Each member of the Board shall receive compensation and expenses in accordance with the provisions of § 2.2-2813.

(1982, c. 347, § 45.1-295; 1985, c. 448; 1987, c. 452; 1988, c. 483; 1989, c. 529; 1990, c. 92; 1998, c. 159.)

§ 45.1-361.14. Meetings of the Board; notice; general powers and duties.

A. The Board shall schedule a monthly meeting at a time and place designated by the chairman. Should no petition for action be filed with the Board prior to such a meeting, the meeting may be cancelled. Notification or cancellation of each meeting shall be given in writing to the other members by the chairman at least five days in advance of the meeting. Four members shall constitute a quorum for the transaction of any business which shall come before the Board. All determinations of the Board shall be by majority vote of the quorum present.

B. The Board shall have the power necessary to execute and carry out all of its duties specified in this chapter. The Board is authorized to investigate and inspect such records and facilities as are necessary and proper to perform its duties under this chapter. The Board may employ such personnel and consultants as may be necessary to perform its duties under this chapter.

(1982, c. 347, § 45.1-296; 1987, c. 452; 1990, c. 92.)

§ 45.1-361.15. Additional duties and responsibilities of the Board.

A. In executing its duties under this chapter, the Board shall:

1. Foster, encourage and promote the safe and efficient exploration for and development, production and conservation of the gas and oil resources located in the Commonwealth;
2. Administer a method of gas and oil conservation for the purpose of maximizing exploration, development, production and utilization of gas and oil resources;
3. Administer procedures for the recognition and protection of the rights of gas or oil owners with interests in gas or oil resources contained within a pool;
4. Promote the maximum production and recovery of coal without substantially affecting the right of a gas owner proposing a gas well to explore for and produce gas; and
5. Hear and decide appeals of Director's decisions and orders issued under Article 3 of this chapter.

B. Without limiting its general authority, the Board shall have the specific authority to issue rules, regulations or orders pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) in order to:

1. Prevent waste through the design spacing, or unitization of wells, pools, or fields.
2. Protect correlative rights.
3. Enter spacing and pooling orders.
4. Establish drilling units.
5. Establish maximum allowable production rates for the prevention of waste and for the protection of correlative rights.
6. Provide for the maximum recovery of coal.
7. Classify pools and wells as gas, oil, gas and oil, or coalbed methane gas.
8. Collect data, make investigations and inspections, examine property, leases, papers, books and records and require or provide for the keeping of records and the making of reports.
9. Set application fees.
10. Govern practices and procedures before the Board.
11. Require additional data from parties to any hearing.
12. Take such actions as are reasonably necessary to carry out the provisions of this chapter.

(1982, c. 347, § 45.1-296; 1987, c. 452; 1990, c. 92.)

§ 45.1-361.16. Applicability and construction.

A. The provisions of this article shall apply to all lands in the Commonwealth, whether publicly or privately owned. However, no well commenced prior to July 1, 1990, shall be required to be plugged or abandoned solely for purposes of complying with the conservation provisions contained in this article.

B. No provision contained in this article shall be construed to grant to the Board the authority or power to fix prices of gas or oil.

(1982, c. 347, § 45.1-300; 1987, c. 452; 1990, c. 92.)

§ 45.1-361.17. Statewide spacing of wells.

A. Unless prior approval has been received from the Board or a provision of the field or pool rules so allows:

1. Wells drilled in search of oil shall not be located closer than 1,250 feet to any well completed in the same pool; however, this spacing requirement is subject to § 45.1-361.12;
2. Wells drilled in search of gas shall not be located closer than 2,500 feet to any other well completed in the same pool, or closer than 2,500 feet to any storage well within the boundary of a gas storage field certificated by the State Corporation Commission prior to January 1, 1997, if the well to be drilled is to be completed within the same horizon as the certificated gas storage field; and
3. A well shall not be drilled closer to the boundary of the acreage supporting the well, whether such acreage is a single leasehold or other tract or a contractual or statutory drilling unit, than one-half of the minimum well spacing distances prescribed in this section.

B. Unless prior approval has been received from the Board or a provision of the field or pool rules so allows:

1. Wells drilled in search of coalbed methane gas shall not be located closer than 1,000 feet to any other coalbed methane gas well, or in the case of coalbed methane gas wells located in the gob, such wells shall not be located closer than 500 feet to any other coalbed methane gas wells located in the gob.
2. A coalbed methane gas well shall not be drilled closer than 500 feet, or in the case of such well located in the gob, not closer than 250 feet, from the boundary of the acreage supporting the well, whether such acreage is a single leasehold or other tract or a contractual or statutory drilling unit.
3. The spacing limitations set forth in this subsection are subject to the provisions of §§ 45.1-361.11 and 45.1-361.12.

(1990, c. 92; 1996, c. 854; 1997, c. 759.)

§ 45.1-361.18. Voluntary pooling of interests in drilling units; validity of unit agreements.

A. When two or more separately owned tracts are embraced within a drilling unit, or when there are separately owned interests in all or a part of any such drilling unit, the gas or oil owners owning such interests may pool their interests for the development and operation of the drilling unit by voluntary agreement. Such agreements may be based on the exercise of pooling rights or rights to establish drilling units which are granted in any gas or oil lease.

B. No voluntary pooling agreement between or among gas or oil owners shall be held to violate the statutory or common law of the Commonwealth which prohibits monopolies or acts, arrangements, contracts, combinations or conspiracies in restraint of trade or commerce.

(1982, c. 347, § 45.1-302; 1987, c. 452; 1989, c. 529; 1990, c. 92.)

§ 45.1-361.19. Notice of hearing; standing; form of hearing.

A. Any person who applies for a hearing in front of the Board pursuant to the provisions of § 45.1-361.20, 45.1-361.21, or 45.1-361.22 shall simultaneously with the filing of such application, provide notice by certified mail, return receipt requested, to each gas or oil owner, coal owner, or mineral owner having an interest underlying the tract which is the subject of the hearing, and to the operator of any gas storage field certificated by the State Corporation Commission as a public utility facility whose certificated area includes the tract which is the subject of the hearing. Whenever a hearing applicant is unable to provide such written notice because the identity or location of a person to whom notice is required to be given is unknown, the hearing applicant shall promptly notify the Board of such inability.

B. At least 10 days prior to a hearing, the Board shall publish its agenda in newspapers of general circulation that are widely circulated in the localities where the lands that are the subject of the hearing are located. The agenda shall include the name of each applicant, the localities where the lands that are the subject of the hearing are located, the purpose of the hearing, and the date, time and location thereof.

C. The Board shall conduct all hearings on applications made to it pursuant to the formal litigated issues hearing provisions of the Administrative Process Act (§ 2.2-4000 et seq.). The applicant and any person to whom notice is required to be given pursuant to the provisions of subsection A of this section shall have standing to be heard at the hearing. The Board shall render its decision on such applications within thirty days of the hearing's closing date and shall provide notification of its decision to all parties to the hearing pursuant to the provisions of the Administrative Process Act.

(1982, c. 347, § 45.1-304; 1989, c. 529; 1990, c. 92; 1997, c. 759; 2008, c. 534.)

§ 45.1-361.20. Field rules and drilling units for wells; hearings and orders.

A. In order to prevent the waste of gas or oil, the drilling of unnecessary wells, or to protect correlative rights, the Board on its own motion or upon application of the gas or oil owner shall have the power to establish or modify drilling units. Drilling units, to the extent reasonably possible, shall be of uniform shape and size for an entire pool. Any gas, oil, or royalty owner may apply to the Board for the establishment of field rules and the creation of drilling units for the field. Unless such motion is made or an application is received at least thirty days prior to the next regularly scheduled monthly meeting of the Board, it shall not be heard by the Board at such meeting and shall be heard at the next meeting of the Board thereafter.

B. At any hearing of the Board regarding the establishment or modification of drilling units, the Board shall make the following determinations:

1. Whether the proposed drilling unit is an unreasonable or arbitrary exercise of a gas or oil owner's right to explore for or produce gas or oil;

2. Whether the proposal would unreasonably interfere with the present or future mining of coal or other minerals;
3. The acreage to be included in the order;
4. The acreage to be embraced within each drilling unit and the shape thereof;
5. The area within which wells may be drilled on each unit; and
6. The allowable production of each well.

C. In establishing or modifying a drilling unit for coalbed methane gas wells, and in order to accommodate the unique characteristics of coalbed methane development, the Board shall require that drilling units conform to the mine development plan, if any, and if requested by the coal operator, well spacing shall correspond with mine operations, including the drilling of multiple coalbed methane gas wells on each drilling unit.

D. If an order to establish or modify a drilling unit will allow a well to be drilled into or through a coal seam, any coal owner within the area to be covered by the drilling unit may object to the establishment of the drilling unit. Upon a coal owner's objection, and without superseding, impairing, abridging or affecting any contractual rights or obligations existing between coal and gas owners, the Board shall make its determination in accordance with the provisions of §§ 45.1-361.11 and 45.1-361.12.

E. The Board may continue a hearing to its next meeting to allow for further investigation and the gathering and taking of additional data and evidence. If at the time of a hearing there is not sufficient evidence for the Board to determine field boundaries, drilling unit size or shape, or allowable production, the Board may enter a temporary order establishing provisional drilling units, field boundaries, and allowable production for the orderly development of the pool pending receipt of the information necessary to determine the ultimate pool boundaries, spacing of wells for the pool, and allowable production. Upon additional findings of fact, the boundaries of a pool, drilling units for the pool, and allowable production may be modified by the Board.

F. Unless otherwise provided for by the Board, after an application for a hearing to establish or modify drilling units or pool boundaries has been filed, no additional wells shall be permitted in the pool until the Board's order establishing or modifying the pool or units has been entered.

G. After the Board issues a field or pool spacing order which creates drilling units or a pattern of drilling units for a pool, should a gas or oil owner apply for a permit or otherwise indicate his desire to drill a well outside of such drilling units or pattern of drilling units and thereby potentially extend the pool, the Board may, on its own motion or the motion of any interested person, require that the well be located and drilled in compliance with the provisions of the order affecting the pool.

(1982, c. 347, § 45.1-301; 1987, c. 452; 1989, c. 529; 1990, c. 92.)

§ 45.1-361.21. Pooling of interests in drilling units.

A. The Board, upon application from any gas or oil owner, shall enter an order pooling all interests in the drilling unit for the development and operation thereof when:

1. Two or more separately owned tracts are embraced in a drilling unit;
2. There are separately owned interests in all or part of any such drilling unit and those having interests have not agreed to pool their interests; or
3. There are separately owned tracts embraced within the minimum statewide spacing requirements prescribed in § 45.1-361.17.

However, no pooling order shall be entered until the notice and hearing requirements of this article have been satisfied.

B. Subject to any contrary provision contained in a gas or oil lease respecting the property, gas or oil operations incident to the drilling of a well on any portion of a unit covered by a pooling order shall be deemed to be the conduct of such operations on each tract in the unit. The portion of production allocated to any tract covered by a pooling order shall be in the same proportion as the acreage of that tract bears to the total acreage of the unit.

C. All pooling orders entered by the Board pursuant to the provisions of this section shall:

1. Authorize the drilling and operation of a well, including the stimulation of all coal seams in the case of a coalbed methane well when authorized pursuant to clause (iii) of subdivision 2 b of subsection F of § 45.1-361.29, subject to the permit provisions contained in Article 3 (§ 45.1-361.27 et seq.) of this chapter;
2. Include the time and date when such order expires;
3. Designate the gas or oil owner who is authorized to drill and operate the well; provided, however, that except in the case of coalbed methane gas wells, the designated operators must have the right to conduct operations or have the written consent of owners with the right to conduct operations on at least 25% of the acreage included in the unit;
4. Prescribe the conditions under which gas or oil owners may become participating operators or exercise their rights of election under subdivision 7 of this subsection;
5. Establish the sharing of all reasonable costs, including a reasonable supervision fee, between participating operators so that each participating operator pays the same percentage of such costs as his acreage bears to the total unit acreage;
6. Require that nonleasing gas or oil owners be provided with reasonable access to unit records submitted to the Director or Inspector;
7. Establish a procedure for a gas or oil owner who received notice of the hearing and who does not decide to become a participating operator may elect either to (i) sell or

lease his gas or oil ownership to a participating operator, (ii) enter into a voluntary agreement to share in the operation of the well at a rate of payment mutually agreed to by the gas or oil owner and the gas or oil operator authorized to drill the well, or (iii) share in the operation of the well as a nonparticipating operator on a carried basis after the proceeds allocable to his share equal the following:

a. In the case of a leased tract, 300 percent of the share of such costs allocable to his interest; or

b. In the case of an unleased tract, 200 percent of the share of such costs allocable to his interest.

D. Any gas or oil owner whose identity and location remain unknown at the conclusion of a hearing concerning the establishment of a pooling order for which public notice was given shall be deemed to have elected to lease his interest to the gas or oil operator at a rate to be established by the Board. The Board shall cause to be established an escrow account into which the unknown lessor's share of proceeds shall be paid and held for his benefit. Such escrowed proceeds shall be deemed to be unclaimed property and shall be disposed of pursuant to the provisions of the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.). Upon discovery of the identity and location of any unknown owner subject to escrow under the provisions of this subsection and not subject to conflicting claims of ownership, the designated operator shall, within 30 days, file with the Board a petition for disbursement of funds to be considered at the next available hearing. The petition shall include a detailed accounting of all funds deposited in escrow that are subject to the proposed disbursement.

E. Any person who does not make an election under the pooling order shall be deemed to have leased his gas or oil interest to the gas or oil well operator as the pooling order may provide.

F. Should a gas or oil owner be a person under a disability, the applicant for a pooling order may petition the appropriate circuit court to appoint a guardian ad litem pursuant to the provisions of § 8.01-261 for purposes of making the election provided for by this section.

G. Any royalty or overriding royalty reserved in any lease which is deducted from a nonparticipating operator's share of production shall not be subject to charges for operating costs but shall be separately calculated and paid to the royalty owner.

H. The Board shall resolve all disputes arising among gas or oil operators regarding the amount and reasonableness of well operation costs. The Board shall, by regulation, establish allowable types of costs which may be shared in pooled gas or oil operations.

(1982, c. 347, § 45.1-302; 1987, c. 452; 1989, c. 529; 1990, c. 92; 1995, c. 269; 1996, c. 854; 2006, c. 498.)

§ 45.1-361.21:1. Coalbed methane gas; ownership.

A conveyance, reservation, or exception of coal shall not be deemed to include coalbed methane gas. Nothing in this section shall affect a coal operator's right to vent coalbed

methane gas for safety purposes or release coalbed methane gas in connection with mining operations. The provisions of this section shall not affect any settlement of any dispute, or any judgment or governmental order, as to the ownership or development of coalbed methane gas made or entered prior to the enactment of this provision.

(2010, cc. 730, 762.)

§ 45.1-361.22. Pooling of interests for coalbed methane gas wells; conflicting claims to ownership.

When there are conflicting claims to the ownership of coalbed methane gas, the Board, upon application from any claimant, shall enter an order pooling all interests or estates in the coalbed methane gas drilling unit for the development and operation thereof. In addition to the provisions of § 45.1-361.21, the following provisions shall apply:

1. Simultaneously with the filing of such application, the gas or oil owner applying for the order shall provide notice pursuant to the provisions of § 45.1-361.19 to each person identified by the applicant as a potential owner of an interest in the coalbed methane gas underlying the tract which is the subject of the hearing.

2. The Board shall cause to be established an escrow account into which the payment for costs or proceeds attributable to the conflicting interests shall be deposited and held for the interest of the claimants.

3. The coalbed methane gas well operator shall deposit into the escrow account any money paid by a person claiming a contested ownership interest as a participating operator's share of costs pursuant to the provisions of § 45.1-361.21 and the order of the Board.

4. The coalbed methane gas well operator shall deposit into the escrow account one-eighth of all proceeds attributable to the conflicting interests plus all proceeds in excess of ongoing operational expenses as provided for under § 45.1-361.21 and the order of the Board attributable to a participating or nonparticipating operator.

5. The Board shall order payment of principal and accrued interest, less escrow account fees, from the escrow account to conflicting claimants only after (i) a final decision of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between them; (ii) a determination reached by an arbitrator pursuant to § 45.1-361.22:1; or (iii) an agreement among all claimants owning conflicting estates in the tract in question or any undivided interest therein. Upon receipt of an affidavit from conflicting claimants affirming such decision, determination, or agreement, the designated operator shall, within 30 days, file with the Board a petition for disbursement of funds on behalf of the conflicting claimants. The petition shall include a detailed accounting of all funds deposited in escrow that are subject to the proposed disbursement. The amount to be paid to the conflicting claimants shall be determined based on the percentage of ownership interest of the conflicting claimants as shown in the operator's supplemental filing made part of the pooling order that established the escrow account, the operator's records of deposits attributable to those tracts for which funds are being requested, and the records of the escrow account for the coalbed methane gas drilling unit. The petition for disbursement shall be placed on the first available Board docket. Funds shall be

disbursed within 30 days after the Board decision and receipt by the Department of all documentation required by the Board. The interests of any cotenants that have not been resolved by the agreement or by judicial decision shall remain in the escrow account.

6. Any person who does not make an election under the pooling order shall be deemed, subject to a final legal determination of ownership, to have leased his gas or oil interest to the coalbed methane gas well operator as the pooling order may provide.

(1990, c. 92; 1999, c. 122; 2006, c. 498; 2010, c. 442.)

§ 45.1-361.22:1. Conflicting claims of ownership; arbitration.

A. The Board shall enter an order requiring that the matter of disputed ownership be submitted to arbitration, and notify the circuit court in the jurisdiction wherein the majority of the subject tract is located, (i) upon written request from all claimants to the ownership of coalbed methane gas related to the subject tract under § 45.1-361.22; (ii) upon receipt of an affidavit executed by all such claimants affirming that there is no other known surface owner, gas or oil owner, coal owner, mineral owner, or operator of a gas storage field certificated by the State Corporation Commission having an interest underlying the subject tract; (iii) after a hearing noticed pursuant to subsection B of § 45.1-361.19; and (iv) upon a determination by the Department whether sufficient funds are available to pay the estimated costs of the arbitration pursuant to subsection F. Within 30 days of receipt of the notice from the Board, the circuit court shall appoint an attorney from the list maintained by the Department pursuant to subsection C or, at the discretion of the court, such other attorney meeting the qualifications set forth in subsection C. Prior to his appointment as an arbitrator of a particular dispute, the attorney shall certify to the circuit court that he has not derived more than 10 percent of his income during any of the preceding three years from any claimants asserting ownership or rights in the subject tract or any affiliated entities or immediate family members of such claimants. If the attorney cannot provide such certification, he shall notify the circuit court and he will be disqualified from serving as arbitrator for that particular dispute.

B. The Department shall send notice to all claimants if it determines that there are insufficient funds to pay the estimated costs of the arbitration pursuant to subsection F. The claimants may, by unanimous agreement, proceed with the arbitration process, notify the Board of such agreement, and bear the costs to the extent of the insufficiency. If the parties do not agree, the arbitration shall be delayed until such funds are available.

C. To be qualified as an arbitrator, a candidate (i) shall be an attorney licensed in the Commonwealth; (ii) shall have at least 10 years of experience in real estate law, including substantial expertise in mineral title examination; and (iii) shall disclose to the Board whether he has been engaged within the preceding three years by any person in matters subject to the jurisdiction of the Board or the Department under this chapter. The Department shall solicit applications from attorneys meeting the qualifications set forth above and maintain a list of attorneys qualifying as arbitrators for use by the circuit courts. At least once annually, the Department shall update its list. To maintain qualification, each attorney whose name appears on the list shall update annually his disclosures set forth in clause (iii).

D. The arbitrator shall determine a time and place for the arbitration hearing and cause written notification of such hearing to be served on each surface owner, gas or oil owner, coal owner, mineral owner, or operator of a gas storage field certificated by the State Corporation Commission having an interest underlying the tract that is the subject of the hearing. Parties shall be served personally or by certified mail, return receipt requested, not less than 14 days before the hearing. Appearance at the hearing waives such party's right to challenge notice. Any party to the arbitration has the right to representation before the arbitrator pursuant to § 8.01-581.05. In accordance with § 8.01-581.06, the arbitrator may issue subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence; administer oaths; and, upon application by a party to the arbitration, permit the taking of depositions for use as evidence. The arbitrator shall hear and determine the controversy upon the evidence and consistent with applicable law, notwithstanding the failure of a party to appear at the hearing.

E. The arbitrator shall issue his determination as to the ownership in the coalbed methane gas and entitlement to proceeds held in escrow within six months from the order of the Board requiring the matter be submitted to arbitration, unless a longer period is otherwise agreed to by all parties. Such determination shall be in writing and sent to the Board and each party to whom notice is required to be given under subsection D.

F. Upon the issuance of the arbitrator's determination of ownership and subject to the availability of funds, the fees and expenses of the arbitration, but not including fees or costs of counsel engaged by the respective claimants or any other costs of the claimants, shall be paid from the accrued interest on general escrow account funds.

G. An arbitrator's determination, rendered pursuant to subsection E, shall be binding upon the parties and, upon request of any party to the arbitration, may be entered as the judgment of the circuit court responsible for appointing the arbitrator under subsection A.

H. Upon application of any party to the arbitration, a determination rendered pursuant to subsection E may be confirmed, vacated, corrected, or appealed pursuant to the grounds set forth in Chapter 21 (§ 8.01-577 et seq.) of Title 8.01.

(2010, c. 442.)

§ 45.1-361.23. Appeals of the Director's decisions; notices; hearings and orders.

A. With the exception of an aggrieved permit applicant, no person shall have standing to appeal a decision of the Director to the Board concerning a new permit application unless such person has previously filed an objection with the Director pursuant to the provisions of § 45.1-361.35.

B. When a person applies for a hearing to appeal a decision of the Director to the Board, the Board shall, at least twenty days prior to the hearing, give notice by certified mail, return receipt requested, to the person making the appeal and, if different, to the gas or operator subject to the appeal.

C. Upon submittal of the petition for appeal of a decision of the Director to the Board, the Director shall forward to the Board (i) the permit application or order and associated

documents, (ii) all required notices, and (iii) the written objections, proposals and claims recorded during the informal fact finding hearing.

D. In any appeal involving a permit of a new well which was objected to pursuant to the provisions of § 45.1-361.11, § 45.1-361.12, or by a gas storage field operator who asserts that the proposed well work will adversely affect the operation of a State Corporation Commission certificated gas storage field, the filing of a petition for appeal shall stay any permit until the case is decided by the Board or the stay is dissolved by a court of record. However, in an appeal by a gas storage field operator, such automatic stay shall not apply to oil, gas or coalbed methane wells completed more than one hundred feet above the cap rock above the storage stratum. In all other appeals, the Director may order the permit or other decision stayed for good cause shown until the case is decided by the Board or the stay is dissolved by a court of record. An appeal based on an alleged risk of danger to any person not engaged in the oil and gas operations shall be prima facie proof of good cause for a stay.

E. The Board shall conduct all hearings under this section in accordance with the formal litigated issues hearing provisions of the Administrative Process Act (§ 2.2-4020 et seq.). However, all persons to whom notice is required to be given pursuant to subsection B of this section shall have standing to be heard at the hearing. The Board shall render its decision on such appeals within thirty days of the hearing's closing date and shall provide notification of its decision to all parties pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

(1990, c. 92; 1997, c. 759.)

§ 45.1-361.24. Enforcement.

The provisions of this article shall be enforced by the Director pursuant to the provisions of Article 3 (§ 45.1-361.27 et seq.) of this chapter. In addition, should any person violate or threaten to violate any provision of this article, regulation promulgated thereunder, or order of the Board, the Board may maintain suit to restrain any such violation or threatened violation.

(1982, c. 347, § 45.1-306; 1990, c. 92.)

§ 45.1-361.25. Standing when Director or Board fails to act.

Should the Director or Board fail to take enforcement action within ten days of the Board's receipt of a petition alleging that the petitioner is or will be adversely affected by a violation or threatened violation of any provision of this article, regulation adopted thereunder, or an order of the Board, the petitioner shall have standing to file a complaint in the appropriate circuit court. The Board, in addition to the persons who are violating or threatening to violate any provision of this article, regulation adopted thereunder, or order of the Board, shall be made a party to any such action.

(1982, c. 347, § 45.1-307; 1990, c. 92.)

§ 45.1-361.26. Recording of orders.

The Inspector shall cause a true copy of any order entered by the Board which establishes a drilling unit or pools any interests to be recorded in the office of the clerk of the circuit court of each jurisdiction wherein any portion of the relevant drilling unit is located. Such orders shall be recorded in the record book in which gas or oil leases are normally recorded. The sole charge for recordation shall be a tax equal to ten dollars plus one dollar per page of the order. The recordation from the time noted thereon by the clerk shall be notice of the order to all persons.

(1982, c. 347, § 45.1-308; 1990, c. 92.)

§ 45.1-361.27. Duties, responsibilities and authority of the Director.

A. The Director shall promulgate and enforce rules, regulations and orders necessary to ensure the safe and efficient development and production of gas and oil resources located in the Commonwealth. Such rules, regulations and orders shall be designed to:

1. Prevent pollution of state waters and require compliance with the Water Quality Standards adopted by the State Water Control Board;
2. Protect against off-site disturbances from gas, oil, or geophysical operations;
3. Ensure the restoration of all sites disturbed by gas, oil, or geophysical operations;
4. Prevent the escape of the Commonwealth's gas and oil resources;
5. Provide for safety in coal and mineral mining and coalbed methane well and related facility operations;
6. Control wastes from gas, oil, or geophysical operations;
7. Provide for the accurate measurement of gas and oil production and delivery to the first point of sale; and
8. Protect the public safety and general welfare.

B. In promulgating rules and regulations, and when issuing orders for the enforcement of the provisions of this article, the Director shall consider the following factors:

1. The protection of the citizens and environment of the Commonwealth from the public safety and environmental risks associated with the development and production of gas or oil;
2. The means of ensuring the safe recovery of coal and other minerals without substantially affecting the right of coal, minerals, gas, oil, or geophysical operators to explore for and produce coal, minerals, gas, or oil; and
3. The protection of safety and health on permitted sites for coalbed methane wells and related facilities.

C. In promulgating rules, regulations and orders, the Director shall be authorized to set and enforce standards governing the following: gas or oil ground-disturbing geophysical exploration; the development, drilling, casing, equipping, operating and plugging of gas or oil production, storage, enhanced recovery, or disposal wells; the development, operation and restoration of site disturbances for wells, gathering pipelines and associated facilities; and gathering pipeline safety.

D. Whenever the Director determines that an emergency exists, he shall issue an emergency order without advance notice or hearing. Such orders shall have the same validity as orders issued with advance notice and hearing, but shall remain in force no longer than thirty days from their effective date. After issuing an emergency order, the Director shall promptly notify the public of the order by publication and hold a public hearing for the purposes of modifying, repealing or making permanent the emergency order. Emergency orders shall prevail as against general regulations or orders when in conflict therewith. Emergency orders shall apply to gas, oil, or geophysical operations and to particular fields, geographical areas, subject areas, subject matter or situations.

E. The Director shall also have the authority to:

1. Issue, condition and revoke permits;
2. Issue notices of violation and orders upon violations of any provision of this chapter or regulation adopted thereunder;
3. Issue closure orders in cases of imminent danger to persons or damage to the environment or upon a history of violations;
4. Require or forfeit bonds or other financial securities;
5. Prescribe the nature of and form for the presentation of any information and documentation required by any provision of this article or regulation adopted thereunder;
6. Maintain suit in the city or county where a violation has occurred or is threatened, or wherever a person who has violated or threatens to violate any provision of this chapter may be found, in order to restrain the actual or threatened violation;
7. At reasonable times and under reasonable circumstances, enter upon any property and take such action as is necessary to administer and enforce the provisions of this chapter; and
8. Inspect and review all properties and records thereof as are necessary to administer and enforce the provisions of this chapter.

(1982, c. 347, § 45.1-293; 1987, c. 452; 1989, c. 164; 1990, c. 92; 1997, c. 421.)

§ 45.1-361.28. Powers, duties and responsibilities of the Inspector.

A. The Inspector shall administer the laws and regulations and shall have access to all records and properties necessary for this purpose. He shall perform all duties delegated

by the Director pursuant to § 45.1-161.5 and maintain permanent records of the following:

1. Each application for a gas, oil, or geophysical operation and each permitted gas, oil, or geophysical operation;
2. Meetings, actions and orders of the Board;
3. Petitions for mining coal within 200 feet of or through a well;
4. Requests for special plugging by a coal owner or coal operator; and
5. All other records prepared pursuant to this chapter.

B. The Inspector shall serve as the principal executive of the staff of the Board.

C. The Inspector may take charge of well or corehole, or pipeline emergency operations whenever a well or corehole blowout, release of hydrogen sulfide or other gases, or other serious accident occurs.

(1982, c. 347, § 45.1-293; 1987, c. 452; 1989, c. 164; 1990, c. 92.)

§ 45.1-361.29. Permit required; gas, oil, or geophysical operations; coalbed methane gas wells; environmental assessment.

A. No person shall commence any ground disturbing activity for a well, gathering pipeline, geophysical exploration or associated activity, facilities or structures without first having obtained from the Director a permit to conduct such activity. Every permit application or permit modification application filed with the Director shall be verified by the permit applicant and shall contain all data, maps, plats, plans and other information as required by regulation or the Director.

B. For permits issued on July 1, 1996, or thereafter, new permits issued by the Director shall be issued only for the following activities: geophysical operations, drilling, casing, equipping, stimulating, producing, reworking initially productive zones and plugging a well, or gathering pipeline construction and operation. Applications for new permits to conduct geophysical operations shall be accompanied by an application fee of \$130. Applications for all other new permits shall be accompanied by an application fee of \$260.

C. For permits issued prior to July 1, 1996, prior to commencing any reworking, deepening or plugging of the well, or other activity not previously approved on the permitted site, a permittee shall first obtain a permit modification from the Director. All applications for permit modifications shall be accompanied by a permit modification fee of \$130. For permits issued on July 1, 1996, or thereafter, prior to commencing any new zone completions a permittee shall first obtain a permit modification from the Director.

D. All permits and operations provided for under this section shall conform to the rules, regulations and orders of the Director and the Board. When permit terms or conditions

required or provided for under Article 3 (§ 45.1-361.27 et seq.) of this chapter are in conflict with any provision of a conservation order issued pursuant to the provisions of Article 2 (§ 45.1-361.13 et seq.) of this chapter, the terms of the permit shall control. In this event, the operator shall return to the Board for reconsideration of a conservation order in light of the conflicting permit. Every permittee shall be responsible for all operations, activity or disturbances associated with the permitted site.

E. No permit or permit modification shall be issued by the Director until he has received from the applicant a written certification that (i) all notice requirements of this article have been complied with, together with proof thereof, and (ii) the applicant has the right to conduct the operations as set forth in the application and operations plan.

F. A permit shall be required to drill any coalbed methane gas well or to convert any methane drainage borehole into a coalbed methane gas well. In addition to the other requirements of this section, every permit application for a coalbed methane gas well shall include:

1. The method that the coalbed methane gas well operator will use to stimulate the well.

2. a. A signed consent from the coal operator of each coal seam which is located within 750 horizontal feet of the proposed well location (i) which the applicant proposes to stimulate or (ii) which is within 100 vertical feet above or below a coal bearing stratum which the applicant proposes to stimulate.

b. The consent required by this section may be (i) contained in a lease or other such agreement; (ii) contained in an instrument of title; or (iii) in any case where a coal operator cannot be located or identified and the operator has complied with § 45.1-361.19, provided by a pooling order entered pursuant to § 45.1-361.21 or 45.1-361.22 and provided such order contains a finding that the operator has exercised due diligence in attempting to identify and locate the coal operator. The consent required by this section shall be deemed to be granted for any tract where title to the coal is held by multiple owners if the applicant has obtained consent to stimulate from the co-tenants holding majority interest in the tract and none of the coal co-tenants has leased the tract for coal development. The requirement of signed consent contained in this section shall in no way be considered to impair, abridge or affect any contractual rights or objections arising out of a coalbed methane gas contract or coalbed methane gas lease entered into prior to January 1, 1990, between the applicant and any coal operator, and any extensions or renewals thereto, and the existence of such lease or contractual arrangement and any extensions or renewals thereto shall constitute a waiver of the requirement for the applicant to file an additional signed consent.

3. The unit map, if any, approved by the Board.

G. No permit required by this chapter for activities to be conducted within an area of Tidewater Virginia where drilling is authorized under subsection B of § 62.1-195.1 shall be granted until the environmental impact assessment required by § 62.1-195.1 has been conducted and the assessment has been reviewed by the Department.

H. The applicant for a permit for a gathering pipeline, oil or gas well, or coal bed methane well shall identify in the permit application any cemetery, as identified on a

U.S.G.S. topographic map or located by routine field review, within 100 feet of the permitted activity.

I. The operator of any coalbed methane well drilled within 250 feet of a cemetery shall comply with a written request of any person owning an interest in a private cemetery or the authorized agent of a public cemetery that the operator of such well suspend operations for a period from two hours before to two hours after any burial service that takes place on the surface area of such cemetery. However, if the well operator or a mine operator determines that suspension of such operations will have an adverse effect on the safety of the well operations or mining operations, the operator shall be under no obligation to comply with the request, and operation of the well shall continue.

(1982, c. 347, § 45.1-311; 1985, c. 601; 1987, c. 452; 1988, c. 160, § 45.1-311.1; 1990, cc. 92, 967; 1994, c. 957; 1995, c. 269; 1996, c. 854; 1997, cc. 759, 765; 1998, c. 229; 2003, cc. 542, 550; 2008, c. 227.)

§ 45.1-361.30. Notice of permit applications and permit modification applications required; content.

A. Within one day of the day on which the application for a permit for a gas or oil operation is filed, the applicant shall provide notice of the application to the following persons:

1. All surface owners, coal owners, and mineral owners on the tract to be drilled;
2. Coal operators who have registered operation plans with the Department for activities located on the tract to be drilled;
3. All surface owners on tracts where the surface is to be disturbed;
4. All gas, oil, or royalty owners within one-half of the distance specified in § 45.1-361.17 for that type of well, or within one-half of the distance to the nearest well completed in the same pool, whichever is less, or within the boundaries of a drilling unit established pursuant to the provisions of this chapter;
5. All coal operators who have applied for or obtained a mining or prospecting permit with respect to tracts located within 500 feet of the proposed well location or in the case of a proposed coalbed methane gas well location, within 750 feet thereof;
6. All coal owners or mineral owners on tracts located within 500 feet of the proposed well location or in the case of a proposed coalbed methane gas well location, within 750 feet thereof; and
7. All operators of gas storage fields certificated by the State Corporation Commission as a public utility facility whose certificated area includes the well location, or whose certificated boundary is within 1,250 feet of the proposed well location.

B. Within one day of the day on which the application for a permit modification for a gas or oil operation is filed, the applicant requesting such permit modification shall provide

notice of the application to all persons listed in subsection A of this section who may be directly affected by the proposed activity.

C. Within one day of the day on which the application for a permit for geophysical operations is submitted, the applicant shall provide notice to those persons listed in subdivisions 1, 2, and 3 of subsection A of this section.

D. All notices required to be given pursuant to subsections A, B, and C of this section shall contain a statement of the time within which objections may be made and the name and address of the person to whom objections shall be forwarded. Only those persons entitled to notice under subsections A, B, and C of this section shall have standing to object to the issuance of the proposed permit or permit modification for a gas, oil, or geophysical operation as the use may be. Upon receipt of notice, any person may waive in writing the time and right to object.

E. Within seven days of the day on which the application for a permit is filed, the applicant shall provide notice to (i) the local governing body or chief executive officer of the locality where the well is proposed to be located and (ii) the general public, through publication of a notice in at least one newspaper of general circulation that is widely circulated in the locality where the well is proposed to be located.

F. An applicant shall make a reasonable effort to provide the notices required under subsections A, B, and C. If an applicant is unable to identify or locate any person to whom notice is required, then the notice provided in clause (ii) of subsection E shall be considered sufficient notice to such persons and the date of notification shall be the date of publication.

(1982, c. 347, § 45.1-313; 1984, c. 590; 1987, c. 452; 1989, c. 529; 1990, c. 92; 1996, c. 854; 2008, c. 534.)

§ 45.1-361.31. Bonding and financial security required.

A. To ensure compliance with all laws and regulations pertaining to permitted activities and the furnishing of reports and other information required by the Board or Director, all permit applicants shall give bond with surety acceptable to the Director and payable to the Commonwealth. At the election of the permit applicant, a cash bond may be given. The amount of the bond required shall be sufficient to cover the costs of properly plugging the well and restoring the site, but in no case shall the amount of the bond be less than \$10,000 per well plus \$2,000 per acre of disturbed land, calculated to the nearest tenth of an acre. Bonds shall remain in force until released by the Director.

B. Upon receipt of an application for permits for gas or oil operations and at the request of the permit applicant, the Director may, in lieu of requiring a separate bond for each permit, require a blanket bond. The amount of the blanket bond shall be as follows:

1. For one to fifteen wells, \$25,000.
2. For sixteen to thirty wells, \$50,000.
3. For thirty-one to fifty wells, \$75,000.

4. For fifty-one or more wells, \$100,000.

For purposes of calculating blanket bond amounts, from one-tenth of an acre to five acres of disturbed land for a separately permitted gathering pipeline shall be equivalent to one well. The Director shall promulgate regulations for the release of acreage used to calculate blanket bond amounts for separately permitted gathering pipelines in cases where sites have been stabilized.

C. Any gas or oil operator who elects to post a blanket bond shall pay into the Gas and Oil Plugging and Restoration Fund those fees and assessments required under the provisions of § 45.1-361.32.

D. This section's minimum requirements for bonding shall be met by all permitted gas or oil operations by July 1, 1991.

(1990, c. 92.)

§ 45.1-361.32. Gas and Oil Plugging and Restoration Fund.

A. The Gas and Oil Plugging and Restoration Fund is hereby established as a non-lapsing revolving fund to be administered by the Department pursuant to the provisions of this section. The Fund shall consist of all payments made into the Fund by gas or oil operators, all collections of debt for expenditures made from the Fund and all interest payments made into the Fund pursuant to the provisions of this section. Interest earned on the Fund shall be credited to the Fund. The Fund shall be established on the books of the Comptroller and any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. In the event of a discontinuance of the Fund, any amounts remaining in the Fund shall be returned to all gas or oil operators with blanket bonds in proportion to the number of permits under the blanket bonds of each operator.

B. Pursuant to § 45.1-361.31, each gas or oil operator who has posted a blanket bond shall pay into the Fund a fee of fifty dollars per permit held, by July 31, 1990. Each permittee operating under a blanket bond shall annually pay to the Fund an amount equal to fifty dollars multiplied by the number of permits he then holds, such payment to be submitted with the annual report required under § 45.1-361.38, until the payments and interest accruing to the Fund totals \$100,000.

C. Disbursements from the Fund shall be used only to supplement bond proceeds in order to pay for the full cost of plugging and restoration in the event of a blanket bond forfeiture.

D. The amount by which the cost of plugging and restoration exceeds the amount of the gas or oil operator's forfeited bond shall constitute a debt of the operator to the Commonwealth. The Director is authorized to collect such debts together with the costs of collection through appropriate legal action. All moneys collected pursuant to this subsection, less the costs of collection, shall be deposited in the Fund.

E. Once the initial balance of the Fund exceeds \$100,000, and thereafter whenever the Director determines that the Fund's balance has fallen below \$25,000 due to

uncollectible debts, the Director shall assess a fee of fifty dollars per permit per year on all permittees with blanket bonds until the Fund's balance once again reaches \$100,000.

F. No permit shall be issued to a gas or oil operator until he has fully reimbursed the Commonwealth for any debt incurred pursuant to the provisions of subsection D of this section.

(1990, c. 92.)

§ 45.1-361.33. Expiration of permits.

All permits issued pursuant to this chapter shall expire 24 months from their date of issuance unless the permitted activity has commenced within that time period. An operator may renew the existing permit for an additional 24 months by submitting a written request containing the coal operator's approval and remitting a \$325 renewal fee no later than the expiration date.

(1990, c. 92; 1996, c. 854; 2003, cc. 542, 550.)

§ 45.1-361.34. Abandonment or cessation of well or corehole operation; plugging required.

Upon the abandonment or cessation of the operation of any well or corehole, the gas, oil, or geophysical operator shall immediately fill and plug the well or corehole in the manner required by regulations in force at the time of abandonment or the operation's cessation.

(1990, c. 92.)

§ 45.1-361.35. Objections to permits; hearing.

A. Objections to new or modification permits may be filed with the Director by those having standing as set out in § 45.1-361.30. Such objections shall be filed within fifteen days of the objecting party's receipt of the notice required by § 45.1-361.30. Persons objecting to a permit must state the reasons for their objections.

B. The only objections to permits or permit modifications that may be raised by surface owners are:

1. The operations plan for soil erosion and sediment control is not adequate or not effective;
2. Measures in addition to the requirement for a well's water-protection string are necessary to protect fresh water-bearing strata;
3. The permitted work will constitute a hazard to the safety of any person;
4. Location of the coalbed methane well or coalbed methane well pipeline will unreasonably infringe on the surface owner's use of the surface, provided that a

reasonable alternative site is available within the unit, and granting the objection will not materially impair any right contained in an agreement, valid at the time of the objection, between the surface owner and the operator or their predecessors or successors in interest; and

5. If the surface owner is an interstate park commission, the location of the well or pipeline will unreasonably infringe on the surface owner's use of the surface, provided that a reasonable alternative site is available within the unit, and that granting the objection will not materially impair any right contained in an agreement, valid at the time of the objection, between the surface owner and the operator or their predecessors or successors in interest.

C. The only objections to permits or permit modifications that may be raised by royalty owners are whether the proposed well work:

1. Directly impinges upon the royalty owner's gas and oil interest; or
2. Threatens to violate the objecting royalty owner's property or statutory rights aside from his contractual rights; and
3. Would not adequately prevent the escape of the Commonwealth's gas and oil resources or provide for the accurate measurement of gas and oil production and delivery to the first point to sale.

D. Objections to permits or permit modifications may be raised by coal owners or operators pursuant to the provisions of §§ 45.1-361.11 and 45.1-361.12.

E. The only objections to permits or permit modifications that may be raised by mineral owners are those that could be raised by a coal owner under § 45.1-361.11 provided the mineral owner makes the objection and affirmatively proves that it does in fact apply with equal force to the mineral in question.

F. The only objections to permits or permit modifications that may be raised by gas storage field operators are those in which the gas storage operator affirmatively proves that the proposed well work will adversely affect the operation of his State Corporation Commission certificated gas storage field; however, nothing in this subsection shall be construed to preclude the owner of nonstorage strata from the drilling of wells for the purpose of producing oil or gas from any stratum above or below the storage stratum.

G. The Director shall have no jurisdiction to hear objections with respect to any matter subject to the jurisdiction of the Board as set out in Article 2 (§ 45.1-361.13 et seq.) of this chapter. Such objections shall be referred to the Board in a manner prescribed by the Director.

H. The Director shall fix a time and place for an informal fact-finding hearing concerning such objections. The hearing shall not be scheduled for less than twenty nor more than thirty days after the objection is filed. The Director shall prepare a notice of the hearing, stating all objections and by whom made, and send a copy of such notice by certified mail, return receipt requested, at least ten days prior to the hearing date, to the permit applicant and to every person with standing to object as prescribed by § 45.1-361.30.

I. At the hearing, should the parties fail to come to an agreement, the Director shall proceed to decide the objection pursuant to those provisions of the Administrative Process Act (§ 2.2-4000 et seq.) relating to informal fact-finding procedures.

(1982, c. 347, §§ 45.1-315, 45.1-316, 45.1-317; 1987, c. 452; 1989, c. 529; 1990, c. 92; 1996, c. 854; 1998, c. 228; 2002, c. 277.)

§ 45.1-361.36. Appeals of Director's decisions to the Board.

A. Any person with standing under the provisions of § 45.1-361.30 who is aggrieved by a decision of the Director may appeal to the Board, subject to the limitations imposed by subsection B of this section, by petition to the Board filed within ten days following the appealed decision.

B. No petition for appeal may raise any matter other than matters raised by the Director or which the petitioner put in issue either by application or by objections, proposals or claims made and specified in writing at the informal fact-finding hearing held under § 45.1-361.35 leading to the appealed decision.

(1982, c. 347, § 45.1-325; 1984, c. 590; 1990, c. 92.)

§ 45.1-361.37. Persons required to register; designated agents.

A. Any person who owns a well, drills a well, completes well work, operates any well or gathering pipeline, conducts ground disturbing geophysical explorations, or who transports gas or oil up to and including the first point of sale shall register with the Director and shall provide his name and address and the name, address and official title of the person in charge of his operations in the Commonwealth.

B. Any person registering under subsection A of this section shall designate the name and address of an agent who shall be the attorney-in-fact of the registrant for the purposes hereinafter set forth. The designated agent shall be a resident of the Commonwealth. Notices, orders, other communications and all processes issued pursuant to this chapter may be served upon or otherwise delivered to the designated agent as and for the operator. Any designation of an agent shall remain in force until the Director is notified in writing of a designation termination and the designation of a new agent.

(1990, c. 92.)

§ 45.1-361.38. Report of permitted activities and production required; contents.

A. Each holder of a permit for gas or oil wells or gathering pipelines shall file monthly and annual reports of his activities as prescribed by the Director. These reports shall be for the purpose of obtaining information regarding the production and sale of gas and oil resources, as well as information concerning the ownership and control of permitted activities. Filing of these reports by a permittee shall be a condition of such permit. Every annual report filed by a permittee shall contain a certification that such permittee has paid all severance taxes levied under the provisions of §§ 58.1-3712, 58.1-3712.1 and 58.1-3713.

B. At the same time that a permittee files the monthly and annual reports as required by subsection A, the permittee shall send copies of the reports by mail to the commissioner of revenue of the political subdivision where the permitted wells are located.

(1990, c. 92; 1992, c. 361.)

§ 45.1-361.39. Developing a gas or oil well as a water well.

Should any well drilled for gas or oil not produce commercial or paying quantities of either resource, the well may be developed as a water well upon the request of the surface owner of the property on which the well is located. Any development of such a water well shall occur only after notice is given to the Director and his approval has been received. Such development of a water well shall be performed in accordance with applicable state and local requirements. Unless the gas or oil operator and surface owner otherwise agree, the surface owner shall pay the gas or oil operator a reasonable sum for all casing and tubing set and left in the well which would have otherwise been removed upon plugging of the well.

(1982, c. 347, § 45.1-350; 1990, c. 92.)

§ 45.1-361.40. Orphaned Well Fund; orphaned wells.

A. The Orphaned Well Fund is hereby established as a non-lapsing revolving fund to be administered by the Department pursuant to the provisions of this section. The Orphaned Well Fund shall consist of such moneys as are appropriated to it by the General Assembly. Interest earned on the Orphaned Well Fund shall be credited to the Orphaned Well Fund. The Orphaned Well Fund shall be established on the books of the Comptroller and any funds remaining in it at the end of the biennium shall not revert to the general fund but shall remain in the Orphaned Well Fund. In the event of a discontinuance of the Orphaned Well Fund, any amounts remaining in it shall be placed in the Gas and Oil Plugging Restoration Fund. Moneys from the Orphaned Well Fund shall be used only for purposes of restoration and plugging of orphaned wells.

B. The Director shall conduct a survey to determine the condition and location of orphaned wells in the Commonwealth. He shall establish priorities for the plugging and restoration of the identified orphaned wells. The plugging and restoration of orphan well sites which pose an imminent danger to public safety shall have the highest priority.

C. In performing his duties under this section, the Director shall make every reasonable effort to identify and obtain the permission of a surface owner prior to entering onto the surface owner's land. In all cases, the Director shall as soon as practicable cause to be published in a newspaper of general circulation in the county or city wherein an orphaned well is located a notice of the proposed plugging and restoration work to be conducted on the property.

D. Each operator who applies for a new permit for any activity other than geophysical operations shall pay a fifty dollar surcharge per permit into the Orphaned Well Fund. Such surcharge shall continue until the Director determines all orphaned wells in the Commonwealth are properly plugged and their sites are properly stabilized.

(1990, c. 92.)

§ 45.1-361.41. Interference by injection wells with ground water supply.

A. Any person who owns or operates an injection well in a manner that proximately causes the contamination or diminution of ground water used for a beneficial use by any person who resides within the lesser of (i) the area of review required by the United States Environmental Protection Agency for the permitting of that injection well, or (ii) a one-half mile radius of the well shall provide the person with a replacement water supply. A replacement water supply shall provide the person or persons with water of equivalent quality and quantity as was provided by ground water prior to the contamination or diminution of the water supply resulting from the operation of the injection well. A replacement water supply shall include the provision of necessary storage and service facilities. "Ground water" shall have the same meaning ascribed to it in § 62.1-255. "Beneficial use" shall have the same meaning ascribed to it in § 62.1-10.

B. This section shall apply to any injection well, whether operating under a permit from the Director of the Department of Mines, Minerals and Energy issued prior to, on or after July 1, 1992.

(1992, c. 324; 1993, c. 276.)

§ 45.1-361.42. Safety in coalbed methane gas, oil and geophysical operations.

The Director shall inspect permitted coalbed methane well and related facility operations to ensure the safety of persons on permitted sites. When the inspection reveals any hazardous condition that creates an imminent danger, the Director shall issue a closure order pursuant to § 45.1-361.27 requiring the area to be cleared or the equipment removed from use, except for (i) work necessary to continue to vent methane from an active underground mine if it can be done safely and (ii) any work necessary to correct or eliminate the imminent danger. The Director shall lift the closure order when he finds that the imminent danger has been corrected or eliminated. When the inspection reveals any other condition that creates a risk to the safety or health of any person on the permitted site, the Director shall notify the Department of Labor and Industry for actions under Title 40.1, as applicable.

(1997, c. 421.)

§ 45.1-361.43. Operator's right to sample water and quality.

An operator shall have the right to enter upon surface land at reasonable times and in a reasonable manner to obtain samples of water from water wells that are (i) located within 750 feet of a proposed or existing gas well and (ii) actually being utilized by the surface owner or occupant for domestic use. If the surface owner or occupant refuses to allow or causes the operator to be prevented from sampling any such water well, the operator shall promptly notify the Department of such refusal or prevention. The Department shall maintain a record of such notifications. In the event of such a refusal or prevention, the surface owner shall not be entitled to the remedies set forth in § 45.1-361.44.

(1998, c. 227; 2009, c. 293.)

§ 45.1-361.44. Replacement of water supply.

If any water supply of a surface owner who obtains all or part of his supply of water for domestic use from a water well has been materially affected by contamination or partial or complete interruption proximately resulting from a gas well operation within 750 feet of the water well, the operator of such gas well shall promptly provide a replacement water supply which shall be capable of meeting the uses such water supply met prior to the contamination or partial or complete interruption.

(1998, c. 227; 2009, c. 293.)