

Code of Virginia

Title 45.1 - MINES AND MINING.

Chapter 15.1 - Geothermal Energy

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§ 45.1-179.1. Short title; purpose.

This chapter may be cited as the Virginia Geothermal Resource Conservation Act. It is the policy of the Commonwealth of Virginia and the purpose of this law to: (i) foster the development, production, and utilization of geothermal resources, (ii) prevent waste of geothermal resources, (iii) protect correlative rights to the resource, (iv) protect existing high quality state waters, and safeguard potable waters from pollution, (v) safeguard the natural environment, (vi) promote geothermal and water resource conservation and management, and (vii) safeguard the health, safety, and welfare of the citizens of the Commonwealth.

(1981, c. 506.)

§ 45.1-179.2. Definitions.

The following terms used in this chapter have the meanings respectively ascribed thereto unless the context clearly requires otherwise:

“Correlative rights” means the right of each geothermal owner in a geothermal system to produce without waste his just and equitable share of the geothermal resources in the geothermal system;

“Geothermal energy” means the usable energy produced or which can be produced from geothermal resources;

“Geothermal resource” means the natural heat of the earth and the energy in whatever form, present in, associated with, created by, or which may be extracted from, that natural heat, as determined by the rules and regulations of the Department;

“Geothermal system” means any aquifer, pool, reservoir, or other geologic formation containing geothermal resources; and

“Board” means the State Water Control Board.

(1981, c. 506; 1984, c. 590.)

§ 45.1-179.3. Application.

The provisions of this chapter regarding (i) permitting, well regulations, reservoir management and allocation apply to geothermal resources at temperatures above the minimum temperature set forth by the Department pursuant to § 45.1-179.7, (ii) leasing requirements, royalties or severance taxes apply to geothermal resource applications producing more than the volumetric rate set forth by the Department pursuant to § 45.1-179.7.

(1981, c. 506.)

§ 45.1-179.4. Ownership.

Ownership rights to geothermal resources shall be in the owner of the surface property underlain by the geothermal resources unless such rights have been otherwise explicitly reserved or conveyed. Nothing in this section shall divest the people or the Commonwealth of any rights, title, or interest they may have in geothermal resources.

(1981, c. 506.)

§ 45.1-179.5. Findings; clarification of nature of the resource.

Geothermal resources are found and hereby declared to be sui generis, being neither a mineral resource nor a water resource. Mineral estates shall not be construed to include geothermal resources unless explicit in the terms of the deed or other instrument of conveyance.

(1981, c. 506.)

§ 45.1-179.6. Duties and responsibilities of Department.

The Department shall have and is hereby given jurisdiction and authority over all persons and property, public and private, necessary to enforce the provisions of this chapter and shall have the power and authority to make and enforce rules, regulations, and orders and do whatever may reasonably be necessary to carry out the provisions of this chapter. Any such rules and regulations adopted by the Department pursuant to the provisions of this chapter shall be promulgated in compliance with the provisions of the Administrative Process Act (Chapter 40 of Title 2.2, § 2.2-4000 et seq.).

(1981, c. 506.)

§ 45.1-179.7. Additional powers of Department.

The Department shall:

1. Consult with the Board in carrying out all of its duties and responsibilities pursuant to the provisions of this chapter;
2. Develop a comprehensive geothermal permitting system for the Commonwealth, which shall provide for the exploration and development of geothermal resources;
3. Promulgate such rules and regulations as may be necessary to provide for geothermal drilling and the exploration and development of geothermal resources in the Commonwealth; such rules and regulations shall be based on a system of correlative rights;
4. Establish minimum temperature levels and volumetric rates in order to determine Department jurisdiction over geothermal resource development. In establishing such temperature levels (i) the Department shall set minimum temperature levels for permitting, well regulations, reservoir management, and allocation of the geothermal resource; and (ii) the Department shall set minimum volumetric rates for geothermal leasing, royalties and severance taxes, as necessary. The Department shall also be responsible for reviewing the established temperature level and volumetric rate requirements biennially and revising the figures as necessary. Revision of temperature levels or volumetric rate requirements shall not occur more often than every two years and such revision shall not operate retroactively; and
5. Consult with the State Department of Health, as necessary, to protect potable waters of the Commonwealth and in carrying out its duties and responsibilities pursuant to the provisions of this chapter.

(1981, c. 506.)

§ 45.1-179.8. Reinjection policy.

The Department, the Board, and Department of Health shall jointly develop, and revise as necessary, a policy on reinjection of spent geothermal fluids. Such policy shall refer to the reinjection into the ground of waters extracted from the earth in the process of geothermal development, production, or utilization.

(1981, c. 506.)

§ 45.1-179.9. Cancellation or suspension of permit.

Whenever, after a public hearing held in conjunction with the Board, the Department determines that a holder of a permit issued pursuant to the provisions of this chapter is willfully violating any provision of such permit or any provision of this chapter, the Department may cancel or suspend such permit for cause or impose limitations on the future use thereof in order to prevent future violations.

(1981, c. 506.)

§ 45.1-179.10. Penalties; injunctions.

Any person who shall be adjudged to have violated any provisions of this chapter shall be guilty of a misdemeanor and shall be liable to a penalty of not less than \$10 nor more than \$250 for each violation. In addition, upon violation of any of the provisions of this chapter, or the regulations of the Department hereunder, the Department may either before or after the institution of proceedings for the collection of the penalty imposed by this section for such violation, institute a civil action in the circuit court wherein the well is located for injunctive relief to restrain the violation and for such other or further relief in the premises as said court shall deem proper.

(1981, c. 506.)

§ 45.1-179.11. Judicial review.

Any person aggrieved by a final decision of the Department pursuant to the provisions of § 45.1-179.9 is entitled to judicial review thereof in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

(1981, c. 506; 1986, c. 615.)