

1 this article are in addition to and not in derogation of or
2 substitution for the provisions of article six or six-a, chapter
3 twenty-two of this code.

4 (b) This article shall not apply to or affect:

5 (1) Shallow wells other than those utilized in secondary
6 recovery programs as set forth in section eight of this article;

7 (2) Any well commenced or completed prior to March 9, 1972,
8 unless such well is, after completion (whether such completion is
9 prior or subsequent to that date):

10 (A) Deepened subsequent to that date to a formation at or
11 below the top of the uppermost member of the "Onondaga Group"; or

12 (B) Involved in secondary recovery operations for oil under an
13 order of the commission entered pursuant to section eight of this
14 article;

15 (3) Gas storage operations or any well employed to inject gas
16 into or withdraw gas from a gas storage reservoir or any well
17 employed for storage observation; or

18 (4) Free gas rights.

19 (c) The provisions of this article shall not be construed to
20 grant to the commissioner or the commission authority or power to:

21 (1) Limit production or output, or prorate production of any
22 oil or gas well, except as provided in subdivision (6), subsection
23 (a), section seven of this article; or

24 (2) Fix prices of oil or gas.

1 (d) Nothing contained in either this chapter or chapter
2 twenty-two of this code may be construed so as to require, prior to
3 commencement of plugging operations, a lessee under a lease
4 covering a well to give or sell the well to any person owning an
5 interest in the well, including, but not limited to, a respective
6 lessor, or agent of the lessor, nor shall the lessee be required to
7 grant to a person owning an interest in the well, including, but
8 not limited to, a respective lessor, or agent of a lessor, an
9 opportunity to qualify under section twenty-six, article six,
10 chapter twenty-two of this code to continue operation of the well.

11 **§22C-9-4. Oil and gas conservation commissioner and commission;**
12 **commission membership; qualifications of members;**
13 **terms of members; vacancies on commission; meetings;**
14 **compensation and expenses; appointment and**
15 **qualifications of commissioner; general powers and**
16 **duties.**

17 (a) The "oil and gas conservation commission" shall be
18 composed of five members. The director of the Division of
19 Environmental Protection and the chief of the office of oil and gas
20 shall be members of the commission ex officio. The remaining three
21 members of the commission shall be appointed by the Governor, by
22 and with the advice and consent of the Senate, and may not be
23 employees of the Division of Environmental Protection. Of the

1 three members appointed by the Governor, one shall be an
2 independent producer and at least one shall be a public member not
3 engaged in an activity under the jurisdiction of the Public Service
4 Commission or the Federal Energy Regulatory Commission. The third
5 appointee shall possess a degree from an accredited college or
6 university in petroleum engineering or geology and must be a
7 registered professional engineer with particular knowledge and
8 experience in the oil and gas industry and shall serve as
9 commissioner and as chair of the commission.

10 (b) The members of the commission appointed by the Governor
11 shall be appointed for overlapping terms of six years each, except
12 that the original appointments shall be for terms of two, four and
13 six years, respectively. Each member appointed by the Governor
14 shall serve until the members successor has been appointed and
15 qualified. Members may be appointed by the Governor to serve any
16 number of terms. The members of the commission appointed by the
17 Governor, before performing any duty hereunder, shall take and
18 subscribe to the oath required by section 5, article IV of the
19 Constitution of West Virginia. Vacancies in the membership
20 appointed by the Governor shall be filled by appointment by the
21 Governor for the unexpired term of the member whose office is
22 vacant and such appointment shall be made by the Governor within
23 sixty days of the occurrence of such vacancy. Any member appointed
24 by the Governor may be removed by the Governor in case of

1 incompetency, neglect of duty, gross immorality or malfeasance in
2 office. A commission member's appointment shall be terminated as
3 a matter of law if that member fails to attend three consecutive
4 meetings. The Governor shall appoint a replacement within thirty
5 days of the termination.

6 (c) The commission shall meet at such times and places as
7 shall be designated by the chair. The chair may call a meeting of
8 the commission at any time, and shall call a meeting of the
9 commission upon the written request of two members or upon the
10 written request of the oil and gas conservation commissioner or the
11 chief of the office of oil and gas. Notification of each meeting
12 shall be given in writing to each member by the chair at least
13 fourteen calendar days in advance of the meeting. Three members of
14 the commission, at least two of whom are appointed members, shall
15 constitute a quorum for the transaction of any business.

16 (d) The commission shall pay each member the same compensation
17 as is paid to members of the Legislature for their interim duties
18 as recommended by the Citizens Legislative Compensation Commission
19 and authorized by law for each day or portion thereof engaged in
20 the discharge of official duties and shall reimburse each member
21 for actual and necessary expenses incurred in the discharge of
22 official duties.

23 (e) The commission is hereby empowered and it is the
24 commission's duty to execute and carry out, administer and enforce

1 the provisions of this article in the manner provided herein.
2 Subject to the provisions of section three of this article, the
3 commission has jurisdiction and authority over all persons and
4 property necessary therefor. The commission is authorized to make
5 such investigation of records and facilities as the commission
6 deems proper. In the event of a conflict between the duty to
7 prevent waste and the duty to protect correlative rights, the
8 commission's duty to prevent waste shall be paramount.

9 (f) Without limiting the commission's general authority, the
10 commission shall have specific authority to:

11 (1) Regulate the spacing of deep wells. Notwithstanding the
12 provisions of article six-a, chapter twenty-two of this code, the
13 commission shall regulate the spacing of deep wells drilled as
14 horizontal wells as defined by section four, article six-a, chapter
15 twenty-two of this code;

16 (2) Make and enforce reasonable rules and orders reasonably
17 necessary to prevent waste, protect correlative rights, govern the
18 practice and procedure before the commission and otherwise
19 administer the provisions of this article;

20 (3) Issue subpoenas for the attendance of witnesses and
21 subpoenas duces tecum for the production of any books, records,
22 maps, charts, diagrams and other pertinent documents, and
23 administer oaths and affirmations to such witnesses, whenever, in
24 the judgment of the commission, it is necessary to do so for the

1 effective discharge of the commission's duties under the provisions
2 of this article; and

3 (4) Serve as technical advisor regarding oil and gas to the
4 Legislature, its members and committees, to the Chief of Office of
5 Oil and Gas, to the Division of Environmental Protection and to any
6 other agency of state government having responsibility related to
7 the oil and gas industry.

8 (g) The commission may delegate to the commission staff the
9 authority to approve or deny an application for new well permits,
10 to establish drilling units or special field rules if:

11 (1) The application conforms to the rules of the commission;
12 and

13 (2) No request for hearing has been received.

14 (h) The commission may not delegate its authority to:

15 (1) Propose legislative rules;

16 (2) Approve or deny an application for new well permits, to
17 establish drilling units or special field rules if the conditions
18 set forth in subsection (g) of this section are not met; or

19 (3) Approve or deny an application for the pooling of
20 interests within a drilling unit.

21 (i) Any exception to the field rules or the spacing of wells
22 which does not conform to the rules of the commission, and any
23 application for the pooling of interests within a drilling unit,
24 must be presented to and heard before the commission.

NOTE: The purpose of this bill is to authorize the Oil and Gas Conservation Commission to regulate the horizontal deep wells.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.