

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 4270**

BY DELEGATES DEEM, KELLY, ZATEZALO, ANDERSON,

R. ROMINE, HOLLEN, A. EVANS, WHITE, LANE,

HARSHBARGER AND SHOTT

[Passed March 10, 2018; in effect ninety days from passage.]



1 AN ACT to amend and reenact §22-6-22 of the Code of West Virginia, 1931, as amended; and to  
2 amend said code by adding a new chapter, designated §37B-1-1, §37B-1-2, and §37B-1-  
3 3, all relating generally to real property; providing for quarterly reporting to the West  
4 Virginia Department of Environmental Protection and publication of same; providing rule-  
5 making authority; requiring specified information to be remitted with certain payments to  
6 interest owners; providing for written request in the event an interest owner does not  
7 receive the required information; providing for a period to provide the required information  
8 beginning when the operator or producer receives the written request for information;  
9 providing for a cause of action to enforce compliance; providing for the accumulation of  
10 proceeds under certain circumstances; providing for timely payment of moneys owed from  
11 oil and natural gas production; and establishing interest penalties for certain late  
12 payments.

*Be it enacted by the Legislature of West Virginia:*

## **CHAPTER 22. ENVIRONMENTAL RESOURCES.**

### **ARTICLE 6. OFFICE OF OIL AND GAS; OIL AND GAS WELLS.**

#### **§22-6-22. Well report, logs, core samples, and cuttings to be filed; confidentiality and permitted use; authority to promulgate rules; reporting of production data for horizontal wells.**

1 (a) Within a reasonable time after the completion of the drilling of a shallow well or deep  
2 well, the well operator shall file with the secretary and with the state Geological and Economic  
3 Survey a completion report containing the following:

4 (1) The character, depth, and thickness of geological formations encountered, including  
5 fresh water, coal seams, mineral beds, brine, and oil and gas bearing formations; and

6 (2) Such other information as the secretary may require to effectuate the purposes of this  
7 chapter.

8           The secretary may promulgate such reasonable rules in accordance with §29A-3-1 *et seq.*  
9 of this code, as may be considered necessary to ensure that the character, depth, and thickness  
10 of geological formations encountered are accurately logged: *Provided*, That the secretary shall  
11 not require logging by the use of an electrical logging device: *Provided, however*, That if electrical,  
12 mechanical, or geophysical logs are recorded in the well, the secretary may request copies of  
13 these logs: *Provided further*, That mechanical or geophysical logs may not include vertical seismic  
14 profiles or two-dimensional or three-dimensional seismic information.

15           (b) If a well operator takes core samples, that activity shall be noted within the report, and,  
16 within 60 days after filing the completion report, the operator shall, subject to the terms of this  
17 article, provide the state Geological and Economic Survey with a complete set of cores, consisting  
18 of at least quarter slabs, correctly labeled and identified according to depth. The core samples  
19 requested by and provided to the state Geological and Economic Survey may not contain any  
20 materials or documents made with regard to analyzing or interpreting the core samples.

21           (c) If a well operator catches cuttings during the drilling of any deep or shallow well, that  
22 activity shall be noted within the report and, within 60 days after filing the completion report, the  
23 operator shall, subject to the terms of this article, provide the state Geological and Economic  
24 Survey with a sample of the cuttings, correctly labeled and identified according to depth.

25           (d) Any information, reports, cuttings, and core samples requested by and provided to the  
26 state Geological and Economic Survey by the operator shall be kept confidential at the written  
27 request of the operator for a specified amount of time as follows:

28           (1) Except for core samples, any logs, drill cuttings, reports and other information or  
29 materials that reveal trade secrets or other confidential business information relating to the  
30 competitive interests of the operator or the operator's privy may not be disclosed to the public for  
31 one year following delivery, unless the operator consents in writing to a shorter time. At the  
32 operator's written request, the period of confidentiality may be extended in annual increments:  
33 *Provided*, That the total period of confidentiality may not exceed three years.

34 (2) Any core samples may not be disclosed to the public for five years following delivery  
35 to the state Geological and Economic Survey, unless the operator consents in writing to a shorter  
36 time. At the operator's written request, the period of confidentiality may be extended for an  
37 additional five years: *Provided*, That the total period of confidentiality may not exceed 10 years.

38 (e) Notwithstanding the provisions of subsection (d) of this section, the state Geological  
39 and Economic Survey may store and process confidential information within its minerals mapping  
40 or geographic information systems; however, that confidential information may not be revealed to  
41 the public until the lapsing of the period of confidentiality created pursuant to subsection (d) of  
42 this section. After the period of confidentiality has lapsed, statistics or other information generated  
43 as the result of storage and processing may be disclosed in the aggregate through articles,  
44 reports, maps, or lectures presented in accordance with generally accepted academic or scientific  
45 practices and in a manner to preclude the identification of a particular well or operator.

46 (f) A quarterly report of the monthly volumes of oil, natural gas, and natural gas liquids  
47 produced from any horizontal well drilled shall be filed with the Chief of the Office of Oil and Gas  
48 on a form prescribed by the Secretary of the West Virginia Department of Environmental  
49 Protection. All reported data shall be made available to the public through the Office of Oil and  
50 Gas' website within a reasonable time. The secretary has the express authority pursuant to this  
51 article, as well as pursuant to the powers enumerated in §22-6-2 of this code, to promulgate rules  
52 and to amend the current rules to require timely quarterly reporting of production data as well as  
53 to establish a process for collecting such data.

## **CHAPTER 37B. MINERAL DEVELOPMENT.**

### **ARTICLE 1. INFORMATION REPORTING AND PAYMENTS TO OWNERS.**

#### **§37B-1-1. Oil and natural gas production information reporting from horizontal wells.**

1 (a) An operator or producer or their agents, contractors or assigns shall provide the  
2 following information with each payment to all interest owners receiving payments resulting from

3 the development and production of oil, natural gas, or their constituents by horizontal wells  
4 governed by §22-6A-1 *et seq.* of this code, being the Natural Gas Horizontal Well Control Act:

5 (1) A name, number, or combination of name and number, and the state issued American  
6 Petroleum Institute number that identifies each lease, property, unit, pad, and well, for which  
7 payment is being made, and the county in which the lease, property, and well are located;

8 (2) Month and year of production;

9 (3) Total barrels of oil; number of MCF, MMBTU, or DTH of natural gas; and volume of  
10 natural gas liquids produced from each well and sold;

11 (4) Price received per unit of oil, natural gas, and natural gas liquids produced;

12 (5) Gross value of the total proceeds from the sale of oil, natural gas, and natural gas  
13 liquids from each well less taxes and deductions set forth in §37B-1-1(a)(6) of this code;

14 (6) Aggregate amounts for each category of deductions for each well which affect payment  
15 and are allowed by law, including without limitation those deductions provided for under the terms  
16 of the governing lease;

17 (7) Interest owner's interest in production from each well expressed as a decimal or  
18 fraction and reported pursuant to §37B-1-1(a)(1) of this code;

19 (8) Interest owner's ratable share of the total value of the proceeds of the sale of oil, natural  
20 gas, and natural gas liquids prior to the deduction of taxes, if applicable, and other deductions set  
21 forth in §37B-1-1(a)(6) of this code;

22 (9) Interest owner's ratable share of the proceeds from the sale of oil, natural gas, and  
23 natural gas liquids less the interest owner's ratable share of taxes, if applicable, and other  
24 deductions set forth in §37B-1-1(a)(6) of this code; and

25 (10) Contact information of the producer of the oil, natural gas, or natural gas liquids,  
26 including a mailing address and telephone number.

27 (b) An interest owner who does not receive the information required to be provided under  
28 this section in a timely manner may send a written request for the information by certified mail.

29 Not later than the 60th day after the date the operator or producer receives the written request for  
30 information under this section, the operator or producer shall provide the requested information  
31 to the interest owner. If the interest owner makes a written request for information under this  
32 section and the operator or producer does not provide the information within the 60-day period,  
33 the interest owner may bring a civil action against the operator or producer to enforce the  
34 provisions of this section, and a prevailing interest owner shall be entitled to recover reasonable  
35 attorneys' fees and court costs incurred in the civil action.

**§37B-1-2. Accumulation and payment of proceeds from production from horizontal wells.**

1 Notwithstanding any of the other provisions of this article, proceeds from production of oil,  
2 natural gas, and natural gas liquids from horizontal wells may be accumulated by the owners,  
3 cotenants, lessees, operators, or their agents, contractors, or assigns, until such time as proceeds  
4 attributable to any interest owner exceeds \$100 before making a remittance: *Provided, That,*  
5 regardless of the amount of money accumulated, the owners, cotenants, lessees, operators, or  
6 their agents, contractors, or assigns shall remit proceeds from horizontal wells attributable to the  
7 interest owners not less than once annually: *Provided, however, That* all accumulated proceeds  
8 from horizontal wells shall be paid to the interest owners entitled thereto immediately, or as soon  
9 as practicable, upon cessation of production of oil, natural gas, or natural gas liquids or upon  
10 relinquishment or transfer of the payment responsibility to another party.

**§37B-1-3. Payments from horizontal wells to be made timely; interest penalties.**

1 All regular production payments from horizontal wells due and owing to an interest owner  
2 shall be tendered in a timely manner, which shall not exceed 120 days from the first date of sale  
3 of oil, natural gas, or natural gas liquids is realized and within 60 days thereafter for each  
4 additional sale, unless such failure to remit is due to lack of record title in the interest owner, a  
5 legal dispute concerning the interest, a missing or unlocatable owner of the interest, or due to  
6 conditions otherwise specified in this article. Failure to remit timely payment for horizontal wells  
7 shall result in a mandatory additional payment of an interest penalty to be set at the prime rate

8 plus an additional two percent until such payment is made, to be compounded quarterly. The  
9 prime rate shall be the rate published on the day of the sale of oil, natural gas, and natural gas  
10 liquids in the *Wall Street Journal* reflecting the base rate on corporate loans posted by at least 75  
11 percent of the nation's 30 largest banks.



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2018.

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*Governor*