

**REPORT OF THE  
VIRGINIA COAL AND ENERGY COMMISSION  
TO  
THE GOVERNOR  
AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**SENATE DOCUMENT NO. 21**

**COMMONWEALTH OF VIRGINIA  
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1982**

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W. Ward Teel, Vice Chairman  
James F. Almand  
Harold K. Anderson  
Walter C. Ayers  
Herbert H. Bateman  
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Ford C. Quillen  
Fred D. Rosi  
Frank T. Sutton, III  
A. Victor Thomas  
Fred W. Walker  
Richard A. Wolfe, Jr.

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Terry L. Brown, Administrative Secretary

**Report of the  
Virginia Coal and Energy Commission  
To  
The Governor and the General Assembly of Virginia  
Richmond, Virginia  
January, 1982**

To: Honorable Charles S. Robb, Governor of Virginia  
and  
The General Assembly of Virginia

## **I. Introduction**

The Virginia Coal and Energy Commission is a permanent legislative study commission which operates pursuant to Chapter 22.1 of Title 9 of the Code of Virginia. Although the Commission has been statutory in nature only since July 1, 1979, a like Commission was created and continued throughout most of the last decade through a series of Senate Joint Resolutions. The Energy Study Commission, also created and continued through a series of Senate Joint Resolutions in the 1970's, was merged into the Coal and Energy Commission when the latter was made permanent in 1979.

The Commission is composed of twenty members: eight from the House of Delegates, five from the Senate, and seven citizens appointed by the Governor. Senate and House members serve terms which coincide with their terms of office in their respective houses. Citizen members serve four year terms; the terms of all those currently serving expire July 1, 1983. The members are as follows: from the House of Delegates, James F. Almand, J. Paul Councill, Jr., Joseph A. Johnson, George W. Jones, Glenn B. McClanan, Lewis W. Parker, W. Ward Teel, and A. Victor Thomas; from the Senate, Herbert H. Bateman, Frederick C. Boucher, Daniel W. Bird, Jr., Charles J. Colgan, and Virgil H. Goode, Jr.; and citizen members Harold K. Anderson, Walter C. Ayers, Eugene F. Brady, L. Blaine Carter, Herbert O. Funsten, Ph.D., J. Richard Lucas, Ph.D., Frank T. Sutton, III, and Fred W. Walker. In addition, the following individuals serve as ex-officio members: Eugene F. Brady, Senator John C. Buchanan, Delegate Donald A. McGlothlin, Sr., Delegate Ford C. Quillen, Fred D. Rosi, Ph.D., and Richard A. Wolfe, Jr., Ph.D.

The Commission held several meetings during the year, and studied and heard testimony on a broad range of topics, including coal export facilities, uranium mining, and the development of a state energy plan. The bulk of its activities, however, were done through the Commission's subcommittees, which reported to the Commission as follows.

## **II. Subcommittee Reports**

### **A. The Uranium Subcommittee**

Economic and environmental interests, as Governor Robb noted in his inaugural address, are not inevitably mutually exclusive. Both, however, are fundamentally important. Critically important, also, is providing this country with sufficient energy resources, especially in a time when the cost of foreign resources is having a serious impact on this national economy.

The issue of uranium exploration encompasses these concerns of economy, energy, and environment.

House Joint Resolution No. 324, passed during the 1981 Session of the General Assembly, was requested following the lease of uranium rights on approximately 50,000 acres in two areas of Virginia. The first is centered in the Chatham area of Pittsylvania County, and the second in the Culpeper-Madison-Orange County area.

The Commission was asked to evaluate the environmental effects of uranium exploration, mining and milling and any possible detriments to the health, safety and welfare of Virginia citizens which may result from the exploration for, and mining and milling of, uranium.

Uranium ore has been mined in this country since the early 1900's. In the early years it was used primarily for military purposes, but during the last three decades, many non-military uses for the ore have been developed.

Domestically, it has been mined thus far only in a few states in the midwest-Rocky Mountain area.

The disposition of mill tailings (which are radioactive), proper ventilation of the mines themselves, and dam sites constructed by the milling residue all received too little attention in the first part of this century.

With these factors in mind, the Commission began its study. In April, it held the first of several public hearings devoted to uranium mining in Virginia.

Representatives of the industry and local government, and citizens from areas in which uranium rights have been leased, spoke. At this and other meetings, the Commission also heard testimony from individuals who had worked as government employees or consultants on studies of uranium mining and the proper regulation of it.

In the interest of effectiveness, this special subcommittee was appointed in July to continue the study.

The subcommittee determined that it needed a closer look at an actual site where uranium mining was taking place and at which land reclamation under more recent and modern laws could be observed.

The subcommittee went to San Antonio, Texas, on November 30, 1981, and toured the Panna Maria Mine and Mill observing, among other things, the tailings impoundment area. The subcommittee observed the ore being extracted from the ground and its progress from extraction to the mill, through the mill, and its subsequent packaging for shipment.

Following the tour of the mine and mill the subcommittee toured four land reclamation sites of the Conquista Mines. These were the Dixon Site, Franklin Site, Hurt Site and Smith Site. All were in various stages of land reclamation.

On the following day, the subcommittee met with members of the Texas Railroad Commission and employees responsible for the regulation of uranium

mining. The Texas regulators were interrogated thoroughly and made an in-depth presentation as to what had transpired in Texas and what was happening in the regulatory area of uranium mining and milling and land reclamation. The hearing was transcribed and the Commission has a copy of the transcript on record.

As a result of information received at the public hearings, information arrived at by study and other research, information derived as a result of the visit to the uranium mine, mill and land reclamation sites in Texas and interviews with the Texas regulatory authorities, the subcommittee makes the following recommendations:

(A) That permits be issued by the Chief of the Division of Mines and Quarries prior to the beginning of any "exploration activity," as defined in the proposal;

(B) That maps, plats, and similar background information be submitted to the Chief at the time a permit application is submitted;

(C) That abandoned drill holes be plugged in an appropriate manner and the Chief be notified that they have been plugged;

(D) That the Chief be empowered to inspect any area for which an applicant has sought or received a permit;

(E) That no mining permit application be accepted prior to July 1, 1983; and

(F) That persons who violate the provisions of the chapter will be subject to penalties.

The subcommittee's task is a formidable one. It was unable, despite its hard work, to complete it. It plans to continue its work in 1982 and prepare further legislation pertaining to uranium mining and milling prior to the 1983 Session. This study could be enhanced by the addition of temporary staff members with expertise in nuclear science, geology, and the like. The subcommittee is currently exploring different means of funding to be used to obtain such expertise.

#### B. The Energy Preparedness Subcommittee

Delegates Almand and Parker, Dr. Rosi, Mr. Ayers, Mr. Brady, and Mr. Sutton are members of this subcommittee; Delegate Almand is its chairman.

The Subcommittee's main area of study during the past year was utility conservation programs. This study was requested of the Commission by Senate Joint Resolution No. 155, and the Commission then assigned the task to the Subcommittee. More specifically, the resolution called for a review of low or no cost residential conservation loan programs now sponsored by Appalachian Power Company, the Tennessee Valley Authority, Pacific Gas and Electric, and other utilities to see if additional Virginia utilities should be encouraged to adopt similar programs.

The Subcommittee reviewed a number of these programs to determine what relevance they might have to Virginia. Loan rates, it found, generally range from zero to eight percent. The loans themselves are usually extended by the utility and

paid back over several years through a surcharge on monthly utility bills. Loan funds can be used for purposes such as attic and wall insulation, installation of storm windows and doors, and caulking and weatherstripping. In most if not all cases, a loan is available to a homeowner only after an energy audit has been performed to determine what must be done to his house to conserve energy.

These programs can be cost-effective in two ways: they can result in energy conservation sufficient to negate the need for the construction of new generation facilities; and they can result in a lessening of the use of expensive, petroleum-fueled generators. In either of these cases, the consumer is the ultimate beneficiary.

The Subcommittee reviewed the characteristics of Virginia residences, e.g., the number which have insulation, gas vs. electric, and so forth, in order to estimate how much additional conservation is needed. Information supplied by the state's Division of Energy indicates that over half of the Commonwealth's 1.7 million households need at least some form of additional conservation.

Having reviewed other utility conservation programs and the needs of Virginia, the Subcommittee concluded that special consideration should be given to the expansion of such programs within the State. It also realized that it may not be appropriate for every utility to establish a low-interest loan program for residential conservation. It therefore recommends that the State Corporation Commission review the operations of each electric and gas utility which it regulates to see if it would be in the public interest for the utility to initiate such a program. If such a program can be justified, the State Corporation Commission is also asked to encourage the utility to adopt it. Finally, the State Corporation Commission is asked to report to the Governor and General Assembly on the progress of such programs.

The Subcommittee was also asked by the full Commission to address the development of an energy policy for the Commonwealth, since none exists at this point. Because this task was given to the Subcommittee late in the year, and because the change in administrations is likely to result in a different stance from the executive branch on the development of such a policy, the Subcommittee deferred action on this until 1983.

### C. The Renewable Energy Subcommittee

Delegates Councill, Jones, and McClanan, Senators Bateman, Colgan, and Goode, Dr. Funsten, Dr. Lucas, and Harold K. Anderson are members of the Renewable Energy Subcommittee. This subcommittee is currently working with members of the staff of the National Conference of State Legislatures on a technical assistance project relating to hydroelectric power. The subcommittee has received preliminary information and reports on Virginia statutes pertaining to hydroelectric power which need further study and, possibly, change. The Subcommittee plans to continue this work in the coming year.

### D. The Coal Subcommittee

The Coal Subcommittee is chaired by Delegate Thomas and also includes Delegates McGlothlin and Quillen, Senators Bird and Buchanan, Mr. Carter, Dr.

Lucas, and Dr. Wolfe. In 1981, the Subcommittee was asked by the Commission to investigate the feasibility of transporting coal by slurry pipeline in Virginia. This assignment followed a coal slurry pipeline presentation to the Commission by Anderson and Associates, Inc., a Blacksburg engineering firm.

At its initial 1981 meeting, the Subcommittee was advised of a feasibility study on the development of a coal slurry pipeline in Virginia which is being conducted at Virginia Polytechnic Institute and State University. Virginia Electric and Power Company gave an unrestricted \$65,000 grant to VPI & SU's Coal and Energy Research Center to conduct this study. Dr. Oner Yucel, an associate professor of civil engineering, is responsible for the research. The primary objective of the study is to evaluate, on a preliminary basis, the technical, economic, and environmental feasibility of locating a coal slurry pipeline within the Commonwealth.

Dr. Yucel's study is not expected to be completed until April of 1982. The Subcommittee is awaiting the completion of this report before formulating any recommendations on this matter.

#### **E. The Oil and Gas Subcommittee**

During 1981 the efforts of the Oil and Gas Subcommittee have been directed to three major subject areas:

- (1) The development of a comprehensive oil and gas conservation statute;
- (2) Investigation of means by which the State can act to enhance the recycling of used motor oil and the use of recycled motor oil; and,
- (3) Investigation of the possibility of using an abandoned limestone mine in Saltville, Virginia, as a storage site for crude oil pursuant to the Federal Strategic Petroleum Reserve Program.

A detailed report of the subcommittee's activity in each of these areas follows hereunder.

### **I**

#### **Comprehensive Oil and Gas Conservation Statutes**

The efforts of the Subcommittee to develop a comprehensive oil and gas conservation statute began during calendar year 1980. In light of accelerated oil and gas leasing activity in Southwest Virginia and the Shenandoah Valley, in August of that year, the Subcommittee was charged with responsibility of evaluating the need for revision of the Commonwealth's oil and gas laws and with recommending appropriate statutory changes. During that year, our study revealed the desire of many interested parties to promote revision of the Commonwealth's oil and gas laws.

Landowners have been concerned that the present law does not provide adequate protection against the uncompensated drainage of oil and gas. Present statutes provide that an offset well agreement may be required if a well is located within 500 feet of a property owner's boundary; however, the property owner is essentially without a remedy under current law if a well situated more than 500 feet from his property drains oil or gas from under his land.

Similarly, representatives of the oil and gas industry have long been concerned that Virginia's present law does not adequately protect against the waste of oil or gas under production. The absence of adequate statutory protections against uncompensated drainage tends to encourage the utilization of more wells than are needed efficiently to drain oil and gas pools. The consequence of the use of too many wells is a reduction in pressure throughout the pool which in turn decreases total production and results in a waste of the resource being produced.

Concerns have also been expressed by the coal industry in Virginia that the Commonwealth's statutes should address and resolve the safety problems associated with the production of oil or gas in coal bearing lands.

With these concerns in mind, the Subcommittee commenced its efforts by utilizing the expertise of the oil and gas and coal industry representatives acquired from their experiences in other states which have conservation statutes in place. Joint technical and legal committees of the two industries were formed. Throughout their work, the Subcommittee was apprised of their progress at regular intervals. An initial draft of the conservation statute was first considered by the Subcommittee in September of 1981. Subsequent to that time, the subcommittee held five public hearings which were attended by more than 200 people. More than 300 copies of the proposed text of the legislation were distributed at the hearings and in response to individual inquiry.

The Subcommittee also held eight work sessions and received the assistance of the oil and gas and coal industries, individual citizens, large corporate landowners and the Virginia Farm Bureau. In addition to those participating in person, a substantial number of comments were received by mail. The comments that were forwarded to the Subcommittee were considered in detail, and every effort was made to incorporate the suggestions of interested parties in the draft legislation.

The Subcommittee is of the opinion that the proposed Oil and Gas Act establishes a viable approach to the conservation of oil and gas and the protection of landowners. Likewise, the draft proposes state of the art technological assurances that when oil or gas wells are drilled through coal seams, subsequent coal mining operations may be conducted in safety.

The legislation is a comprehensive revision of the state's oil and gas laws. In large part, the legislation is a recodification of the existing statutory provisions; however, the legislation deals for the first time with conservation of the oil and gas resources of the Commonwealth and expands the regulation of oil and gas well drilling on lands underlain by coal.

The conservation article of the bill is designed to encourage the safe and efficient exploration for and production of the Commonwealth's oil and gas resources. The proposed bill encourages the maximum recovery of oil and gas,

prohibits the waste of oil and gas, and ensures that all persons owning an interest in a pool under production receive a proportionate share of the production proceeds. It protects landowners against uncompensated drainage of their resources and eliminates the danger of overdrilling which has been experienced in other states, by avoiding the need for "offset wells" on one tract to prevent drainage by wells on other tracts. Instead, the legislation provides for the establishment of drilling units encompassing all acreages that may be drained efficiently by one well and for the sharing of proceeds among the owners of all interest in the drilling units. A newly created Oil and Gas Conservation Commission, composed of three members, is empowered to establish drilling units upon application of any interested party.

When a drilling unit is established, the oil and gas interest therein may be pooled in the following manner:

1. All tracts within a drilling unit may be pooled by voluntary agreement of the tract owners and/or lessees of oil and gas interest therein.
2. In the absence of a voluntary pooling agreement, the Commission will establish the manner in which the tracts within each drilling unit are to be pooled. Each tract owner or lessee will have the following options under any pooling order entered by the Commission:
  - A. He may participate in the drilling and operation of the well upon such terms and conditions as he may negotiate with the party proposing the well drilling activity. Under this option, he will pay a share of the cost of drilling and operating the well, whether or not a produceable resource is located.
  - B. He may voluntarily surrender his oil or gas interest to participating well operators upon payment to him of an agreed upon sum, or, in the absence of an agreement, upon payment to him of the value of interest as determined by the Commission.
  - C. He may forego any risk of financial loss but still retain a right to a share of any production by electing not to bear the cost of drilling and producing the resource until oil and gas is located and produced. In that event, he will receive the production attributable to his interest only after an amount equal to the cost of production attributable to his interest has been paid to the party or parties who produced and operated the well. In the event that he is a lessee of an oil or gas interest, he will not share in production from the well until an amount equal to three times his proportionate share of the drilling operation cost has been deducted.

Under any of the options, a landowner who has leased his oil and gas rights is entitled to receive his royalty interest in any production free and clear of any cost of drilling the well.

The proposed legislation gives landowners options they do not possess under present law. Under Virginia's current statute, the only time that a landowner is entitled to share in the proceeds of production from a well not drilled on his property is when that well is located within 500 feet from his property. Under current law he must either drill his own well or face the possible draining of oil or

gas from under his land without compensation. Under the conservation statute, he will have an identifiable property interest in any eventual production for which he will be compensated under whichever option he selects.

The adoption of a conservation statute is deemed necessary because many producers of oil and gas will not make the large expenditures required for exploration and development in a jurisdiction where such a statute is not in place. The proposed legislation is similar in approach to statutes presently in effect in all states with substantial oil or gas production.

The conservation portions of the statute apply to oil or gas wells drilled throughout the Commonwealth, with the exception of shallow wells (generally those less than those 5,000 feet in depth) in certain geologically distinct portions of Buchanan, Dickenson, Lee, Russell, Scott, Tazewell, and Wise Counties, and the City of Norton. These areas have been extensively explored and developed, and consulting geologists commend the exclusion. The excluded areas are the coal bearing lands of the Commonwealth.

The legislation also revises existing law relating to oil and gas wells drilled on lands underlain by coal so as to encourage the fullest practicable recovery of coal and other solid minerals as well as oil and gas. It preserves all of the substantive features of the existing law and adds significant new features relating to the obtaining of permits to drill and operate wells. A principal focus of the proposed bill is coal mine safety in areas where oil and gas well work is undertaken. It proposes new rules for such matters as location of well bores with reference to unknown coal seams, coal and water protection strings of well casings, and the plugging of wells. The goal of this portion of the Act is to ensure that the conducting of coal mining operations through seams penetrated by oil or gas wells may occur in safety.

The Oil and Gas Inspector, under the jurisdiction of the Division of Mines, will continue to issue well work permits and otherwise administer the oil and gas laws of the Commonwealth. However, the legislation creates a Well Review Board to review and resolve disputes regarding the issuance or denial of well work permits. The legislation preserves the right of surface owners, royalty owners, coal owners and owners of other minerals to make objections to the issuance or denial of well work permits.

The bill has been endorsed by the Virginia Farm Bureau Federation, spokesmen for the natural gas and coal industries, and numerous individuals appearing at the subcommittee's five public hearings held in the areas of the Commonwealth where oil and gas leasing activity has been most intense. Additionally, the Virginia State Chamber of Commerce has stated its support for the adoption of an oil and gas conservation statute.

The Oil and Gas Subcommittee is also proposing the adoption by the 1982 Virginia General Assembly of legislation making Virginia a party to the Interstate Oil and Gas Compact. The Compact creates a commission composed of representatives from all member states. The purpose of the commission is to provide to oil and gas regulators in the member states information of both a technological and legal nature which is designed to enhance their regulatory activities.

It is estimated that Virginia's contribution to the cost of operating the Commission will be approximately \$2,000 annually. The Oil and Gas Inspector's office has requested that Virginia be made a party to the compact.

## II

### Enhancement of the Use of Recycled Motor Oil

Senate Joint Resolution 154, adopted by the 1981 Session of the General Assembly, requested the Coal and Energy Commission to investigate ways to enhance the use of recycled motor oil and to encourage the recycling of motor oil. The Resolution was assigned to the Oil and Gas Subcommittee, which began its deliberations on the subject in the Spring of 1981.

The Subcommittee was informed by the Department of Highways and Transportation that the Department had previously undertaken a study concerning the most beneficial use of used motor oil obtained from its fleet. The result of the Department's investigation demonstrated that the most suitable use for recycled motor oil is burning it as a supplement to Number 5 heating fuel, and that is the Department's current practice.

Further Subcommittee study revealed that a number of companies throughout the Commonwealth collect and recycle used motor oil. Testimony revealed that the primary use of motor oil collected by this means is distribution to the coal fields and subsequent utilization as a dust suppressant.

A significant part of the Subcommittee's work in this regard was with respect to the feasibility of a true recycling program. North Carolina has such a state-operated program, and it appears to be quite successful. One problem was encountered in this regard in that the North Carolina plant produces only a mono-grade motor oil as a finished product. The utility of that oil is limited since most state purchasing specifications call for the use of a multi-viscosity oil.

The Department of Highways and Transportation has agreed to support legislation, which the subcommittee will propose for adoption in 1982, requiring that the Department and other state agencies include in specifications for passenger vehicles and pickup trucks the recycled mono-grade motor oil. Utilization of the recycled product will account for approximately 20-25% of the total motor oil used by the Highway Department.

The Subcommittee also recommends a continuation of its study of means of enhancing the use of recycled motor oil during the year 1982 with the following goals in mind:

- (1) Encouraging local governments to enhance the use of recycled motor oil;
- (2) Encouraging that portion of the motoring public which performs its own motor oil changes to return the used motor oil to a service station for eventual recycling.

### **III**

#### **Underground Storage of Crude Oil**

During the Spring of 1982, the Subcommittee was contacted by the president of the Saltville Underground Storage Company with a request that the Subcommittee review the company's proposal to utilize an abandoned limestone mine near the town of Saltville in Smyth County, Virginia, for the purpose of storing crude oil pursuant to the Federal Strategic Petroleum Reserve Program.

The program, created as a part of the "Energy Policy and Conservation Act of 1975," is designed to locate and store significant quantities of petroleum products for the purpose of providing limited protection from the impact of disruptions in supplies of imported crude oil. The Subcommittee conducted a public hearing in Marion at which time it heard testimony from the president of the Saltville Underground Storage Company and marketing officials of the Norfolk and Western Railway Company indicating the feasibility of utilizing the proposed site.

Following the receipt of this testimony and subsequent communication with the Smyth County Board of Supervisors, the Town Council of the Town of Saltville, and the Saltville Industrial Development Authority, the Subcommittee assisted the Saltville Underground Storage Company by requesting in the form of a resolution that the U.S. Department of Energy evaluate the proposed site as a potential storage site and encouraging the designation by the Department of the mine as a storage site should the assessment prove to be environmentally and technically sound and transportation efficient.

In addition, Senator John Warner's office was apprised of the situation and through his efforts and those of the Governor's Office, the Saltville Underground Storage Company president was given an interview in November of 1981 by the United States Secretary of Energy. The Subcommittee was thereafter apprised that the president of Saltville Underground Storage Company was assured that his proposal would be given every due consideration.

#### **III. Recommendations**

The Commission recommends to the Governor and General Assembly the following legislation:

##### **A. Regulation of uranium exploration and mining (Appendix A).**

This legislation seeks to ensure that any exploration for uranium be done safely. It also prohibits agencies from accepting applications for permits to mine uranium prior to July 1, 1983.

##### **B. Resolution encouraging utility conservation programs (Appendix B).**

This resolution urges the State Corporation Commission to encourage utilities which it regulates to initiate, where practicable, low interest loan programs for their residential customers.

**C. Comprehensive oil and gas statute (Appendix C).**

**This legislation completely overhauls the Commonwealth's oil and gas laws.**

**D. Interstate Oil Compact.**

**This bill authorizes the Commonwealth to become a party to the Interstate Oil Compact.**

**Respectfully submitted,**

**Joseph A. Johnson**

**W. Ward Teel**

**James F. Almand**

**Harold K. Anderson**

**Walter C. Ayers**

**Herbert H. Bateman**

**Daniel W. Bird, Jr.**

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**A. Victor Thomas**

**Fred W. Walker**

**Richard A. Wolfe, Jr.**

## Appendix A

A BILL to amend the Code of Virginia by adding in Title 45.1 a chapter numbered 21, consisting of sections numbered 45.1-272 through 45.1-285, relating to exploration for uranium ore; civil penalties.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 45.1 a chapter numbered 21, consisting of sections numbered 45.1-272 through 45.1-285, as follows:

### CHAPTER 21.

#### EXPLORATION FOR URANIUM ORE.

*§ 45.1-272. Legislative findings; declaration of policy.—The mining of uranium within the Commonwealth has the potential to provide its citizens with employment opportunities and other economic benefits. It also offers the Commonwealth and the nation the possibility of developing valuable resources that can be used to produce energy in a clean, efficient manner and lessen this country's dependence on foreign energy supplies.*

*At the same time, the General Assembly finds that the improper and unregulated exploration for uranium can adversely affect the health, safety, and general welfare of the citizens of this Commonwealth.*

*The General Assembly also finds that the adoption of additional statutes during the 1983 Session of the General Assembly may be necessary in order to assure that any uranium mining and milling which may occur in the Commonwealth will not adversely affect the environment or the public health and safety.*

*The purposes of this chapter are to encourage and promote the safe and efficient exploration for uranium resources within the Commonwealth, and to assure, pursuant to § 45.1-284 of this Code, that uranium mining and milling will be subject to statutes and regulations which protect the environment and the health and safety of the public.*

*§ 45.1-273. Definitions.—The following words shall have the meanings respectively ascribed thereto:*

*“Chief” means the Chief of the Division of Mines of the Department of Labor and Industry or such other public officer, employee, board, commission or other authority that in emergencies may be acting in the stead, or by law be assigned the duties and authority, of the Chief of the Division of Mines of the Department of Labor and Industry.*

*“Exploration Activity” means and shall be limited to the drilling of test holes or stratigraphic or core holes of a depth in excess of fifty feet for the purpose of determining the location, quantity, or quality of uranium ore.*

**“Person” shall mean any individual, firm, corporation, partnership, association or other legal entity.**

**§ 45.1-274. Permit for exploration activity required; fee.—A. It shall be unlawful for any person to commence any exploration activity as defined herein without first obtaining a permit to do so from the Chief. The application for the permit shall be in such form as the Chief may prescribe and shall be accompanied by a fee of \$250 and such other information as may be required by this chapter.**

**B. The application for a permit to carry out any exploration activity shall be accompanied by a bond, payable to the Commonwealth, with surety acceptable to the Chief. The bond shall ensure compliance with the provisions of this chapter and any regulations promulgated hereunder relating to the drilling, redrilling, plugging and abandoning of any exploration activity. The bond shall be set by the Chief in such amount as may be deemed reasonable and necessary.**

**C. An initial permit shall be valid for a period of one year, and may be renewed for a like period of time.**

**§ 45.1-275. Maps or plats of proposed exploration activity area.—Before undertaking any exploration activity on any tract of land, the person proposing the exploration activity shall prepare or have prepared and file with the Chief, together with the application required by § 45.1-274 of this Code, an accurate map, on a scale to be stated thereon, showing the location of the proposed exploration activity; the courses and distances of such activity from two permanent points or landmarks on the tract; the approximate location areas in which test holes or core or stratigraphic holes may be drilled; the name of the owner; and boundaries and acreage of the tract on which the exploration activity is to take place.**

**§ 45.1-276. Abandoning exploration hole; affidavits required.—Within forty-five days after the abandonment of any exploration hole, the permittee shall notify the Chief that such exploration hole has been plugged and abandoned, giving the location of such hole. The permittee shall submit an affidavit, in triplicate, which shall set forth the time and manner in which the hole was plugged and filled. One copy of this affidavit shall be retained by the permittee, one sent to the State Geologist, and the third shall be mailed to the Chief.**

**§ 45.1-277. Plugging.—The plugging of exploration holes shall be as follows:**

**1. All exploration holes shall be adequately plugged with cement from the bottom of the hole upward to a point three feet below plow depth. The remainder of the hole between the top of the plug and the surface shall be filled with cuttings or nontoxic material.**

**2. If multiple aquifers alternating usable quality water and salt water zones, or other conditions determined by the Chief to be potentially deleterious to surface or ground water are encountered, the conditions must be isolated immediately by cement plugs. “Usable quality water” is defined as ground water that is used or can be used for a beneficial purpose, including, but not limited to, domestic, livestock, or irrigation uses. Each hole shall be plugged with cement to prevent water from flowing into or out of the hole or mixing within the hole. The length of the plug shall be determined by the Chief based on available data on the**

*specific site.*

*3. Each exploration hole shall be plugged as soon as reasonably practical after drilling, unless multiple aquifers are encountered.*

*4. Alternative plugging procedures and materials may be utilized when the applicant has demonstrated to the Chief's satisfaction that the alternatives will protect ground waters and comply with the provisions of this chapter. In the event that a hole is more suitably plugged with a nonporous material other than cement, the material shall have characteristics at least equal to cement.*

*5. In the event that an exploration hole is to remain unplugged pursuant to the provisions of § 45.1-278 of this Code, the procedure contained in paragraph 2, if applicable, shall be applied and the exploration hole shall be plugged to the extent required by that paragraph.*

*§ 45.1-278. Developing exploration hole as water well.—If any exploration hole drilled for the purpose of determining the location, quantity or quality of uranium ore indicates a stratum or source of potable fresh water which could be developed pursuant to established EPA safe drinking water standards for a community water system, upon the request of the owner of the property on which the exploration hole is located and on application to and approval by the Chief, who shall secure concurrence from the Department of Health, the well, in lieu of being plugged and abandoned, may be developed and completed as a water well. The development and completion of an exploration hole as a water well shall be performed in accordance with applicable state water control law and regulation.*

*§ 45.1-279. Rules and regulations.—The Chief shall promulgate such rules and regulations as may be necessary and proper to carry out the provisions of this chapter.*

*§ 45.1-280. Right of inspection by Chief.—For the purposes of carrying out the provisions of this chapter, the Chief is hereby vested with authority to inspect at reasonable times and in a reasonable manner any area or areas for which he has received an application for a permit, or granted a permit, for exploration activity.*

*§ 45.1-281. Administrative Process Act applicable.—The provisions of the Administrative Process Act (§§ 9-6.14:1 et seq. of this Code) shall be applicable to the provisions of this chapter.*

*§ 45.1-282. Penalties.—A. Any person who violates any provision of this chapter, or who fails, neglects or refuses to comply with any rule or regulation issued by the Chief, or final order of a court lawfully issued, shall be subject to a civil penalty, not to exceed \$10,000, for each violation. Each day of violation shall constitute a separate offense.*

*B. The Chief shall have the authority to restrain violations of this chapter in accordance with the provisions of § 45.1-141 of this Code.*

*§ 45.1-283. Uranium Mining Permit Applications. —Notwithstanding any other provision of law, permit applications for uranium mining shall not be accepted by any agency of the Commonwealth prior to July 1, 1983. For the purpose of*

*construing § 45.1-180(a) of this Code, uranium mining shall be deemed to have a significant effect on the surface.*

*§ 45.1-284. State and local authority.—Nothing contained in this chapter shall be construed to alter the authority of any state or local governing body, including the authorities conferred under Chapter 11 of Title 15.1 of this Code, relative to matters which are the subject of this chapter.*

*§ 45.1-285. Confidentiality of logs, surveys and reports—The Chief shall hold confidential all logs, surveys, plats and reports filed under this chapter by those engaged in the exploration for uranium for a period of two years after the completion of the exploratory activities. Further, upon written request by any person engaged in the exploration for uranium, the Chief shall hold confidential all logs, surveys, plats and reports filed under this chapter for all additional two-year periods. Such request shall be granted by the Chief if the requesting party certifies that he considers all such information to be of a proprietary nature relating to his competitive rights.*

2. That an emergency exists and this act is in force from its passage.

## **Appendix B**

### **HOUSE JOINT RESOLUTION NO. ...**

**Requesting the State Corporation Commission to review and encourage utility conservation programs.**

**WHEREAS, the State Division of Energy estimates that 700,000 residential units in the Commonwealth have no storm windows, 300,000 have no attic insulation, and 600,000 have no floor or wall insulation; and**

**WHEREAS, approximately one-third of all residential units in the Commonwealth are heated by electricity, one-third by heating oil, and one-third by natural gas; and**

**WHEREAS, electricity is used to cool about one-half of all residential units in the Commonwealth; and**

**WHEREAS, an estimated 600 million to one billion kilowatt hours of electricity could be saved annually if all electrically heated and cooled residential units in the Commonwealth were adequately insulated and equipped with storm windows; and**

**WHEREAS, such a savings would reduce the utilities' needs for additional power production, resulting in savings for the utilities and reductions in their customers' bills; and**

**WHEREAS, insulation programs would also result in savings of natural gas and heating oil by Virginians using them; and**

**WHEREAS, the Appalachian Power Company, with the approval of the State Corporation Commission, instituted an insulation and weatherization loan program for its residential customers in 1977; and**

**WHEREAS, approximately 1500 of the Appalachian Power Company's customers have participated in this program, which allows them to borrow up to \$750 at eight percent interest; and**

**WHEREAS, the Virginia Electric & Power Company has stated that it is continuing to examine conservation programs, including the financing of conservation improvements, as a means of reducing growth in demand for electricity; and**

**WHEREAS, the State Corporation Commission has approved certain types of conservation programs for several public utilities in the Commonwealth; and**

**WHEREAS, the State Corporation Commission feels that such programs have been beneficial and that such programs should be initiated and expanded whenever they will serve the public interest; now, therefore, be it**

**RESOLVED by the House of Delegates, the Senate concurring, That the State Corporation Commission is encouraged to review the operations of each electric and**

gas utility operating within the Commonwealth with regard to existing or potential conservation programs; and, be it

RESOLVED FURTHER, That the Commission shall encourage each electric utility and, as appropriate, each natural gas utility in the Commonwealth to initiate or expand conservation programs, including company-financed conservation programs, to the extent suitable for the needs and circumstances of each such utility and its customers; and, be it

RESOLVED FINALLY, That the Commission is requested to make to the Governor and General Assembly an interim report on the progress of such programs no later than December 1, 1982, and a final report no later than December 1, 1983, on the progress of such programs.

## **Appendix C**

**A BILL to amend and reenact § 2.1-20.4 of the Code of Virginia and to amend the Code of Virginia by adding in Title 45.1 a chapter numbered 21, consisting of sections numbered 45.1-272 through 45.1-347, and to amend the Code of Virginia by repealing Chapter 12 of Title 45.1, consisting of sections numbered 45.1-106 through 45.1-144, and § 55-154.1 of the Code of Virginia, creating the Virginia Oil and Gas Conservation Commission and the Virginia Well Review Board; providing for the appointment of the Virginia Oil and Gas Inspector; and setting out powers and duties of each with respect to the regulation and conservation of oil and gas resources of the Commonwealth; penalty.**

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.1-20.4 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 45.1 a chapter numbered 21, consisting of sections numbered 45.1-272 through 45.1-347 as follows:**

**§ 2.1-20.4. Bodies receiving compensation.—A. Notwithstanding any other provision of law to the contrary, the following commissions, boards, etc. shall be those which receive compensation from State funds pursuant to § 2.1-20.3:**

**Accountancy, State Board of**

**Agriculture and Consumer Services, Board of**

**Air Pollution Control Board, State**

**Airports Authority, Virginia**

**Apprenticeship Council**

**Architects, Professional Engineers and Land Surveyors, State Board of**

**Athletic Commission, Virginia**

**Audiology and Speech Pathology, Virginia Board of Examiners for**

**Aviation Commission, Virginia**

**Barber Examiners, Board of**

**Behavioral Sciences, Virginia Board of**

**Building Code Technical Review Board, State**

**Certification of Librarians, Board for**

**Certification of Water and Wastewater Work Operations, Board of**

**Collection Agency Board, Virginia**

**College Building Authority**

**Commerce, Board of**

**Commercial Driver Training Schools, Board of**

**Conservation and Economic Development, Board of**

**Contractors, State Registration Board for**

**Corrections, Board of**

**Criminal Justice Services Board**

**Deaf, Council for the**

**Dentistry, Virginia Board of**

**Development Disabilities Planning Council, Virginia**

**Drug and Alcoholism Counselor Certification Committees**

**Education, State Board of**

**Education Loan Authority, Virginia - Board of Directors**

**Elections, State Board of**

**Environment, Council on the**

**Examiners in the Division of Mines, Board of**

**Fire Services Commission, Virginia State**

**Funeral Directors and Embalmers, Virginia Board of**

**Game and Inland Fisheries, Commission of**

**Health, State Board of**

**Health Coordinating Council, Statewide**

**Health Regulatory Boards, Commission of**

**Hearing Aid Dealers and Fitters, Virginia Board of**

**Higher Education, State Council of**

**Highway and Transportation Commission, State**

**Housing and Community Development, Board of**

**Local Government, Commission on**  
**Marine Resources Commission**  
**Medical Complaint Investigation Committee**  
**Medicine, Virginia State Board of**  
**Mental Health and Mental Retardation Board, State**  
**Milk Commission**  
**Nursing, Virginia State Board of**  
**Nursing Home Administrators, State Board of Examiners for**  
***Oil and Gas Conservation Commission, Virginia***  
**Opticians, Virginia State Board of**  
**Optometry, Virginia Board of**  
**Outdoor Recreation, Commission on**  
**Pharmacy, State Board of**  
**Physical Therapy, Advisory Committee on**  
**Pilots, Board of Commissioners to Examine**  
**Port Authority, Board of Commissioners of the Virginia**  
**Professional Counselors, Virginia Board of**  
**Professional Hairdressers, Virginia State Board of Examiners of**  
**Psychology, Virginia Board of**  
**Public School Authority, Virginia**  
**Purchases and Supply Appeals Board**  
**Real Estate Commission, Virginia**  
**Rehabilitative School Authority**  
**Safety and Health Codes Commission**  
**Sanitarian Examiners, State Board of**  
**Seed Potato Commission**

Social Workers, Virginia Board of  
Surface Mining Review, Board of  
Treasury Board  
Veterinary Medicine, Virginia Board of  
Virginia Supplemental Retirement System, Board of Trustees  
Visually Handicapped, Virginia Commission for the  
Water Control Board, State  
Welfare, Board of  
*Well Review Board, Virginia*

B. Individual members of boards, commissions, committees, councils, and other similar bodies appointed at the State level and receiving compensation for their services on January ~~one~~ 1 , ~~nineteen hundred eighty~~ 1980 , but who will not receive compensation under the provisions of this article, shall continue to receive compensation at the January ~~one~~ 1 , ~~nineteen hundred eighty~~ 1980, rate until such member's current term expires.

## **CHAPTER 21.**

### **VIRGINIA OIL AND GAS ACT.**

#### **Article 1.**

##### ***Declaration of Policy, Definitions, etc.***

***§ 45.1-272. Short title.—This chapter shall be known and may be cited as “The Virginia Oil and Gas Act.”***

***§ 45.1-273. Declaration of policy.—It is hereby declared to be the public policy of the Commonwealth and the purpose of this chapter to:***

***1. Foster, encourage and promote the safe and efficient exploration for and development, production, utilization and conservation of the oil and gas resources located within the Commonwealth;***

***2. Provide, in those areas of the Commonwealth where geological, geophysical and operational data are not adequate to suggest reliable guides for the orderly development of new reservoirs, a statutory method of oil and gas conservation for the purposes of maximizing exploration, development, production and utilization of oil and gas resources;***

3. *Provide statutory procedures for the recognition and protection of the rights of persons owning interests in oil or gas resources contained within a pool;*

4. *Ensure the safe recovery of coal;*

5. *Maximize the production and recovery of coal without substantially affecting the right of a gas operator proposing to drill a gas well to explore for and produce gas; and*

6. *Ensure that the water resources of the Commonwealth are protected.*

**§ 45.1-274. Definitions.**—*As used in this chapter, unless the context clearly indicates otherwise:*

1. *“Barrel” means forty-two U.S. gallons of 231 cubic inches each of liquids, including slurries, at a temperature of sixty degrees Fahrenheit;*

2. *“Board” means the Virginia Well Review Board provided for in § 45.1-283 of this Code;*

3. *“Bridge” means an obstruction placed in a well at any specified depth;*

4. *“Carried well operator” means a well operator 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 interests charged against his share of production from the well;*

5. *“Casing” means all pipe set in wells except conductor pipe and tubing;*

6. *“Cement” means hydraulic cement properly mixed with water;*

7. *“Chief” means the Chief of the Division of Mines as provided for in § 45.1-2(2) of this Code;*

8. *“Coal operator” means any person who has the right to operate or does operate a coal mine;*

9. *“Coal protection string” means a string designed to protect a coal seam;*

10. *“Coal seam,” “workable coal bed” and “workable coal seam” are interchangeable terms and mean any seam of coal twenty inches or more in thickness, unless a seam of less thickness is being commercially worked, or can in the judgment of the Division of Mines foreseeably be commercially worked and will require protection if wells are drilled through it;*

11. *“Combination well” means a well producing both oil and gas;*

12. *“Commission” means the Virginia Oil and Gas Conservation Commission established under § 45.1-281 of this Code;*

13. *“Commissioner” means the Commissioner of the Department of Labor and Industry;*

14. ***“Conductor pipe” means the short string of large diameter used primarily to control caving and washing out of unconsolidated surface formations;***

15. ***“Correlative rights” means the rights of each owner of oil or gas interests in a single pool to have a fair and reasonable opportunity to obtain and produce his just and equitable share of production of the oil or gas in such pool or its equivalent without being required to drill unnecessary wells or incur other unnecessary expense to recover or receive the oil or gas or its equivalent;***

16. ***“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 inch and a standard temperature base of sixty degrees Fahrenheit;***

17. ***“Deviation survey” means any process to determine the angle of deviation, using the surface location of the well as the apex, of the well bore from the true vertical beneath the apex on the same horizontal subsurface plane;***

18. ***“Directional survey” means any process to determine (i) the angle of deviation, using the surface location of the well as the apex, of the well bore from the true vertical beneath the apex on the same horizontal subsurface plane, and (ii) the direction of an imaginary line from the true vertical beneath the apex to the well bore on the same horizontal subsurface plane;***

19. ***“Drilling unit” means, as applicable, (i) the acreage on which one oil or gas well may be drilled under Article 2 of this chapter or (ii) the acreage on which one gas well may be drilled under § 45.1-307 of this Code;***

20. ***“Expanding cement” means any cement approved by the Inspector which expands during the hardening process, including but not limited to regular oil field cements with the proper additives;***

21. ***“Exploratory well” means a well drilled either in search of a new, and as yet undiscovered, field of oil or gas, or with the expectation of greatly extending the limits of a field already partly developed;***

22. ***“Facility” means any facility utilized in the oil and gas industry in this Commonwealth and specifically named or referred to in this chapter, other than a well or well site;***

23. ***“Fluid injection well” means a well drilled or converted for the purpose of introducing water or other fluid pressure into and upon the producing strata for the purpose of recovering the oil contained therein;***

24. ***“Gas” or “natural gas” means all natural gas whether hydrocarbon or non-hydrocarbon 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 in this section;***

25. ***“Gas-oil ratio test” means a test, by any means generally accepted in the oil and gas industry, to determine the number of cubic feet of gas produced per barrel of oil produced;***

26. ***“Gas operator,” as used in §§ 45.1-306 through 45.1-309 of this Code, means any person who has the right to develop and produce or does develop and produce gas from a pool and to appropriate the gas produced therefrom either for himself or for himself and others. In the event that there is no gas lease in existence with respect to the tract in question, the owner of the gas rights therein shall be considered a gas operator of the gas in that portion of the pool underlying the tract which he owns;***

27. ***“Gas well” means any well which produces or appears capable of producing a ratio of 6,000 cubic feet of gas or more to each barrel of oil on the basis of the initial gas-oil ratio test;***

28. ***“Initial gas-oil ratio test” means the gas-oil ratio test performed for the purpose of designating a well as an oil well or a gas well;***

29. ***“Inspector” means the Virginia Oil and Gas Inspector appointed to assist the Chief under § 45.1-277 of this Code 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 Oil and Gas Inspector;***

30. ***“Jurisdictional well” means an oil or gas well over which the Commission has jurisdiction as set forth in Article 2 of this chapter;***

31. ***“Just and equitable share of production” means, as to each person, an amount of oil and gas or both in the same proportion to the total production from a well as that person’s acreage bears to the total acreage in the drilling unit;***

32. ***“Linear foot” means one foot in a straight line on a horizontal plane;***

33. ***“Log” or “well 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 the electrical survey records or logs if any are made;***

34. ***“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, excluding oil and natural gas, which contains mineral resources and the hoisting or haulage equipment and 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;***

35. ***“Mine operator” means any person who has the right to operate or does operate a mine other than a coal mine;***

36. ***“Mud” or “mud-laden fluid” means any approved mixture of water and clay or other material as the term is commonly used in the industry;***

37. ***“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;***

38. ***“Oil well” means any well which produces or appears capable of producing a ratio of less than 6,000 cubic feet of gas to each barrel of oil on the bases of the initial gas-oil ratio test;***

39. ***“Operator” means any person who has the right to operate or does operate a well or a mine;***

40. ***“Owner” means (i) when used with reference to any well, any person who owns, operates, or has the right to operate such a well as principal or as lessee, and (ii) when used with reference to any coal seam, any person who owns, leases, operates, or has the right to operate the coal seam;***

41. ***“ Participating operator” or “participating well operator” means a well operator 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;***

42. ***“Person” means any natural person, firm, partnership, partnership association, association, company, corporation, receiver, trustee, guardian, executor, administrator, fiduciary or representative of any kind and includes any government, political subdivision or any agency thereof;***

43. ***“Person under a disability” shall have the meaning ascribed to it in § 8.01-2 of this Code;***

44. ***“Pillar” means a solid block of coal, ore or other material left unmined to support the overlying strata in a mine;***

45. ***“Pipeline” means any pipe above or below the ground used or to be used for the transportation of oil or gas;***

46. ***“Plat” or “map” means a map, drawing or print showing the location of a well or wells, mine or quarry;***

47. ***“Plug” means the stopping of the flow of water, gas or oil from one stratum to another in connection with the abandoning of a well in accordance with the requirements of law;***

48. ***“Pool” means an underground accumulation of oil or gas in a single and separate natural reservoir. It is characterized by a single natural-pressure system so that production of oil or gas 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;***

49. ***“Porosity” means a measure of the pore space in a given quantity of bulk rock, expressed as a percentage;***
50. ***“Project area” means the well and any other disturbed area, including roads and off-site disposal, associated with the well;***
51. ***“Red shales” mean the undifferentiated shaly portion of the Bluestone Formation normally found above the Pride Shale Member of the formation, and extending upward to the base of the Pennsylvanian strata, which red shales are predominantly red and green in color but may occasionally be gray, grayish green and grayish red;***
52. ***“Royalty owner” means any owner of oil and gas in place, or oil and gas rights, to the extent that such owner is not a well operator or a gas operator;***
53. ***“Safe mining through of a well” means the mining of coal in a coal seam up to and through a well which penetrates the coal seam but has been plugged pursuant to §§ 45.1-330 through 45.1-332 of this Code so that the casing and plug in the well where the well bore penetrated the coal seam is safely severed;***
54. ***“Shot” or “shooting” means exploding nitroglycerine or other high explosive in a hole, to shatter the rock and increase the flow of oil or gas;***
55. ***“Spoil” means any overburden or other material removed from its natural state in the process of preparing or utilizing a well location;***
56. ***“Stimulate” means any action taken by a well operator to increase the inherent productivity of an oil or gas 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 oil or gas being produced as distinguished from the producing formation;***
57. ***“String of pipe” means the total footage of pipe of uniform size set in a well. The term embraces conductor pipe, casing and tubing. When the casing consists of segments of different size, each segment constitutes a separate string. A string may serve more than one purpose. The classification of a string is based on its primary function. The “surface string” has its upper end at the surface; the “intermediate strings” prevent caving, shut off connate water in strata below the surface string, and protect strata from exposure to lower zone pressures; and the “production string,” where used, is the string through which the well is completed and frequently produced and controlled;***
58. ***“Target formation” means the primary geological formation identified by the well operator in his application for a drilling permit filed under § 45.1-297 of this Code;***
59. ***“Tracts comprising a drilling unit” means all separately owned tracts or portions thereof which are included within the boundaries of a drilling unit;***
60. ***“Tubing” means the small diameter string set after the well has been drilled from the surface to the total depth and through which the oil or gas or other***

*substance is produced or injected;*

*61. "Waste" means (i) physical waste, as that term is generally understood in the oil and gas industry; (ii) the inefficient, excessive, improper use, or unnecessary dissipation of reservoir energy; (iii) the inefficient storing of oil or gas; (iv) the locating, drilling, equipping, operating, or producing of any oil or gas well in a manner that causes, or tends to cause, a reduction in the quantity of oil or gas 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 oil or gas; (v) the production of oil or gas in excess of transportation or marketing facilities, 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; and (vi) underground or above ground waste in the production or storage of oil, gas, or condensate, however caused;*

*62. "Waste disposal well" means a well drilled or converted for the disposal of drilling fluids, producing waters and other wastes associated with the exploration, development, or production of oil or gas;*

*63. "Water protection string" means a string designed to protect the fresh water sands;*

*64. "Well" means any shaft or hole sunk, drilled, bored or dug into the earth or into underground strata for the extraction or injection or placement of any gaseous or liquid substance, or any shaft or hole sunk or used in conjunction with such extraction or injection or placement. The term "well" does not include any shaft or hole sunk, drilled, bored or dug into the earth for the sole purpose of core drilling or pumping or extracting therefrom potable, fresh or usable water for household, domestic, industrial, agricultural or public use and does not include power boreholes, water boreholes, methane drainage boreholes, where the methane is vented or flared rather than produced and saved, or 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;*

*65. "Well operator" means any person who has the right to operate or does operate a well. For purposes of oil and gas conservation under Article 2 of this chapter, the term means any owner of the right to develop and produce oil and gas from a pool and to appropriate the oil and gas produced therefrom either for himself or for himself and others. In the event there is no oil or gas lease in existence with respect to the tract in question, the owner of the oil and gas rights therein shall be considered a well operator of the oil and gas in that portion of the pool underlying the tract which he owns. In the event that the oil is owned separately from the gas, the definitions contained herein shall apply separately to the owners of the respective interests;*

*66. "Well work" means the drilling, redrilling, deepening, stimulating, pressuring by injection of any fluid, converting from one type of well to another, combining or physically changing to allow the migration of fluid from one formation to another, plugging or replugging of any well.*

**§ 45.1-275. Regulation of coal surface mining not affected by chapter.—Nothing in this chapter shall be construed as limiting the powers of the Director of the Department of Conservation and Economic Development relating to coal surface mining operations and reclamation. The provisions of chapters 17 and 19 of this title, including but not limited to requirements for permits and bonds, shall apply to oil and gas wells located on areas for which a coal surface mining permit is in effect, and shall be in addition to the requirements for oil and gas wells 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 of the Department of Conservation and Economic Development shall, with the concurrence of the Commissioner of the Division of Mined Land Reclamation, be treated as post-mining uses. The Board of Conservation and Economic Development shall give special consideration to the development and promulgation of variances from the post-mining use requirements of chapter 19 of this title for oil and gas operations; all such variances, however, shall be consistent with the provisions of the Virginia Coal Mine Reclamation Act of 1979.**

**§ 45.1-276. Construction.—A. This chapter shall be liberally construed so as to effectuate the declarations of public policy set forth in § 45.1-273 and elsewhere in this chapter.**

**B. Nothing herein contained shall be construed so as to limit the jurisdiction of the State Water Control Board or to supersede any requirements of or liabilities arising under the State Water Control Law as it may be applicable to oil or gas operations.**

**§ 45.1-277. Virginia Oil and Gas Inspector; appointment; qualifications.—There is hereby created the Virginia Oil and Gas Inspector as an assistant to the Chief, who shall be a person appointed by the Commissioner. The Inspector shall be a qualified geologist, petroleum engineer or mining engineer with practical knowledge of and experience in well work.**

**§ 45.1-278. Former regulations.—All regulations heretofore promulgated by the Chief shall continue in effect until suspended, revoked or superseded in accordance with law; and all references therein to the Chief as defined in § 45.1-274 of this Code shall be deemed to apply to the Inspector or the Chief as required by the authority of each under the provisions of this chapter.**

**§ 45.1-279. Powers and duties of Inspector; regulations and orders.—A. Excepting the powers and duties of the Board and the Commission, the Inspector shall be charged with the enforcement of the laws of the Commonwealth relating to the exploration for and the production and transportation of oil and gas. He shall require that all well work be done in such a manner as to prevent the escape of oil or gas out of one stratum to any other stratum and the waste of oil or gas; prevent the intrusion of water into an oil or gas stratum from a separate stratum; prevent the pollution or contamination of state waters, as defined in § 62.1-44.3 of this Code, by oil, gas or salt water; and require the submission of reports, maps, well logs and other pertinent information on oil and gas wells. He shall advise the Board on the propriety of regulations necessary to effectuate the powers of the Inspector and the Board under this chapter and shall have such further powers as are conferred upon him by this chapter.**

**B. If the Inspector determines that an emergency exists which requires the adoption, modification, renewal or extension of an order without first giving advance notice and holding a public hearing, he shall issue an emergency order, and it shall have the same validity as if a public hearing with respect to the subject matter of the order had been held after due notice. Emergency orders shall remain in force no longer than thirty days from their effective date. The Inspector shall promptly, upon the adoption of any emergency order, give notice thereof by publication and hold a public hearing to make permanent, modify, or repeal the emergency order. Emergency orders shall prevail as against general regulations and orders if and when in conflict therewith. Special and emergency orders shall apply to particular fields, areas, or subject matter.**

**C. The Inspector shall administer the laws and regulations pertaining to all well work, and he and any agent of his office shall have such access to the plans, maps, logs, and other records and to all properties of well operators and coal and mine operators as may be necessary for this purpose. In addition, the Inspector shall have access to all such records and properties of well operators as may be necessary to provide data to enable the Chief, the Commission and the Board to perform their duties under this chapter. The Inspector may require the placing of meters at places designated by him to prevent waste or obtain accurate records of the production and transportation of oil or gas.**

**D. The Inspector shall be the principal executive of the staff of the Commission.**

**§ 45.1-280. Assistant oil and gas inspectors.—A. The Commissioner shall appoint, as assistant oil and gas inspectors to assist the Inspector in carrying out the provisions of this chapter, persons who are qualified petroleum geologists, petroleum engineers or mining engineers with practical knowledge of and experience in well work.**

**B. The assistant oil and gas inspectors shall, under the direction of the Inspector, enforce the oil and gas laws of the Commonwealth; observe well work and production methods, practices and procedures used in the Commonwealth; collect, analyze and file maps, charts, reports and other information relating to exploration for or production of oil or gas and prepare such reports thereon as are required by the Inspector, the Chief, the Commission or the Board ; seek and maintain the collaboration of operators and producing companies in the study of methods, practices, procedures and appliances which might affect the quantity of oil and gas recovered, and perform such other duties as the Inspector may require.**

**§ 45.1-281. Oil and Gas Conservation Commission; membership; appointments and terms; vacancies; compensation and expenses.—A. There is hereby created the Virginia Oil and Gas Conservation Commission, which shall be composed of three members and shall have the powers and perform the duties set out in this article and in Articles 2 and 3 of this chapter.**

**B. The Governor shall appoint, subject to confirmation by the General Assembly, the chairman and the two additional members of the Commission, one for an initial term of two years, one for an initial term of four years, and one for an initial term of six years. Thereafter the members shall be appointed for terms of six years. All vacancies occurring on the Commission 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 predecessors expired.*

*C. Each member of the Commission shall receive compensation and expenses in accordance with the provisions of § 2.1-20.3 of this Code.*

*§ 45.1-282. Meetings of the Commission; notices; general powers and duties.—A. The Commission shall meet at such times and places as shall be designated by the chairman. The chairman shall call a meeting of the Commission upon the written request of another member of the Commission or of the Inspector. Notification of each meeting shall be given in writing to the other members by the chairman at least five days in advance of the meeting. Two members shall constitute a quorum for the transaction of any business which shall come before the Commission. All determinations of the Commission shall be by majority vote of its members.*

*B. The Commission shall have the power and duty to execute and carry out the provisions of this chapter applicable to the Commission.*

*C. The Commission is authorized to make such investigations and inspections of such records and facilities as are necessary and proper to the discharge of its duties and the performance of its functions under this article.*

*D. Without limiting its general authority, the Commission is hereby granted specific authority with respect to wells subject to the jurisdiction of the Commission under § 45.1-286 of this Code:*

*1. To regulate the spacing of jurisdictional wells to achieve the purposes of Article 2 of this chapter;*

*2. Upon proper application and notice, to enter spacing and pooling orders and to provide for the unitization of interests;*

*3. Upon proper application and notice, to establish maximum allowable production rates for jurisdictional wells for the purposes of preventing waste and protecting correlative rights, and to set a penalty, not exceeding \$5,000 per violation per day, for production in excess of the maximum allowable production rate. The Inspector may file suit in the appropriate court for collection of penalties.*

*4. To classify pools as oil or gas or both, and to classify wells as oil or gas wells, for purposes material to the jurisdiction of the Commission under the definitions set out in § 45.1-274 of this Code; and*

*5. To collect data, make investigations and inspections, examine properties, leases, papers, books and records, provide for the keeping of records and the making of reports and to take such actions as appear reasonably necessary to carry out the provisions of Article 2 of this chapter.*

***E. The Commission shall promulgate, pursuant to the provisions of the Administrative Process Act, regulations to prevent waste, protect correlative rights, establish spacing requirements, govern the practice and procedure before the Commission, including the setting of application fees, if any, and otherwise to implement and make effective the provisions of this chapter with respect to the powers of the Commission.***

***Any notices by the Commission required under the provisions of this chapter shall be given in the manner set forth in the applicable section of this chapter or, if no manner is set forth, as set forth in the Administrative Process Act.***

***F. The Commission may employ such personnel and consultants as may be necessary to carry out the provisions of this chapter.***

***§ 45.1-283. Well Review Board; membership; appointments and terms; vacancies; compensation and expenses.—A. There is hereby created the Virginia Well Review Board, which shall be composed of five members, and which shall have the powers and duties set forth in this article and in Article 3 of this chapter.***

***B. The Chief shall be the chairman of the Board, and the remaining four members shall be appointed by the Governor, subject to confirmation by the General Assembly. Of the public members of the Board, one shall be a representative of the oil and gas industry in the Commonwealth; one shall be a representative of the coal industry in the Commonwealth; and two shall be representatives of the public who are not, at the time of their appointments and during their terms of office, lessors of any interests in coal, oil or gas, and do not have any substantial connection with any mineral extractive or transportation industry.***

***C. Two of the public members of the Board shall be appointed for an initial term of two years, and two shall be appointed for an initial term of four years. Thereafter the public members shall be appointed for terms of four years. All vacancies occurring on the Board among public members shall be filled by appointment of the Governor, subject to confirmation by the General Assembly, for the unexpired term within sixty days of the occurrence of any vacancy. As the terms of office of the public members expire, the Governor shall appoint, subject to confirmation by the General Assembly, qualified persons whose terms shall be for four years from the day on which that of their immediate predecessors expired to fill the vacancies so occasioned.***

***D. Each public member of the Board shall receive compensation and expenses in accordance with the provisions of § 2.1-20.3 of this Code.***

***§ 45.1-284. Meetings of the Board; notices; general powers and duties.—A. The Board shall hold meetings or hearings at such times and places as shall be designated by the chairman. The chairman may call a meeting of the Board at any time, and shall call a meeting of the Board within twenty days of receipt by the chairman of a written request by another member of the Board. Notification of each meeting of the Board shall be given in writing to each member by the chairman at least five days in advance of the meeting. The chairman and any three or more public members shall constitute a quorum for the transaction of any business of the Board. All determinations of the Board shall be by majority vote of***

*its total membership.*

*B. The Board may promulgate, pursuant to the provisions of the Administrative Process Act, regulations to implement and make effective the provisions of this chapter with respect to the powers of the Inspector and the Board.*

*C. Any notices by the Board required under the provisions of this chapter shall be given in the manner set forth in the applicable section of this chapter, or, if no manner is set forth, as set forth in the Administrative Process Act.*

## *Article 2.*

### *Oil and Gas Conservation.*

*§ 45.1-285. Declaration of public policy; legislative findings.—A. It is hereby declared to be the public policy of this Commonwealth and in the public interest to:*

*1. Encourage the maximum recovery of oil and gas while preserving capital;*

*2. Prohibit waste of oil and gas resources and unnecessary surface loss of oil and gas and their constituents; and*

*3. Safeguard, protect and enforce the correlative rights of operators and royalty owners in a pool of oil or gas to the end that each operator and royalty owner may obtain his just and equitable share of production from the pool.*

*B. The General Assembly hereby determines and finds that in order to encourage the maximum recovery of oil and gas from all productive formations, it is in the public interest to enact new statutory provisions relating to the production and conservation of oil and gas and that the geological structures in the hereinafter described portions of the counties of Buchanan, Dickenson, Lee, Russell, Scott, Tazewell and Wise and the City of Norton have been explored and developed to an extent sufficient to establish distinct geologic and other characteristics, when compared to those characteristics found in other counties and cities of the Commonwealth, so as to justify and require different statutory provisions than for those other counties and cities.*

*§ 45.1-286. Applicability; exclusions; construction.—A. Except as provided in subsection B of this section, the provisions of this article shall apply to all lands located in the Commonwealth, whether publicly or privately owned or administered.*

*B. The jurisdiction of the Commission under this article shall not apply to or affect the following categories of oil and gas wells:*

*1. Wells located in Buchanan, Dickenson, Lee, Russell, Scott, Tazewell and Wise Counties and the City of Norton, within the area thereof having outcropping strata of Pennsylvanian age and drilled to produce from depths shallower than the base of the Devonian shale, with a total depth not more than 300 feet below the base*

*of the Devonian shale if the penetration below the base of the Devonian shale does not result in production from strata deeper than the base and is for the purpose of facilitating logging or stratigraphic testing or permitting the stimulation and completion of a well in a pool situated above the base.*

*2. Any well commenced prior to the effective date of this article, unless such well is, after completion, whether such completion is prior to or subsequent to the effective date of this article, deepened subsequent to the effective date of this article and is not otherwise excluded by subsection B of this section.*

*3. Gas storage operations or any well employed to inject gas into or withdraw gas from a gas storage reservoir or any well employed for storage observation.*

*C. The provisions of this article shall not be construed to grant to the Commission authority or power to fix prices of oil or gas.*

*§ 45.1-287. Drilling units for jurisdictional wells.—A. To prevent waste of oil or gas, to avoid the drilling of unnecessary wells, or to protect correlative rights, the Commission, upon its own motion or upon application of any well operator or royalty owner, after notice and hearing as herein provided, shall have the power to establish or modify drilling units covering any pool. Drilling units when established or modified shall to the extent reasonably possible be of uniform size and shape for the entire pool.*

*B. In establishing or modifying a drilling unit, the acreage to be embraced within each unit and the shape thereof shall be determined by the Commission from the evidence introduced at the hearing but shall be of an area that can be efficiently and economically drained by one well. If at the time of a hearing to establish drilling units, there is not sufficient evidence from which to determine the area which can be drained efficiently and economically by one well, the Commission may enter an order establishing provisional drilling units for the orderly development of the pool pending the obtaining of information necessary to determine the ultimate spacing of wells for the pool.*

*C. On the date specified in the notice, the Commission shall hold a hearing to determine (i) the area to be included in the order; (ii) the acreage to be embraced within each drilling unit and the shape thereof; and (iii) the area within which jurisdictional wells may be drilled on each unit. In receiving evidence, finding facts and entering orders, the Commission shall enforce and protect correlative rights of well operators and royalty owners. Evidence of the following facts may be considered by the Commission:*

*1. The surface topography and property lines of the lands underlain by the pool;*

*2. The plan of well spacing then being employed or proposed for the pool;*

*3. The depth at which production from the pool has been found;*

*4. The nature and character of the producing formation or formations and whether the substances produced or sought to be produced are gas or oil;*

**5. The maximum area which may be drained efficiently and economically by one well; and**

**6. Any other available geological or scientific data pertaining to the pool which may be of probative value to the Commission in determining the proper spacing of wells and establishing drilling units.**

**D. An order establishing or modifying drilling units shall specify the minimum distance from the nearest outside boundary of the drilling unit or another well at which a jurisdictional well may be drilled. The minimum distance provided shall be the same in all drilling units established or modified under the order with necessary exceptions for jurisdictional wells drilled or being drilled at the time of the filing of the application. If the Commission finds that a jurisdictional well to be drilled in compliance with the specified minimum distance would not be likely to produce in paying quantities or will encounter surface conditions which would substantially add to the burden or hazard of drilling the jurisdictional well, or that a drilling location within the area permitted by the order is or foreseeably will be prohibited by a lawful order of the Inspector, the Board or any other agency or court of the Commonwealth, the Commission may provide an exception to the minimum distances for the jurisdictional well and restrict the production from any such well so as to provide that no well operator or royalty owner shall produce or receive more than his just and equitable share of the production.**

**E. An order establishing or modifying drilling units for a pool shall cover all lands determined by the Commission to be underlain by the pool, and upon additional findings of fact may be modified by the Commission from time to time (i) to include additional areas determined to be underlain by the pool or to delete areas determined not to be underlain by the pool, and (ii) to change the size or shape of one or more drilling units, or to permit the drilling of an additional well or wells thereon.**

**F. The Commission shall within forty-five days after issuing a notice of hearing to establish or modify drilling units for a pool either enter an order establishing or modifying such units or dismiss the proceeding.**

**G. After the issue date of a notice of hearing called to establish or modify drilling units, no additional jurisdictional well shall be commenced for production from the pool until the order establishing or modifying drilling units has been entered, unless the commencement of the jurisdictional well is authorized by order of the Commission.**

**§ 45.1-288. Pooling of interests in drilling units.—A. When two or more separately owned tracts are embraced within a drilling unit established pursuant to an order of the Commission entered under this article or when there are separately owned interests in all or a part of any such drilling unit, well operators owning such interests may pool their interests for the development and operation of the drilling unit by voluntary agreement, which agreement may be based upon the exercise of pooling and unitization rights granted in any oil or gas lease.**

**Where, however, the well operators have not agreed to pool their interests, the Commission, upon the application of any well operator, shall enter an order pooling all interests in the drilling unit for the development and operation thereof.**

*Each pooling order shall be entered only after notice and hearing. The hearing may, in the discretion of the Commission, be conducted in conjunction with or ancillary to the hearing to create drilling units provided for in § 45.1-287 of this Code.*

*Subject to the provisions of § 45.1-294.C of this Code and any contrary provisions contained in an oil and gas lease respecting the property, operations incident to the drilling of a well upon any portion of a unit covered by a pooling order shall be deemed to be the conduct of such operations upon each separately owned tract in the unit by the owners thereof. That portion of the production allocated or applicable to any tract included in a unit covered by a pooling order shall be in the same proportion which the acreage in that tract included in the unit bears to the total acreage included in the unit and shall when produced be deemed for all purposes to have been produced from each such tract by a well drilled thereon.*

*B. Any pooling order under the provisions of this section shall (i) authorize the drilling and operation of a jurisdictional well for the production of oil or gas from the pooled acreage; (ii) designate the well operator authorized to drill and operate the jurisdictional well; (iii) prescribe the time and manner in which all other well operators may elect to participate in the operation of the jurisdictional well or to exercise their rights of election under subsection C of this section; (iv) provide that all reasonable costs and expenses of drilling, completing, equipping, operating, plugging and abandoning the jurisdictional well shall be borne, and all production therefrom shared, by all participating operators in the proportion which the acreage in the pooled tracts owned or under lease to each participating operator bears to the total acreage in the unit; (v) provide to non-leasing landowners in a unit reasonable access to the unit records of the production and transportation of oil or gas collected or gathered by the Inspector; and (vi) make provisions for the payment of all reasonable costs of the operation, including a reasonable supervision fee, by all operators who elect to be participating operators.*

*The owner of an unleased tract who elects to be a participating operator shall, in addition to his share of production, be entitled to participate in accordance with the terms and conditions which he and the operator agree upon.*

*C. Upon the request of any well operator, the pooling order shall provide just and equitable alternatives whereby a well operator who does not elect to be a participating operator of a jurisdictional well may elect either to :*

*1. Sell his oil or gas ownership interest or leasehold interest to the participating operators on a reasonable basis and for a reasonable consideration which, if not agreed upon, may be submitted by the nonparticipating well operator to the Commission for a binding determination; or*

*2. Share in the operation of the well on a carried basis as a carried operator under the following conditions: in the event any participating operator in any portion of the pooling unit shall, pursuant to the terms of a drilling order, drill and operate, or pay the costs of drilling and operating, a jurisdictional well for the benefit of a carried operator, the carried operator shall be entitled to the share of production from the tracts pooled accruing to his interest, exclusive of any royalty or overriding royalty reserved in any leases, assignments thereof or agreements*

*relating thereto of such tracts, but only after the proceeds allocable to his share equal (i) 300 percent of the share of such costs allocable to the interest of the carried operator of a leased tract or portion thereof; or (ii) in the case of an unleased tract or portion thereof, 100 percent of the share of such costs allocable to the interests of the carried operator.*

*Any royalty or overriding royalty reserved in any leases deducted from the share of production of a carried operator pursuant to this section shall not be subject to charge for operating costs but shall be separately calculated and paid to the carried operator for payment to the royalty owner.*

*D. The Commission shall resolve all disputes among well operators regarding the amount and reasonableness of the well operation costs.*

*E. In the case of a well operator who is a person under a disability, the well operator who is an applicant under this section for authorization to drill and operate one or more jurisdictional wells may petition the appropriate court pursuant to § 8.01-261(3c) of this Code for the appointment of a guardian ad litem who upon appointment may make on behalf of the person under a disability any elections which the person would be entitled to make under this section if he were not under a disability.*

*§ 45.1-289. Validity of unit agreements.—No voluntary pooling agreement between or among well operators, entered into pursuant to the provisions of this article or with a view toward or for the purpose of creating drilling units or voluntary pooling agreements shall be held to violate the statutory or common law of this Commonwealth prohibiting monopolies or acts, arrangements, contracts, combinations or conspiracies in restraint of trade or commerce.*

*§ 45.1-290. Notice of hearing.—A. The Commission shall give written notice of any hearing under § 45.1-287 or § 45.1-288 of this Code at least twenty days in advance of the hearing by certified mail, return receipt requested, to each well operator of record identified by the applicant or the Commission as having an interest in the oil or gas underlying the tracts which are the subject of the hearing. Any well operator entitled to notice who does not receive notice may petition the Commission for and upon the presentation of proper proof be entitled to an appropriate modification of any order issued under this article. In situations where the Commission is unable to provide such written notice because the identity or whereabouts of a well operator is unknown, the Commission shall cause a notice of the hearing to be published in a newspaper of general circulation in the county or city where the land or the major part thereof which is the subject of the hearing is located. Newspaper publication shall be made at least twenty days in advance of the date of the hearing.*

*B. Any well operator who has not appeared in response to notice of hearing, published pursuant to the directions contained in subsection A of this section, and whose identity or whereabouts remains unknown at the conclusion of a hearing conducted pursuant to this section, shall be deemed to have elected not to become a participating operator, and his share of the proceeds shall be paid to the Commission and held in escrow for his benefit as a carried operator. His share of the proceeds shall be deemed unclaimed property and shall be disposed of as provided in The Uniform Disposition of Unclaimed Property Act.*

**§ 45.1-291. Court review.—Any person adversely affected by a decision of the Commission after a hearing held pursuant to this Act shall be entitled to judicial review pursuant to the provisions of the Administrative Process Act.**

**§ 45.1-292. Power of the Commission to restrain violations.—In the event any person violates or threatens to violate the provisions of this article, the Commission may maintain suit to restrain any such violation or threatened violation in the same manner as provided in § 45.1-344 of this Code.**

**§ 45.1-293. Standing of persons other than the Commission to bring action for violation where the Commission does not act.—If the Commission shall refuse or fail to apply for an injunction to restrain a violation or threatened violation of any provision of this article, any regulation promulgated by the Commission thereunder or any order of the Commission, within ten days after the receipt of a written request to do so by any person who is or will be adversely affected by such violation or threatened violation, the person making such request shall have standing to file a complaint in chancery as provided in § 45.1-345 of this Code. The Commission shall be made a party to any such action in addition to the person or persons violating or threatening to violate any provision of this article, any regulation promulgated by the Commission thereunder or any order of the Commission.**

**§ 45.1-294. Effect of order establishing drilling unit or pooling of interests; recordation; extension of lease beyond primary term.—A. An order establishing a drilling unit under this article and ordering pooling of interests therein shall not entitle the well operator designated in the order to drill a well on the drilling unit until the well operator obtains a drilling permit in accordance with the provisions of § 45.1-297 of this Code.**

**B. The Inspector shall cause a true copy of any order establishing a drilling unit or a pooling of interests under this article to be recorded in the office of the clerk of the circuit court of each jurisdiction wherein any portion of the drilling unit is located. The orders shall be recorded in the record book in which oil and gas leases are normally recorded, and the sole charge for recordation shall be a tax equal to ten dollars and one dollar for each page of the order. The recordation from the time noted thereon by the clerk shall be notice of the order to all persons.**

**C. No oil or gas leasehold interest in land not contained in a statutory drilling unit may be held solely by production from the unit and payment of royalties due thereon for more than one year beyond the expiration of the primary term of the lease, unless, during the one-year period, drilling operations have been commenced (i) on a nonunitized part of the tract or (ii) on a second drilling unit containing a part of the tract not in the first unit. Where a lease provides for payment of an acreage rental to extend the primary term on land not contained in a drilling unit, and the rental per acre on the nonunitized part is equal to or greater than the rental per acre on the whole tract prior to any production during the primary term of the lease, then an oil or gas leasehold interest in land not contained in a statutory drilling unit may be held by payment of the rental in accordance with the provisions of the lease.**

**Article 3.**

**Permits for Well Work.**

**§ 45.1-295. Legislative findings.—The General Assembly hereby determines and finds that:**

**1. The drilling and operation of oil and gas wells has heretofore been regulated by the Commonwealth for the purpose of ensuring the safe recovery of coal, other solid minerals, oil and gas;**

**2. Regulation should also be directed toward encouraging the fullest practical recovery of the mineral resources of the Commonwealth;**

**3. Because modern extraction technologies indicate the desirability of changes in existing law, and because the energy needs of the Commonwealth and the United States require encouragement of the fullest practicable recovery of coal and gas, it is in the public interest to enact statutory provisions to regulate and determine the appropriate placing of gas wells in certain areas of the Commonwealth where both coal and gas underlie the same surface lands, by establishing procedures, including procedures for the establishment of drilling units, for the location of gas wells to maximize the production of coal without substantially affecting the right of the gas operator proposing to drill such a gas well to explore for and produce gas; and**

**4. The drilling and operation of certain wells other than oil and gas wells should also be regulated.**

**§ 45.1-296. Drillers, owners and operators of wells to register; designated agents.**

**—A. Any person drilling, owning or operating any wells in the Commonwealth shall register with the Inspector and shall provide his name and address, and the name, address and official title of the person in charge of his operations in Virginia.**

**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 and may be the person in charge of the registrant's operations. Notices, orders, other communications and all process issued pursuant to this chapter may be served upon or otherwise delivered to the designated agent as and for the operator. Any designation once made hereunder shall continue until the Inspector is notified in writing of a designation termination and the designation of a new agent.**

**§ 45.1-297. Permit required for well work; fee; application; bond; operations plan; precedence of permits; drilling restriction.—A. It shall be unlawful for any person to commence any well work, including site preparation work which involves any disturbance of land, plans with regard to which must be submitted in accordance with the provisions of this section, without first securing from the Inspector a well work permit. An application may propose and a permit may approve two or more activities defined as well work.**

***B. The application for a well work permit shall be accompanied by a fee of \$100, the bond prescribed by subsection D of this section, the operations plan and map required by subsection E of this section, and the plat required by § 45.1-298 of this Code.***

***C. Every permit application filed under this section shall be verified, and shall contain the following:***

***1. The names and addresses of (i) the well operator, (ii) the agent required to be designated under § 45.1-296 of this Code and (iii) every person whom the applicant must notify under § 45.1-299 together with a certification that a copy of the application and all other required documentation has been mailed to all such persons by certified mail;***

***2. The number of the well or such other well identification as the Inspector may require;***

***3. The type of well;***

***4. The well work for which a permit is requested;***

***5. The approximate depth to which the well is to be drilled or deepened, or the actual depth if the well has been drilled;***

***6. Unless submitted in a previous permit application by the applicant, the location and thickness of all known coal seams, known water-bearing strata, and other known oil and gas strata between the surface and the depth to which the well is proposed to be drilled. Information in the possession of the Inspector may be designated by the applicant and need not be resubmitted;***

***7. If the proposed well work will require casing or tubing to be set, the entire casing program for the well, including the size of each string of pipe, the starting point and depth to which each string is to be set, and the extent to which each string is to be cemented;***

***8. If the proposed well work is to convert an oil well or a combination well or to drill a new well for the purpose of introducing pressure for the recovery of oil as provided in § 45.1-335 of this Code, specifications of (i) where available, the casing records of the well, (ii) where available, the drilling log of the well, (iii) the maximum pressure to be introduced, (iv) the geological formation into which liquid or pressure is to be introduced, (v) a general description of the liquids to be introduced, and (vi) the location of all known coal seams, water-bearing strata, and other oil or gas strata above and below the geological formation into which such liquid or pressure is to be introduced;***

***9. If the proposed well work is to plug or replug the well, (i) a statement of the time at which the work of plugging or replugging is proposed to be commenced, which time shall not be less than ten days after the day on which the application is filed, (ii) a copy of all logs in the operator's possession not theretofore filed with the Inspector, and (iii) a work order showing in detail the proposed manner of plugging or replugging the well, in order that a representative of the Inspector and any interested persons may be present when the work is done. In the event of an***

*application to drill, redrill or deepen a well, if the well work is unsuccessful so that the well must be plugged and abandoned, and if the well is one on which the well work has been continuously progressing pursuant to a permit, the operator may proceed to plug the well as soon as he has obtained the verbal permission of the Inspector or his designated representative to plug and abandon the well, except that the operator shall make every reasonable effort to notify immediately the royalty owner and the coal owner, if any, of the land at the well location, and shall also timely file the plugging affidavit required by § 45.1-334 of this Code;*

*(10) The operations plan and map required under subsection E of this section for applications for permits to drill; and*

*(11) Any other relevant information which the Inspector may require pursuant to regulations promulgated by the Board.*

*D.1. When the well work permit application is filed, the applicant shall give bond, payable to the Commonwealth, with surety acceptable to the Inspector or at the election of the applicant a cash bond, to ensure compliance with all laws and regulations relating to the well work and the stabilization of the project area and the furnishing of reports and information required by the Inspector. The bond shall be set by the Inspector in an amount of \$5,000 for plugging of the well plus \$1,000 times the number of acres, to the nearest tenth of an acre, for stabilizing the project area. The bond shall remain in force until released by the Inspector. The Inspector shall release the bond when he is satisfied that the well has been abandoned and plugged, the project area has been properly stabilized in accordance with the operations plan and the reports and information required by chapters 1 to 14 of this title have been furnished. However, the Inspector shall release that portion of the bond covering stabilization of the project area when the area is properly stabilized in accordance with the approved stabilization and drainage plan.*

*2. When an operator makes or has made application for permits to drill a number of wells, the Inspector, on request of the operator and in lieu of requiring a separate bond for each well, may require a blanket bond in such sum as he deems adequate; however, in no event shall the bond be in an amount less than \$25,000.*

*3. The bonding requirements for wells shall be limited to those set forth in this section and the bonding requirements contained within §§ 45.1-1 through 45.1-225 of this Code shall not apply to oil and gas operations.*

*4. A well operator who has forfeited all or a portion of a previously posted bond shall be eligible to receive a subsequent well work permit to drill a new well only upon satisfaction of such additional requirements, terms and conditions as may be set forth in regulations promulgated by the Board.*

*E. An operations plan shall accompany each application for a well work permit to drill, shall state the intended method of spoil placement and shall contain a stabilization and drainage plan including a map of the project area indicating the area to be disturbed. The drainage and stabilization plan shall meet the minimum requirements of the Virginia Erosion and Sediment Control Handbook as adopted and from time to time amended by the Virginia Soil and Water Conservation*

**Commission pursuant to § 21-89.4 of this Code. The operations plan and map shall become part of the terms and conditions of any permit which is issued and the provisions of the plan shall be carried out where applicable during and after the drilling operation.**

**F. In the event of any conflict between the terms of a well work permit under this article and a conservation order under Article 2 of this chapter, the well work permit shall control. The Commission may promulgate regulations governing the conditions under which a well operator must return to the Commission for reconsideration of a conservation order in light of a conflicting well work permit.**

**G. In no event shall drilling be initiated or completed on any tract where the oil and gas underlying the tract have not been severed from the surface interest thereof by an appropriate title document, without the written consent of the person who owns the tract.**

**§ 45.1-298. Well plats.—A. When an application for a well work permit is filed, the applicant shall also file an accurate well plat prepared by a registered engineer or certified land surveyor on a scale, to be stated thereon, not smaller than the Board shall prescribe by regulation, showing (i) the proposed location and surface elevation of the well determined by survey, (ii) the proposed location of all new roads, (iii) the courses and distances of the well location from two permanent points or landmarks on the tract, (iv) the number or proposed number of the well or such other identification as the Inspector may require, (v) the royalty owner, the owners of the surface, the owner of coal and other mineral rights, and any coal operator who has registered an operations plan with the Division of Mines for the tract on which the well is located or is to be located, (vi) the boundaries and acreage of the tract on which the well is located or is to be located, (vii) the owners of record of surface, coal, and other mineral rights on all tracts within 500 feet of the proposed well, (viii) coal operators who have applied for or obtained a mining or prospecting permit from the Division of Mines with respect to all tracts within 500 feet of the proposed well, (ix) any building, highway, railroad, stream, mine, mine opening or working, or quarry within 500 feet of the proposed well, and any other well within 2500 feet of the proposed well, (x) if the proposed well work is to convert an oil well or a combination well or to drill a new well for the purpose of introducing pressure for the recovery of oil as provided for in § 45.1-335 of this Code, the location of all other wells, abandoned or otherwise, located within the area to be affected, and (xi) such other data as the Board may require by regulation.**

**B. If the well location is underlain by known coal seams identified by the Chief pursuant to § 45.1-319 of this Code, the well plat shall locate the well and the two permanent points or landmarks with reference to the mine co-ordinate system if one has been established for the area of the well location, and shall in any event show all other wells, coal mines, mine openings and surface workings within the scope of the plat.**

**C.1. A new plat shall be required for the first well work permitted after the effective date of this Act on any well subject to the requirements of subsection B of this section.**

**2. After an initial well work permit has been issued, a subsequent application**

*for any new permit involving the same well may be accompanied by an accurate copy of the well plat accepted upon the issuance of the permit pursuant to the most recent previous application, updated as necessary to reflect any changes on the site, newly discovered data or additional data required by statute or regulation. A certification by a registered engineer or certified land surveyor that the original well plat and any updating thereof is accurate shall be required.*

*§ 45.1-299. Notice to site owners, adjacent owners, etc.; filing of objections.— A. Within one day of the day on which the permit application is filed with the Inspector, the applicant shall mail, by certified mail, return receipt requested, copies of the application, well plat and, if required by § 45.1-297.E of this Code, operations plan, as notice of the well work to the following persons under the following circumstances:*

*1. In the case of an application requesting a well work permit which includes drilling, redrilling, deepening, plugging or replugging of a well, the notice shall be to all persons required to be identified on the well plat.*

*2. In the case of an application for well work which does not include drilling, redrilling, deepening, plugging or replugging a well, the notice shall be sent to the owner of record of any coal seam and coal operator, if any, who has registered an operations plan with the Division of Mines within 500 feet of the well location.*

*B. If the applicant publishes in a newspaper of general circulation in the jurisdiction in which the proposed well site is located, no later than the day on which the application is submitted to the Inspector, a notice of the application in such form as the Board shall by regulation prescribe, then in the case of tenants in common and other co-owners, mailed notice to the owners of an aggregate of more than fifty percent of the interest shall be constructive notice to the remainder of such owners for purposes of this article.*

*C. All notices, whether mailed or published, given under this section shall contain a statement of the time within which objections may be made and shall state the name and address of the person to whom objections shall be forwarded.*

*D. Any person receiving actual or constructive notice of an application for a well work permit, within fifteen days from receipt of such notice, shall file with the Inspector any objection which he may have to the proposed location. Any person who is entitled to receive notice but for any reason does not receive notice shall have standing to file with the Inspector any objection which he may have to the proposed well work at any time before the permit is issued.*

*E. 1. Prior to the issuance of any well work permit, the applicant shall certify to the Inspector the persons entitled to notice and submit proof of notice. Proof of notice to any person may be by the certified mail return receipt, proof of publication where publication is provided for, or a statement signed by the person entitled to notice that he has received a copy of the application and that he has no objection to the granting of the well work permit.*

*2. If the applicant files statements of no objection signed by all persons entitled to the statutory notice, the Inspector may issue the permit before the expiration of the fifteen-day notice period provided for under subsection D of this section.*

**3. If objections are filed by another or found by the Inspector, a person signing a statement of no objection as provided in this subsection E shall nonetheless be entitled to notice of the hearing under § 45.1-301 of this Code and subsequent notices provided by this article.**

**§ 45.1-300. Review of application; issuance of permit in the absence of objections; wells within 500 feet of boundary; what permit to recite.—A. The Inspector shall review each application for a well work permit along with accompanying material and shall determine whether a permit shall be issued. The Inspector shall cause such inspections to be made of the proposed project area as to assure adequate review of the application, and if it is determined that the proposed drilling operation will constitute a hazard to the safety of any person, that stabilization or proper drainage control is not feasible, or that the waters of the Commonwealth, as defined in § 62.1-44.3 of this Code, public park, certified historic landmark or publicly owned recreational area would be materially damaged, and unless the requirements of the State Water Control Law and regulations of the State Water Control Board are complied with, the permit shall not be issued, or if issued shall be conditioned so as to prevent the occurrence of the hazard or damage.**

**B. If, after adequate review, the application for a well work permit is found to be in order, and if no timely objection has been made by any person to whom notice is required to be sent by § 45.1-299 of this Code, the Inspector shall issue the requested permit. The Inspector may, however, in any case in which an oil or gas well is proposed to be drilled within 500 feet of any boundary of a tract of land, if in his opinion the drilling would cause drainage of oil or gas from the adjacent land, require as a condition of the granting of the permit the achievement, prior to any production from the well, of either (i) the creation of a contractual or statutory drilling unit including some or all of the adjacent land or (ii) an agreement, satisfactory to the owner of the oil and gas underlying the adjacent land, relating to the drilling of an offset well thereon if the well for which a permit is sought produces oil or gas in paying quantities.**

**C. Any permit so issued shall recite the filing of an application for a well work permit and a plat showing the required information, that proof of statutory notice under § 45.1-299 of this Code has been submitted, that no objection has been filed or found by the Inspector, that the permit application is approved and that the well operator is authorized to do the permitted well work at the indicated location.**

**§ 45.1-301. Notice when objections filed; informal hearing; issuance of permit.—A. If objections are filed by any person entitled to notice of the well work for which a permit is sought, the Inspector shall fix a time and place for an informal fact finding hearing, not less than twenty nor more than thirty days after the original filing of the application, at which hearing such objections will be considered. The Inspector shall prepare a notice of the informal fact finding hearing, stating all objections and by whom made, and send by certified mail, return receipt requested, at least ten days prior to the hearing date a copy of the notice to the well operator and to every person to whom notice was required to be sent under the provisions of § 45.1-299 of this Code.**

**B. At the informal fact finding hearing, the well operator, and all persons filing**

*objections who are present or represented shall proceed to consider the location and objections thereto and attempt to resolve the objections. If they reach agreement on the well work as proposed or as compromised, they shall so report to the Inspector, who shall record the agreement and, if a change in well location is involved, indicate the agreed location on the well plat on file with the Inspector. The Inspector shall then issue to the well operator a well work permit reciting that the operator filed an application for a permit and a well plat and other required information, that at a hearing duly held the well work was agreed upon and approved, and that the well operator is authorized to perform the well work specified in the permit.*

*C. If the well operator and the objectors present or represented are unable to agree, the Inspector shall first reduce to writing a specification of (i) the well operator's proposed modifications offered under subsection B of this section and not withdrawn and (ii) all objections, made and not withdrawn, to the well work either as originally proposed or as offered to be modified by the well operator. In the case of objection by any person to a proposed well location, either before the Inspector or on appeal to the Board or on subsequent court review under §§ 45.1-311 and 45.1-312 of this Code, the objectors shall state for the record what parts, if any, of the same tract would be acceptable to the objector for an alternative well location. These written objections and any modifications offered by the well operator shall become a part of the permanent record. The Inspector shall then proceed to decide the objections under the informal fact finding procedure of the Administrative Process Act and render his decision as provided in the succeeding sections of this article.*

*§ 45.1-302. Objections by royalty owner.—The Inspector shall have no jurisdiction to hear objections by a royalty owner with respect to any matter subject to the jurisdiction of the Commission under Article 2 of this chapter, whether or not the royalty owner appeared before the Commission. On other matters involving an application for a well work permit, the Inspector shall consider only the following questions in deciding on objections by a royalty owner:*

*1. Whether the proposed well work directly impinges upon the royalty owner's oil and gas interest, and if so, whether the proposed well work is an unreasonable and arbitrary exercise of the well operator's contractual right to extract the oil or gas;*

*2. Alternatively, whether the proposed well work threatens to violate the objecting royalty owner's property rights or statutory rights aside from the contractual rights of the royalty owner.*

*§ 45.1-303. Objections by owner of minerals other than coal, oil and gas.—In deciding objections by an owner of minerals other than coal, oil and gas, the Inspector shall consider the same questions, to the same extent concerning the same types of wells, as could be raised by a coal owner under § 45.1-304 of this Code provided the mineral owner makes the objection and affirmatively proves that it does in fact apply with equal force to the mineral in question.*

*§ 45.1-304. Objections by coal owner.—A. In deciding on objections by a coal owner to proposed well work at an existing well, the Inspector shall consider only the following questions:*

*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 drilling of a new well, the Inspector shall first consider the following safety aspects, and no drilling permit shall be issued for any drilling location where the Inspector finds from the evidence that such drilling location will be unsafe:*

*1. Whether the 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 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, 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 location unreasonably interferes with the safe recovery of coal, oil and gas.*

*C. Subject to the distance limitations established in § 45.1-305 of this Code, the Inspector shall also consider the following questions with respect to the drilling location of a new gas well:*

*1. The extent to which the proposed drilling location will unreasonably interfere with present or future coal mining operations;*

*2. The feasibility of moving the proposed drilling location to a mined out area, below the coal outcrop, or to some other location;*

*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 methods proposed for the recovery of coal and gas;*

*5. The practicality of locating the well on a uniform pattern with other 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 Inspector, or the Board under § 45.1-311 of this Code,*

*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.*

*§ 45.1-305. Distance limitations for certain gas wells.—A. If the well operator and the objecting coal owners present or represented at the time and place fixed by the Inspector for consideration of the objections to the proposed drilling location are unable to agree upon a drilling location for a new gas well in Buchanan, Dickenson, Lee, Russell, Scott, Tazewell or Wise Counties or the City of Norton, within the area thereof with outcropping strata of Pennsylvanian age not deeper than specified in subsection B of this section and within 2,500 linear feet of the location of an existing oil or gas well completed to any depth not deeper than specified in subsection B of this section, then the Inspector shall refuse to issue a drilling permit.*

*B. The foregoing distance limitation shall apply only to new gas wells for which the target formation is not deeper than the base of the Devonian shale or 5,000 feet, whichever is deeper, plus an additional allowance to the total depth of not more than 300 feet below the base of the Devonian shale if the penetration below the base does not result in production from strata deeper than the base and is to facilitate logging or stratigraphic testing or to permit the stimulation and completion of the well in a pool situated above the base.*

*C. The words “existing oil or gas well” as used in this section shall mean (i) any oil or gas well not plugged within nine months after being drilled to its total depth and (ii) any unexpired, permitted drilling location for such a well.*

*D. The minimum distance limitations established by this section shall not apply if the proposed gas 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 gas well will neither require enlargement of the pillar nor otherwise have an adverse effect on existing or planned coal mining operations.*

*§ 45.1-306. Gas drilling unit when permit refused or conditioned; contents; notice.—A. Whenever (i) a well work permit to drill a new gas well subject to the provisions of § 45.1-305 of this Code has been refused on account of objections by a coal owner, or (ii) the Inspector has issued a well work permit upon the condition provided in § 45.1-300.B of this Code for drilling a gas well which is not subject to the Commission’s jurisdiction under Article 2 of this chapter, the gas operator may apply to the Commission for establishment of a drilling unit encompassing a contiguous tract or tracts if the gas operator believes that such a drilling unit will afford one well location, agreeable to the objecting coal owner, for the production of gas from under the tract on which the permit was sought.*

*B. An application to establish a gas drilling unit shall be filed with the Commission and shall contain the following:*

*1. The name and address of the applicant;*

*2. A plat prepared by a registered engineer or certified land surveyor showing (i) the boundary of the proposed gas drilling unit, (ii) the county or city in which the unit is located, (iii) the unit acreage and the boundaries of the unit and the*

*tracts which make up the unit, (iv) the owners of record of each tract, (v) the proposed gas well location on the unit, and (vi) the proposed gas well location for which the Inspector refused to issue or conditioned a drilling permit;*

*3. The names and addresses of (i) the royalty owners of the oil and gas underlying the tracts which make up the proposed unit and (ii) the gas operators of the tracts which make up the proposed unit;*

*4. The approximate depth and target formation to which the well for the proposed unit is to be drilled;*

*5. A statement indicating whether a voluntary pooling agreement has been reached among any or all of the royalty owners of the gas underlying the tracts which comprise the proposed unit and the gas operators of such tracts;*

*6. An affidavit of publication of the notice required in subsection C of this section; and*

*7. Any other relevant information the Commission may require by regulation.*

*C. Prior to the filing of an application under this section, the applicant shall cause to be published such notice of intent to file an application to establish a gas drilling unit as may be prescribed by regulation promulgated by the Commission.*

*D. At the time an application to establish a gas drilling unit is filed, the applicant shall forward a copy thereof by certified mail, return receipt requested, to every person whose name and address were included on the application pursuant to subsections B.2 and B.3 of this section, together with a notice, in such form as may be prescribed by the Inspector, that the application is being mailed to the recipient pursuant to the requirements of this section. The application and notice need not be forwarded to any royalty owner or gas operator who has previously agreed to voluntary pooling by contractually empowering the gas operator, by assignment or otherwise, unilaterally to declare a unit.*

*§ 45.1-307. Establishment of gas drilling units; hearings; matters to be considered.—A. At the time and place fixed by the Commission for consideration of the application to establish a gas drilling unit, the applicant shall present proof that the drilling location on the proposed unit has been agreed to by all of the owners of the coal seams underlying such drilling location. The applicant and the royalty owners and the other gas operators of the gas underlying the tracts which make up the unit, or such of them as are present or represented, shall hold a conference with the Commission to consider the application. The persons present or represented at the conference may agree upon the boundary of the gas drilling unit as proposed by the applicant or as changed to satisfy all valid objections of those persons present or represented. Any agreed change in the boundary of the unit shall be shown on the plat filed with the Commission as part of the application. If agreement is reached at the conference upon the boundary of the unit among the applicant and the royalty owners and other gas operators of the gas underlying the tracts which make up the unit, or such of them as are present or represented, and if the agreement is approved by the Commission, the Commission shall issue a written order establishing and specifying the boundary of the unit.*

***B. If the applicant and the royalty owners and other gas operators of the gas underlying the tracts which make up the proposed gas drilling unit, or such of them as are present or represented, are unable to agree upon the boundary of the unit, then the Commission shall hold a hearing without recess of more than one business day to consider the application to establish the unit. At the hearing, the Commission shall first reduce to writing all objections to the gas drilling unit either as originally proposed or as offered to be modified by the gas operator. These written objections and the modifications offered by the gas operator shall become a part of the permanent record. The Commission shall then proceed to hear and decide the objections under the procedure for litigated issues under § 9-6.14:12 of this Code and render its decision as provided in the following subsections of this section.***

***C. In determining whether to grant or deny an application to establish a unit, the Commission shall consider the following:***

***1. The surface topography and property lines of the lands making up the unit;***

***2. The correlative rights of all gas operators and royalty owners therein;***

***3. Whether a gas operator or royalty owner objecting to the unit has proved by a preponderance of the evidence that the unit is substantially smaller than the area that will be produced by the proposed gas well; and***

***4. Other evidence relevant to the establishment of the boundary of a drilling unit.***

***D. The Commission shall not grant an application to establish a gas drilling unit nor approve any unit, unless it finds that:***

***1. The applicant has proved that the drilling location on the unit has been agreed to by all of the operators of the coal seams underlying the drilling location, or, if a coal seam is not controlled by a coal operator, by the owner of record;***

***2. A drilling permit has been previously refused on one of the tracts making up the unit;***

***3. The unit includes all acreage within the minimum distance limitations provided by § 45.1-305 of this Code unless the gas operators and royalty owners of any excluded acreage have agreed to such exclusion; and***

***4. The unit includes a portion of the acreage from under which the gas operator intended to produce gas under the drilling permit which was refused.***

***E. If a gas drilling unit decision involves a change in the boundary of the unit from the boundary originally proposed, the Commission shall indicate the changed boundary on a copy of the plat filed with the application and, if the changed boundary location becomes final, on the plat itself.***

***§ 45.1-308. Pooling of interests in gas drilling units; limitations; matters to be considered.—A. Whenever the Commission establishes a gas drilling unit pursuant to the provisions of § 45.1-307 of this Code, it shall also include provisions for***

*pooling the separately owned interests in the gas to be produced from the unit. If a voluntary pooling agreement has been reached among all persons owning separate gas operating interests in the tracts comprising the unit prior to or during the hearing held pursuant to § 45.1-307 of this Code, the Commission shall approve the agreement. In the event no voluntary pooling agreement is reached, the Commission shall determine the pooling of interests in the unit.*

*B. At or in conjunction with the hearing, the Commission shall first reduce to writing all pooling claims and proposals with respect to the gas drilling unit either as originally proposed or as offered to be modified by the gas operator. These written claims and proposals shall become a part of the permanent record. The Commission shall then proceed to hear and decide the claims and proposals under the procedure for litigated issues under § 9-6.14:12 of this Code and render its decision as provided in the following subsections of this section.*

*C. Subject to the provisions of § 45.1-294.C of this Code, operations incident to the drilling of a well upon any portion of a unit covered by a pooling order shall be deemed to be the conduct of such operations upon each separately owned tract in the unit by the owners thereof. That portion of the production allocated or applicable to any tract included in a unit covered by a pooling order shall be in the same proportion which the acreage in that tract included in the unit bears to the total acreage included in the unit and shall, when produced, be deemed for all purposes to have been produced from each such tract by a well drilled thereon.*

*D. Any pooling order under the provisions of this section shall (i) authorize the drilling and operation of a gas well for the production of gas from the pooled acreage; (ii) designate the gas operator authorized to drill and operate the well; (iii) prescribe the time and manner in which all other gas operators may elect to participate in the operation of the well or to exercise their rights of election under subsection E of this section; (iv) provide that all reasonable costs and expenses of drilling, completing, equipping, operating, plugging and abandoning the well shall be borne, and all production therefrom shared, by all participating gas operators in the proportion which the acreage in the pooled tracts owned or under lease to each participating gas operator bears to the total acreage in the unit; (v) provide to nonleasing landowners in a unit reasonable access to the unit records of the production and transportation of gas collected or gathered by the Inspector; and (vi) make provisions for the payment of all reasonable costs of the operation, including a reasonable supervision fee, by all gas operators who elect to be participating operators.*

*The owner of an unleased tract who elects to be a participating operator shall, in addition to his share of production, be entitled to participate in accordance with the terms and conditions which he and the operator agree upon.*

*E. Upon the request of any gas operator, the pooling order shall provide just and equitable alternatives whereby a gas operator who does not elect to be a participating operator may elect either to:*

*1. Sell his gas ownership interest or leasehold interest to the participating operators on a reasonable basis and for a reasonable consideration which, if not agreed upon, may be submitted by the nonparticipating gas operator to the Commission for a binding determination; or*

**2. Share in the operation of the well on a carried basis as a carried gas operator under the following conditions: in the event any participating operator in any portion of the drilling unit shall, pursuant to the terms of a pooling order, drill and operate, or pay the costs of drilling and operating, a gas well for the benefit of a carried gas operator, then the carried gas operator shall be entitled to the share of production from the tracts pooled accruing to his interest, exclusive of any royalty or overriding royalty reserved in any leases, assignments thereof or agreements relating thereto, of such tracts, but only after the proceeds allocable to his share equal (i) 300 percent of the share of such costs allocable to the interest of the carried gas operator of a leased tract or portion thereof; or (ii) in the case of an unleased tract or portion thereof, 100 percent of the share of such costs allocable to the interest of the carried gas operator. Any royalty or overriding royalty reserved in any leases deducted from the share of production of a carried gas operator pursuant to this section shall not be subject to charge for operating costs but shall be separately calculated and paid to the carried gas operator for payment to the royalty owner.**

**F. The Commission shall resolve all disputes among well operators regarding the amount and reasonableness of the well operation costs.**

**G. In the case of a gas operator who has not appeared in response to notice of hearing, published pursuant to the directions contained in § 45.1-290 of this Code, and whose identity or whereabouts remains unknown at the conclusion of a hearing conducted pursuant to this section, the gas operator shall be deemed to have elected not to become a participating operator and his share of the proceeds shall be paid to the Commission and held in escrow for his benefit as a carried gas operator. His share of the proceeds shall be deemed unclaimed property and shall be disposed of as provided in The Uniform Disposition of Unclaimed Property Act.**

**H. In the case of a gas operator who is a person under a disability, the gas operator who is an applicant under this section for authorization to drill and operate a gas well may petition the appropriate court pursuant to § 8.01-261(3c) of this Code for the appointment of a guardian ad litem who upon appointment may make on behalf of the person under a disability any elections which the person would be entitled to make under this section if he were not under a disability.**

**I. The provisions of this section or any other section of this chapter shall not be construed to grant to the Commission authority or power to fix prices of oil or gas.**

**§ 45.1-309. Validity of unit agreements.—No voluntary pooling agreement between or among gas operators, entered into pursuant to the provisions of this article or with a view toward or for the purpose of creating drilling units or voluntary pooling agreements, shall be held to violate the statutory or common law of this Commonwealth prohibiting monopolies or acts, arrangements, contracts, combinations or conspiracies in restraint of trade or commerce.**

**§ 45.1-310. Decisions of the Inspector after hearing; effective date.—A. The Inspector shall record and serve in writing his decisions and issue any resulting permits and orders in the manner provided by the Administrative Process Act on the well work matters put in issue either by application or by objections, proposals**

*or claims made and specified in writing for the record under § 45.1-301.C of this Code within the limits prescribed by §§ 45.1-302 through 45.1-305 of this Code.*

*B. If a well work decision involves a change in the well location from the location originally proposed, the Inspector shall indicate the changed location on a copy of the well plat on file and, if the changed location becomes final, on the well plat itself.*

*C. In the case of any well work, the commencement of which is dependent upon a decision of the Inspector made under this section, the operator shall not commence the well work during the ten-day appeal period provided in § 45.1-311 of this Code, nor thereafter until the Inspector informs the operator that the permit has not been stayed by an appeal.*

*§ 45.1-311. Appeal to Well Review Board; stay of permit; notice; hearing and decision.—A. Any person present or represented at the informal fact finding procedure before the Inspector and aggrieved by a decision of the Inspector under § 45.1-310 of this Code shall have the right to appeal to the Board, subject to the limitations imposed by subsection B of this section, by petition in writing filed in the Inspector's office within ten days following the decision appealed from. A petition delivered by telegraphy or telecopying shall be deemed a petition in writing.*

*B. No petition for appeal may raise any matter other than matters raised by the Inspector 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 procedure leading to the decision appealed from.*

*C. 1. Upon receipt of the petition for appeal, the Inspector shall forward to the Board (i) the petition for appeal, (ii) the well work application and associated documents, including any drilling unit or pooling orders entered by the Commission to which the well is subject, (iii) all required notices, (iv) a list of all parties who were present or represented at the informal fact finding procedure before the Inspector, and (v) the written objections, proposals and claims recorded by the Inspector during the informal fact finding procedure. The decision of the Inspector shall not be transmitted to the Chief or any other Board member prior to the hearing held by the Board.*

*2. Upon receipt of the petition for appeal, the Inspector shall also notify by mail all other persons who were present or represented at the informal fact finding procedure leading to the decision appealed from.*

*D. 1. In any appeal involving an application to drill a new well, the filing of a petition for appeal shall stay any permit or decision issued by the Inspector until the case is finally decided or the stay is dissolved on court review under § 45.1-313 of this Code. In all other appeals, the Inspector may order the permit or other decision stayed for good cause shown until the case is finally decided or until the stay is dissolved by the Board or a court of record. An objection based on an alleged risk of danger to any person not engaged in the well work shall be prima facie proof of good cause for a stay.*

*2. If a stay has been granted by the Inspector, the well operator may move the*

*Board to dissolve the stay. This paragraph does not apply to cases where the stay is automatic under subsection D.1 of this section.*

*3. If a stay has been denied by the Inspector, any party aggrieved thereby may move the Board to grant a stay pending further action by the Board.*

*4. Motions for a stay or to dissolve a stay may be heard at the formal hearing before the Board provided for in subsection E of this section. Such motions may also be heard by the Board at any other time, on five days notice by mail or otherwise to all persons entitled to notice of the appeal.*

*5. The decision of the Board on a motion respecting a stay shall not be subject to court review until the Board hears and decides the appeal as provided in subsection E of this section.*

*E. 1. The appeal shall be heard de novo and decided by the Board in accordance with the provisions of the Administrative Process Act, subject to the provisions of this section prescribing length of notice.*

*2. At least ten days notice of the litigated issues hearing date shall be given to the petitioner and all persons entitled to notice of the appeal, and the hearing date shall be not less than ten nor more than thirty days after the decision of the Inspector appealed from.*

*3. At the litigated issues hearing, the Board may consider the same matters timely and properly put in issue for the decision of the Inspector under § 45.1-310 of this Code, to the extent such matters have been preserved or otherwise raised by petition for appeal. The matters itemized in subsections B and C of § 45.1-304 of this Code shall be considered subject to the distance limitations provided in § 45.1-305 of this Code to the extent such limitations have been properly raised in the appeal. No drilling permit shall be issued for any drilling location where the Board finds from the evidence that the drilling location will be unsafe. The Inspector may be a witness if the Board desires, and he shall be prepared to present testimony concerning his decision in the case; however, there shall be no presumption of correctness accorded to his decision. If the Inspector does testify, the Board shall not have the power or authority otherwise granted by § 9.6-14:12(c)(ii) of this Code to exclude or limit cross-examination which would be permitted in a court of record.*

*F. Within thirty days after the conclusion of the hearing, the Board shall issue its decision in writing. The decision shall resolve all issues properly before it under the procedure for litigated issues in case decisions under the Administrative Process Act. The decision shall include the issuance or denial of any permit or other authorization involved in the appeal.*

*G. Copies of the decision shall be served on all persons appearing or represented before the Board, in the manner provided by § 9-6.14:14 of the Administrative Process Act.*

*H. In all proceedings under this section, a decision may be made by a quorum of the Board.*

**§ 45.1-312. Effect of order establishing drilling unit or pooling of interests; recordation; extension beyond primary lease term.—A. An order establishing a drilling unit under this article and ordering pooling of interests therein shall not entitle the gas operator designated in the order to drill a well on the drilling unit until the well operator receives a well work permit to drill a well in accordance with the provisions of this article.**

**B. The Inspector shall cause a true copy of any order establishing a drilling unit or a pooling of interests under this article to be recorded in the office of the clerk of the circuit court of each jurisdiction wherein any portion of the drilling unit is located. The orders shall be recorded in the record book in which oil and gas leases are normally recorded, and the sole charge, fee or tax for recordation of each order shall be ten dollars and one dollar for each page of the order. The recordation from the time noted thereon by the clerk shall be notice of the order to all persons.**

**C. No oil or gas leasehold interest in land not contained in a statutory drilling unit may be held solely by production from the unit and payment of royalties due thereon for more than one year beyond the expiration of the primary term of the lease, unless, during the one-year period, drilling operations have been commenced (i) on a nonunitized part of the tract or (ii) on a second drilling unit containing a part of the tract not in the first unit. Where a lease provides for payment of an acreage rental to extend the primary term on land not contained in a drilling unit, and the rental per acre on the nonunitized part is equal to or greater than the rental per acre on the whole tract prior to any production during the primary term of the lease, an oil or gas leasehold interest in land not contained in a statutory drilling unit may be held by payment of the rental in accordance with the provisions of the lease.**

**§45.1-313. Notice of well work permits to local authorities.—At the time a well work permit is issued, the Inspector shall notify the Soil and Water Conservation District and the city or county and town, if any, in which the permitted well work will occur. The notice shall include the date of permit issuance and well location.**

**§ 45.1-314. Court review.—Court review may be had of the decisions of the Commission under §§ 45.1-307 and 45.1-308 of this Code, and decisions of the Board under § 45.1-311 of this Code, as provided by the Administrative Process Act for review of case decisions. The court shall also have power to dissolve any stay of a well work permit for good cause shown. If the case involves the drilling of a new well, the case shall be heard de novo by the trial court, and the hearing shall take precedence over any other civil cause or proceeding on the docket. The decision of the Court shall be rendered as soon as practicable thereafter.**

**§ 45.1-315. Venue.—Unless the parties otherwise agree, in all informal fact finding proceedings conducted by the Inspector and in all litigated issue proceedings before the Commission or the Board, the Category A or preferred venue for such proceedings and for court review of the decisions of the Commission or the Board, within the meaning of § 8.01-261 of this Code, shall be the county or city wherein the land or the major portion thereof affected by the administrative action is located.**

**§ 45.1-316. Records to be kept by Inspector.—The Inspector shall number, index**

*by well number and keep as a permanent record for every well each (i) application for a well work permit, (ii) application for a gas drilling unit, (iii) proposal for a pooling of interests order, (iv) petition for mining a coal seam within 200 feet of or through a well, and (v) request for special plugging filed by a coal owner, together with all specifications for the record required to be made by this chapter and all other related documents and things concerning the well or any hearing or appeal in connection therewith, and all surveys, logs, reports and other data filed in connection with the well. The records shall be open to inspection by the public except to the extent the data are protected by the confidentiality provisions of § 45.1-318 of this Code.*

#### *Article 4.*

##### *Performance of Well Work and Certain Mining.*

*§ 45.1-317. Progress and completion reports.—The operator shall file such progress and completion reports respecting any permitted well work and production records as the Board by regulation may require.*

*§ 45.1-318. Confidentiality of logs, surveys, and reports.—The Inspector shall hold confidential all logs, surveys and reports filed by well operators under this chapter for a period of ninety days after the completion date of the permitted well work. Further, if an operator certifies in writing to the Inspector that the well is an exploratory well, the Inspector shall hold confidential all logs, surveys and reports filed under this chapter with respect to the exploratory well for a period of two years after the completion of the well. The confidentiality requirements of this chapter are subject to an affected coal owner's right to a copy of any survey or log made under § 45.1-319 of this Code for strata through the lowest coal seam.*

*§ 45.1-319. Locating well bores in relation to known coal seams.—A. Within ninety days after the effective date of this section, the Chief shall cause to be published, in either narrative or pictorial form, a document specifying the areas of the Commonwealth which are known to be underlain by coal seams and identifying the coal seams and their approximate depth or range of depth. The Chief may adopt a previous statement from any source which in his reasoned judgment is authoritative, taking due care in any event to update the statement from time to time in accordance with new findings. From the date of publication of the original or any revised statement, the bore of any new well drilled in an area so stated to be underlain by coal seams shall be located in relation to the coal seams in the manner set forth in subsections B and C of this section.*

*B. Vertical location of coal seams. - 1. Well log. - Within thirty days after the completion of well work involving any drilling, the well operator shall file with the Inspector an accurate log of the strata drilled. The log shall state the character, depth and thickness of geological formations encountered, including groundwater, coal seams, mineral beds, brine, and oil and gas bearing formations, and such other information as the Board by regulation may require to effectuate the purposes of this chapter.*

*2. Electric log. - The well operator and the affected coal operator or coal owner*

*may contract for an electric log survey to be conducted before the coal protection string is set in order to locate vertically the coal seams with greater accuracy than the driller's log will permit. A well operator shall not unreasonably refuse to afford an affected coal operator or coal owner the opportunity to obtain such an electric log survey at the coal operator's or coal owner's expense. If such an electric log survey is conducted, the coal operator or coal owner shall furnish a copy to the well operator, to be held and treated by the well operator as proprietary data.*

*3. If a well operator conducts an electric log survey at his own expense on any part of the hole, and if the electric log survey discloses the vertical location of a coal seam, the electric log survey shall be filed with the Inspector at the same time as the driller's log.*

*4. With reference to a particular well, if at any time the Inspector finds that the lack of assurance of the vertical location of a coal seam poses a danger to persons engaged in active coal mining, he may require an electric log survey at the well operator's expense, and he may direct the operator to interrupt drilling to conduct an electric log survey.*

*C. Horizontal location. - 1. The well operator shall conduct deviation surveys beginning 200 feet from the surface and continuing on intervals of 200 feet to the bottom of the lowest published coal seam depth at the well location. Each time the total deviation exceeds a horizontal distance of eighteen and seventy-five hundredths feet from the true vertical at a well bore depth of 200 feet, or a horizontal distance of thirty-one feet from the true vertical at a well bore depth of 400 feet, or a horizontal distance of fifty feet from the true vertical at a well bore depth of 600 feet or a deeper 200 foot interval, the well operator shall (i) immediately cease drilling, (ii) conduct a continuous directional survey to the depth then attained and furnish a copy to the affected coal owner, (iii) notify the affected coal operator or owner, (iv) correct the wellbore within the specified limits at the request of the affected coal owner made within twenty-four hours after he receives the notification and (v) file a copy with the Inspector at the same time the driller's log is filed under subsection B of this section.*

*2. With reference to a particular well, if at any time the Inspector finds that the lack of assurance of the horizontal location of the wellbore at a known coal seam poses a danger to persons engaged in active coal mining, he may require that a directional survey be conducted at the well operator's expense, and he may direct the operator to interrupt drilling to conduct the survey.*

*§ 45.1-320. Coal protection strings for a future well.—A. When any well penetrates coal seams that have not been mined out, the operator shall, except as provided in subsections B and C of this section, set a coal protection string as prescribed herein so as to exclude all water, oil, gas, gas pressure, except such water, oil, gas and gas pressure as may be naturally present in each coal seam, injected material or disposed waste from the coal seams. The string of casing shall be set to a point at least thirty feet below the lowest coal seam, or as provided in subsection C of this section, and shall be circulated and cemented in from that point to the surface in a manner as specified in regulations promulgated by the Board.*

***B. For good cause shown, either before or after the well work permit is issued, that the procedure specified in subsection A is not practical for the well operator, the Inspector may approve a casing program involving the cementing of a coal protection string in multiple stages, or the cementing of two or more coal protection strings, provided the Inspector is satisfied that the result will be operationally equivalent to compliance with the provisions of subsection A of this section for the purpose of permitting the subsequent safe mining through of the well. In the use of multiple coal protection strings, each string below the topmost string shall be cemented at least thirty feet into the next higher string and verified by a suitable electric log survey.***

***C. 1. A coal protection string shall be set to the top of the red shales in any area underlain by them unless, on a showing by the well operator in his permit application, the Inspector has approved the casing point of the coal protection string at some depth less than the top of the red shales. In such event, the well operator shall conduct a gamma ray/density compensated log survey on an expanded scale to verify whether the well penetrates any coal seam in the uncased interval between the bottom of the coal protection string as approved and the top of the red shales.***

***2. If an unanticipated coal seam is discovered in the uncased interval, the operator shall report the discovery to the Inspector and cement the next string of casing, whether a part of the intermediate string or the production string, in the applicable manner provided in this section for coal protection strings, from a point 100 feet below the lowest coal seam so discovered or to the top of the red shales, whichever is shallower.***

***3. The gamma ray/density compensated log survey shall be filed with the Inspector at the same time the driller's log is filed under § 45.1-319 of this Code.***

***4. When the Inspector believes that the total drilling in any particular area has verified the deepest coal seam higher than the red shales, so that further gamma ray/density compensated logs on an expanded scale are superfluous for the area, he may waive the constructing of a coal protection string or the conducting of such surveys deeper than 100 feet below the verified depth of the deepest coal seam.***

***§ 45.1-321. Coal protection strings of wells drilled under former law.—In the case of wells heretofore drilled through coal seams without coal protection strings substantially as prescribed in § 45.1-320 of this Code, the operator shall retain such coal protection strings as were set. During the life of the well, the annular spaces between the various strings of casing adjacent to coal seams shall be kept open to the extent possible, and the top ends of all such strings shall be provided with casing heads, or such other suitable devices approved by the Inspector as will permit the free passage of oil and gas and prevent filling of the annular spaces with dirt or debris.***

***§ 45.1-322. Liner when well is drilled through mined-out coal seams.—A. When a well is drilled through a coal seam from which the coal has been removed, the hole shall be drilled at least thirty feet below the mined-out seam and of a size sufficient to permit the placing of a liner which shall start at a point not less than twenty feet beneath the horizon of the mined-out coal seam and extend to a point***

*not less than twenty feet above it. The liner shall be firmly attached to the string of casing used at that point, and the space between the liner and the casing shall be filled with cement as they are lowered into the hole. Cement shall be placed in the bottom of the hole to a height of ten feet above the bottom of the liner to form a sealed seat for both liner and casing. The annular space shall be cemented to the surface from the top of the liner or shall be cemented back to the bottom of the next largest string of casing that has been cemented into the surface.*

*B. 1. Except as provided in subsection B. 2 of this section, when a well is drilled through two or more coal seams from which the coal has been removed, and only one coal protection string is planned, the liner shall be started not less than twenty feet below the deepest mined-out coal seam and shall extend to a point not less than twenty feet above the shallowest mined-out coal seam. The annular space shall then be cemented as provided in subsection A of this section.*

*2. For good cause shown, the Inspector may (i) impose special requirements on the well operator to prevent communication between two or more mined-out coal seams, or (ii) permit a casing program which calls for some or all mined-out coal seams to be equipped each with its own liner in the manner required by subsection A of this section.*

*§ 45.1-323. Well penetrating mine other than coal mine.—In the event that a permit is requested to drill a well in such a location that it would penetrate any active or abandoned mine other than a coal mine, the Board shall by regulation establish the safety precautions to be followed by the well operator. The precautions shall conform to standard safety measures generally followed in the industry in such cases, and the Inspector shall require compliance with the regulations so promulgated as a specific condition of the bond required of the operator.*

*§ 45.1-324. Water protection string.—A. Except as provided in subsection B of this section, the well operator shall set a water protection string to a point at least thirty feet below the deepest known groundwater horizon, circulated and cemented in to the surface. If the cement does not return to the surface, every reasonable attempt shall be made to fill the annular space by introducing cement from the surface.*

*B. A coal protection string set pursuant to § 45.1-320 or § 45.1-322 of this Code may also serve as a water protection string for fresh water bearing strata above the lowest coal seam.*

*§ 45.1-325. When well is drilled through caverns.—When a well is drilled through one or more natural or artificial caverns to which the provisions of §§ 45.1-322 and 45.1-323 of this Code do not apply, the Board shall by regulation establish the safety precautions to be followed by the well operator, which shall conform to standard safety measures generally followed in the industry in such cases, and the Inspector shall require compliance with the regulations so promulgated as a specific condition of the bond required of the operator.*

*§ 45.1-326. Mining near or through a well.—A. Before removing any coal or other mineral or driving any entry or passage or extending any workings in any mine nearer than 500 feet to any well already drilled or in the process of being*

*drilled, the mine operator shall file with the Chief a copy of the parts of its maps and plans required by § 45.1-27 of this Code, showing its mine workings and projected mine workings beneath the tract in question and within 500 feet of the well, with a notice that the mining is taking place or will take place. Copies of the notice and maps or plans shall be mailed by certified mail, return receipt requested, to the well operator and to the Inspector not later than the day of filing, and the notice shall so certify.*

*B. Following the filing of the notice, the mine operator may proceed with mining operations in accordance with the maps and plans, but he shall not remove any coal or other mineral or drive any entry or passage or extend any workings in any mine nearer than 200 feet to any well already drilled or in the process of being drilled without approval as provided in the following subsections of this section.*

*C. 1. Any mine operator desiring to remove coal or other mineral or drive any entry or passage or extend any workings in any mine nearer than 200 feet to any well already drilled or in the process of being drilled, or to mine through a plugged well, may apply to the Chief for leave to do so by verified petition and maps and plans showing (i) the location of the well, (ii) the location of the mine workings adjacent to the well, (iii) the contemplated mining operations within 200 feet of the well or through the well for which leave is sought, and (iv) such other relevant information as the Chief may prescribe by regulation. Copies of the petition and maps or plans shall be mailed by certified mail, return receipt requested, to the well operator and to the Inspector no later than the day of filing, and the petition shall so certify.*

*2. The well operator shall, within ten days from receipt of the petition, file with the Chief any objection which he may have to the proposed location. In addition, any well operator who was entitled to receive a copy of the petition, but for any reason did not, shall have standing to file with the Chief any objection which he may have to the petition at any time before leave is granted.*

*D. The Inspector shall have standing to object to the petition.*

*E. The Chief shall review each petition along with the accompanying material and shall determine whether or not leave to mine shall be granted. If the petition is found to be in order, and if no objection has been made by the Inspector or the well operator, and if the Chief is satisfied that the proposed mining will be safe, permission to mine in accordance with the petition shall be granted, subject to such conditions as the Chief may impose.*

*F. 1. If objections are filed by the Inspector, or by a well operator entitled to notice of the petition, the matter shall be heard and decided by the Chief pursuant to the procedure for case decisions under the Administrative Process Act.*

*2. At least ten days notice of hearing dates shall be given to the petitioner, the Inspector and the well operator. The first hearing date shall be not less than ten days nor more than thirty days after the last objection was filed.*

*G. Copies of the decision shall be served on all persons appearing or represented at the hearing, in the manner provided by the Administrative Process*

Act.

**§ 45.1-327. Duty to plug abandoned well.**—Upon the abandonment or cessation of the operation of any well, the well operator at the time of the abandonment or cessation shall immediately fill and plug the well in the applicable manner provided in this article for the well and the types of strata which the well bore penetrates.

**§ 45.1-328. Plugging a well that does not penetrate a coal seam.**—A. When a well does not penetrate a coal seam, it shall be plugged and filled, subject to the exceptions in subsection B of this section, as follows:

*First, from the bottom of the well to a point twenty feet above the top of its lowest oil, gas or water-bearing stratum, the well shall either (i) be filled with mud, clay or other nonporous material or (ii) have a permanent bridge anchored thirty feet below its lowest oil, gas or water-bearing stratum, and therefrom be filled with mud, clay or other nonporous material;*

*Second, twenty feet above the top of its lowest oil, gas or water-bearing stratum, a plug of cement or other suitable material shall be placed which will completely seal the hole;*

*Third, between this sealing plug and a point twenty feet above the next higher oil, gas or water-bearing stratum, if any, the hole shall be filled or bridged and filled as first provided, on top of which another plug of cement or other suitable material shall be placed as second provided;*

*Fourth, if applicable due to the presence of additional oil, gas or water-bearing strata, the hole shall be filled and plugged as third provided through the uppermost plug of cement or other suitable material twenty feet above the highest such stratum;*

*Fifth, approximately ten feet below the bottom of the largest casing left in the well, a final cement plug shall be placed; and*

*Finally, from the final cement plug to the surface, the well shall be filled with mud, clay or other nonporous material.*

*2. Notwithstanding the foregoing prescription, whenever two or more oil and gas strata are not widely separated and are free from water, they may be grouped and treated as a single stratum, and the aforesaid filling and plugging may be performed as though the group of oil and gas strata were a single stratum.*

*B. If any oil or gas stratum in the well to be plugged has been shot, the well may be filled and plugged as prescribed in subsection A of this section as long as the shooting did not result in cavities which can not readily be filled. However, if there are shot cavities in any oil or gas stratum which cannot be filled as prescribed in subsection A, then they shall be filled as prescribed in this paragraph, and the remainder of the hole shall be plugged and filled as prescribed in subsection A:*

*1. If the shot stratum with unfillable cavities is the lowest oil and gas stratum*

*in the well, one of the two following plugging alternatives shall be employed in the following order of preference:*

*a. If reasonably possible, from a point not less than twenty feet below the stratum with unfillable cavities to a point not less than twenty feet above it, a liner shall be placed and compactly filled with cement, mud, clay or other nonporous sealing material; or*

*b. Alternatively if need be, at the nearest suitable point not less than twenty feet above the stratum, a plug of cement or other suitable material shall be placed which will completely seal the hole.*

*2. If the shot stratum with unfillable cavities is above the lowest oil and gas stratum, then one of the two following plugging alternatives shall be employed in the following order of preference:*

*a. If reasonably possible, from a point below not less than twenty feet below the shot stratum with unfillable cavities to a point not less than twenty feet above it, a liner shall be placed and compactly filled with cement, mud, clay or other nonporous sealing material; or*

*b. Alternatively if need be, a plug of cement or other suitable material shall be placed not less than twenty feet below the stratum which will completely seal the hole from the lower strata, and a second plug of cement or other suitable material shall be placed not less than twenty feet above the stratum which will completely seal the hole at that point.*

*§ 45.1-329. Plugging a well penetrating a coal seam without a coal protection string as provided in § 45.1-320.—When a well penetrates a coal seam and does not have a coal protection string installed in the manner required by § 45.1-320 of this Code, it shall be plugged and filled as follows:*

*First, from the bottom of the well to a point not less than forty feet below the lowest coal seam, the well shall be plugged and filled as prescribed in § 45.1-328 of this Code;*

*Second, at the point not less than forty feet below the lowest coal seam, a cement plug shall be securely placed in the well;*

*Third, from the cement plug to a point twenty feet above the lowest coal seam, the well shall be filled with cement;*

*Fourth, from the point not less than twenty feet above the lowest coal seam to a point forty feet below the next higher coal seam, if any, the well shall be filled with mud, clay or other nonporous material;*

*Fifth, if applicable due to additional coal seams, the hole shall be filled and plugged as provided in the second, third, and fourth steps through the highest coal seam; and*

*Sixth, from a point twenty feet above the highest coal seam to a point fifty feet below the surface, filling and plugging of the well shall continue in the*

*manner provided in § 45.1-328 of this Code; and*

*Finally, from the point fifty feet below the surface to the surface, a plug of cement shall be installed.*

*§ 45.1-330. Plugging wells with coal protection strings installed as provided in § 45.1-320.—When a well penetrates a coal seam through which a coal protection string has been installed in the manner required by § 45.1-320 of this Code, the well shall be plugged and filled as follows to facilitate the safe mining through of the well at a later date:*

*First, from the bottom of the well to a point approximately 100 feet below the lowest coal seam, the well shall be plugged and filled as prescribed in § 45.1-328 of this Code, except that expanding cement shall be used instead of regular hydraulic cement;*

*Second, at the point 100 feet below the lowest coal seam, a 100 foot plug of expanding cement shall be placed in the well so that the top of the plug is located at a point just below the coal protection string for the lowest coal seam;*

*Third, after the plug has been securely placed in the well as second provided, the coal protection string, or innermost coal protection string if more than one coal protection string is set from that point to the surface, shall be emptied of liquid from the surface to a point 100 feet below the lowest coal seam or to the bottom of the coal protection string, whichever is closer to the surface; and*

*Finally, a vent or other device approved by the Inspector shall be installed on the top of the coal protection string, or innermost coal protection string, a distance of not less than thirty inches above ground level in the manner that will exclude liquids and solids from the well and that will permit ready access when required to the full internal diameter of the coal protection string, or innermost coal protection string, of the well.*

*§ 45.1-331. Special plugging at the coal owner's request.—A. When a well penetrates a coal seam and does not have a coal protection string installed in the manner required by § 45.1-328 of this Code, in order to facilitate the safe mining through of the well at a later time, a coal owner may request that the well be plugged in the manner provided in this section rather than by the method provided in § 45.1-329 of this Code. The request shall be submitted on a form provided by the Inspector. The request shall state the well number and the name and address of the well operator and shall certify that the coal owner has mailed a copy of the request by certified mail, return receipt requested, to the well operator. The request shall be filed with the Inspector prior to the scheduled plugging of the well unless the well operator has waived this requirement by a writing filed with the coal owner's request. In the event of such a waiver, the cost of undoing any part of the plugging work in order to comply with the coal owner's late-filed request shall be treated as a part of the cost of plugging in accordance with the request for purposes of estimating and subsequently determining the cost of plugging hereunder.*

*B. 1. Upon receipt of such a request, the Inspector shall issue an order staying the plugging of the well and shall promptly determine the cost of plugging the*

*well, (i) in the manner provided in this section and (ii) in the manner provided in § 45.1-329 of this Code. In making his determination, the Inspector shall take into consideration any agreement relating to plugging between the well operator and the coal owner making the request.*

*2. If the Inspector determines that the cost of plugging the well in the manner provided in § 45.1-329 of this Code exceeds the cost of plugging the well in the manner provided in this section, the Inspector shall grant the request of the coal owner and shall issue an order requiring the well operator to plug the well in the manner provided in this section.*

*3. If the Inspector determines that the cost of plugging the well in the manner provided in § 45.1-329 of this Code is less than the cost of plugging the well in the manner provided in this section, the Inspector shall direct the coal owner to pay into escrow the difference between the determined costs. Upon receipt of satisfactory notice of such payment, or upon receipt of notice that the well operator has waived such payment, the Inspector shall grant the request of the coal owner and shall issue an order requiring the well operator to plug the well in the manner provided in this section. If neither a satisfactory notice nor a waiver by the well operator is received by the Inspector within fifteen days after the direction for payment into escrow, the Inspector shall order the stay dissolved, and neither the requesting coal owner nor any other person shall be heard to reopen the matter.*

*4. Copies of all orders entered under this section shall be served on the well operator and the requesting coal owner in the manner provided by the Administrative Process Act.*

*C. 1. When the escrow agent has received certification from the Inspector of the satisfactory completion of the plugging work and the reimbursable extra cost thereof defined as the difference between the Inspector's determination of the cost of plugging in the manner provided in § 45.1-329 of this Code and the well operator's actual cost incurred in plugging in the manner provided in subsection D of this section, he shall pay the reimbursable sum to the well operator or his nominee from the payment into escrow.*

*2. The amount by which the payment into escrow and interest thereon exceeds the total of the reimbursable sum and the escrow agent's fee, if any, shall be repaid to the coal owner.*

*3. If the amount paid to the well operator or his nominee is less than the actual reimbursable sum, the escrow agent shall inform the coal owner, who shall pay the deficiency to the well operator or his nominee within thirty days. If the coal operator breaches this duty to pay the deficiency, the well operator shall be entitled to recover liquidated damages and his reasonable attorney's fees.*

*D. 1. Where a request of a coal owner filed pursuant to this section has been granted by the Inspector, the well shall be plugged and filled as follows:*

*First, from the bottom of the well to a point approximately 200 feet below the lowest coal seam, the well shall be plugged and filled as prescribed in § 45.1-328 of this Code, except that expanding cement shall be used instead of regular hydraulic*

**cement;**

**Second, at a point 200 feet below the lowest coal seam, a 100 foot plug of expanding cement shall be placed in the well so that the top of the plug is located approximately 100 feet below the lowest coal seam;**

**Third, if necessary to permit setting the casing as fourth provided below, the well shall be drilled out from the surface down to a point approximately 100 feet below the lowest coal seam;**

**Fourth, a string of casing with an outside diameter no less than four and one-half inches or, if more than one string is involved, with the innermost string having an outside diameter of no less than four and one-half inches shall then be set into the well to a point approximately 100 feet below the lowest coal seam and cemented in as provided in § 45.1-320 of this Code.**

**Fifth, the newly installed string, or innermost string, shall be emptied of liquid from the surface to the bottom of the string; and**

**Finally, a vent or other device approved by the Inspector shall be installed on the top of the newly installed string or strings a distance of not less than thirty inches above ground level in such a manner that will exclude liquids and solids from the well and that will permit ready access when required to the full internal diameter of the newly installed string of casing or, if more than one new string is in place from that point to the surface, the full internal diameter of the innermost new string.**

**2. Notwithstanding the foregoing provisions of subsection D of this section, if under particular circumstances a different method of plugging is required to obtain the approval of another governmental agency for the safe mining through of a well, the Inspector may approve the different method of plugging if he finds the same to be as safe for mining through and otherwise adequate to prevent gas or other fluid migration from the oil and gas reservoirs as the method above specified.**

**§ 45.1-332. Replugging a well previously plugged.—Any person may file an application with the Inspector to replug a previously plugged well in any manner permissible under the provisions of subsection D of § 45.1-331 of this Code, to facilitate the safe mining through of the well at a later date. The application shall be treated in all respects like any other application for a well work permit under Article 3 of this chapter, except that the well operator who originally plugged the well shall be entitled to notice of the application and shall have standing to file objections and invoke procedures available to royalty owners who file objections to well work.**

**§ 45.1-333. Marker over location of abandoned well.—A. Upon the completion of the plugging or replugging of an abandoned well, a permanent marker of concrete or iron and concrete shall be erected over the location. The marker shall extend not less than thirty inches above the surface and enough below the surface to make the marker permanent. The name of the well operator by whom the well was drilled, if known, and the number of the well shall be stamped or cast or otherwise permanently affixed to the marker.**

*B. The marker will be accepted by the Inspector as a permanent landmark required to be shown on any plat or map filed under this chapter and should be used as such in the location of adjacent wells.*

*§ 45.1-334. Plugging affidavit.—When any well has been plugged or replugged under the provisions of this article, an affidavit in triplicate shall be made, on a form to be furnished by the Inspector, by two experienced persons who participated in the work, setting forth the time and manner in which the well was plugged and filled and the permanent marker placed as required in § 45.1-333 of this Code. The affidavit shall state with particularity every aspect in which the plugging or replugging work varied from the work order required to be specified in the application under § 45.1-297.C.8 of this Code. If the plugging was done following verbal permission of the Inspector or his designated representative under § 45.1-297.C of this Code, the plugging affidavit shall contain the same description of plugging work done as would be required for a well work permit to plug a well thereunder. One copy of the plugging affidavit shall be retained by the well operator; one shall be mailed to the coal owner or operator; and one shall be filed with the Inspector.*

*§ 45.1-335. Introducing liquid pressure into oil producing stratum.—A. The introduction of fluid pressure into and upon an oil producing stratum for the purpose of recovering the oil contained therein shall be so controlled as to volume and pressure, and shall be through casing or tubing which shall be so set, that no coal seam, water-bearing stratum, or other oil or gas stratum shall be affected, either above or below the producing stratum into and upon which such pressure is introduced.*

*B. The operator shall be allowed a reasonable period of time prior to the commencement of a pressure injection program, during which time the well operator may allow the well to remain unplugged and not abandoned. A well work permit authorizing the conversion of an oil well or combination well to a pressure injection well shall be obtained prior to the commencement of a pressure injection program.*

*§ 45.1-336. Developing oil or gas well as water well.—In the event that any well drilled for oil and gas does not produce commercial or paying quantities of either, but encounters a stratum or source of potable water which could be developed as a source of water for municipal, industrial, or domestic use, upon request of the owner of the property on which the well is located, and upon application to and approval by the Inspector, the well may, in lieu of being plugged and abandoned be developed and completed as a water well. Any development of an oil or gas well developed as a water well under this section shall be done in accordance with applicable State Water Control Board requirements and all requirements of the Groundwater Act of 1973. Unless an agreement between the owner of the property and the well operator provides to the contrary, the well operator shall be paid a reasonable sum by the property owner or other party desiring the well to be completed and used as a water well, for all casing and tubing set and left in the well which the well operator would in accordance with industry practice remove upon plugging of the well.*

*§ 45.1-337. Court review.—A. Any order or other decision of the Inspector made or issued under this article, or decision of the Chief under § 45.1-326 of this Code,*

*may be appealed to the appropriate circuit court. The court shall hear the appeal de novo and shall have the power to enter such 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 category A or preferred venue for court review within the meaning of § 8.01-261 of this Code shall be the county or city where the well is located.*

#### *Article 5.*

##### *Leases.*

*§ 45.1-338. Lease of land for production, etc., of oil and gas to be in duplicate.—Any person concluding, either as principal or agent, a lease of lands or rights therein for drilling for or development or production of oil or gas, shall prepare and execute the lease in duplicate. One copy of the lease, duly executed by the lessee, shall be furnished to the lessor.*

#### *Article 6.*

##### *Maintenance of Wells; Waste.*

*§ 45.1-339. Storing oil or allowing it to accumulate.—No person shall store oil or allow the same to accumulate in any pit, pocket, hole, or other natural or artificial depression on the surface of the earth from which the oil may seep or migrate into fractures or other openings in the underlying bedrock or into springs or water wells, or into any waters of the Commonwealth or any waters used as a source of public water supply.*

*§ 45.1-340. Escape of crude oil or natural gas prohibited.—It shall be unlawful for any person to permit crude oil or natural gas to escape from any well, pipeline or storage tank when it is reasonably possible to prevent the escape and after the owner or operator of the oil or gas well, pipeline or storage tank has had a reasonable period of time to shut in the oil or gas in the well, or make the necessary repairs, to the well, pipeline or storage tank to prevent the escape.*

*§ 45.1-341. Diligence required when escape necessary.—If, in the process of drilling a well for oil or gas, or both, gas is found in the well, and the owner or well operator thereof desires to continue to search for oil or gas, or both, by drilling deeper in search of lower oil or gas-bearing strata, or if it becomes necessary to make repairs to any well producing oil or gas, commonly known as cleaning out, and if in either event it is necessary for the oil or gas in the well to escape therefrom during the process of drilling or making repairs, as the case may be, then the well operator shall prosecute the drilling or repairs with reasonable diligence, so that the waste of oil or gas from the well shall not continue longer than reasonably necessary. If during the progress of such deeper drilling or repairs any temporary suspension thereof becomes necessary, the well operator shall use all reasonable means to shut in the oil or gas and prevent its escape during the*

*temporary suspension.*

*In all cases where both oil and gas are found and produced from the same stratum, the well operator shall use all reasonable diligence to conserve and save so much of the gas as is reasonably possible.*

*§ 45.1-342. Rights of Inspector and adjacent owners upon default of owner or operator of well.—If the owner or operator of any well shall neglect or refuse to drill, case and equip, or plug and abandon the well in a proper manner, stabilize the project area in a proper manner or shut in and conserve from waste the oil or gas produced therefrom as required to be done and performed by Chapters 1 to 14 of this title, for a period of twenty days after a written notice so to do, which notice may be served personally upon the owner or operator, or may be posted in a conspicuous place at or near the well, the owner or operator of any adjacent or neighboring lands, or the Inspector:*

- 1. May enter upon the premises where the well is situated and properly case and equip the well; or,*
- 2. In case the well is to be abandoned, may properly plug and abandon it; or,*
- 3. In case the well is allowing oil or gas to escape, may properly shut it in and make the needed repairs to the well to prevent the waste; or,*
- 4. May perform the stabilization and drainage control on the project area as is specified in the operation plan submitted pursuant to § 45.1-297.E of this Code so as to stabilize the area and prevent erosion and other injurious effects to the area and any surrounding areas.*

*The reasonable cost and expenses incurred by the owner or operator of any adjacent or neighboring lands in so doing shall be paid by the well operator and may be recovered as debts of like amount are by law recoverable. Such expense, if incurred by the Inspector, shall be a charge against the bond given by the operator. If the bond proceeds are insufficient to reimburse the Inspector, his expenses in excess of the bond proceeds shall be recoverable against the well operator by an action at law.*

*§ 45.1-343. Pumping or flowing required; leaking casing or tubing.—Unless written permission is granted by the Inspector, no operator of any oil well shall permit the well to stand without diligently pumping or flowing it for a period of more than ninety days. Upon notice of the Inspector to any operator that the casing or tubing in the well is leaking fresh or salt water into the oil or gas-bearing sand or stratum, the well operator shall immediately repair the casing or tubing or abandon and plug the well according to the provisions of this chapter.*

## *Article 7.*

### *Violations and Penalties.*

**§ 45.1-344. Chief and Inspector may sue to restrain violation of chapter.—In addition to the penalties elsewhere provided, the Chief and the Inspector, as the case may be, may, if any person is violating or threatening to violate any provision of Articles 1 through 6 of this chapter, maintain suit in the circuit court of the county or city wherein the violation has occurred or is threatened, or wherein the person may be found, to restrain the actual or threatened violation.**

**§ 45.1-345. Duty of circuit court to grant equitable relief; who may sue.—In addition to the imposition of any penalties under this chapter, it shall be the duty of any circuit court in the exercise of its equitable jurisdiction to hear and determine any complaint in chancery which may be filed to restrain the waste of oil or gas, and to grant relief by injunction or by other decrees or orders, in accordance with the principles and practice in equity. The complainant shall have sufficient standing to maintain a suit if he shall aver and prove that he is interested in the lands situated within the distance of one mile from such well, either as an owner or lessee of such land, or of the oil or gas thereunder, or as an owner or lessee of any other mineral rights therein.**

**§ 45.1-346. Penalty for violation.—Any person or persons, firm, partnership, association or corporation willfully violating any of the provisions of this chapter shall be guilty of a class one misdemeanor, and on conviction thereof, shall be punished accordingly.**

## **Article 8.**

### **Funds.**

**§ 45.1-347. Disposition of funds.—All funds collected by the Chief or the Inspector under the provisions of this chapter shall be paid, unless otherwise provided, into the State treasury to the credit of the Division of Mines and may be expended by it, together with any funds appropriated by the General Assembly, in carrying out the provisions of this chapter. All such payments shall be made on warrants of the Comptroller issued upon vouchers signed by the Chief or the Inspector or such person as shall be designated by the Chief or the Inspector for that purpose.**

**2. That §§ 45.1-106 through 45.1-144 and § 55-154.1 of the Code of Virginia are repealed.**

## **Appendix D**

**A BILL to amend the Code of Virginia by adding in Title 45.1 a chapter numbered 21, consisting of sections numbered 45.1-272 and 45.1-273 and authorizing the Governor to execute the Interstate Compact to Conserve Oil and Gas.**

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 45.1 a chapter numbered 21, consisting of sections numbered 45.1-272 and 45.1-273 as follows:**

### **CHAPTER 21.**

#### **INTERSTATE COMPACT TO CONSERVE OIL AND GAS.**

**§ 45.1-272. Governor authorized to execute compact.—The Governor of the Commonwealth is hereby authorized and requested to execute, on behalf of the Commonwealth of Virginia with any other state or states legally joining therein, a compact which shall be in form substantially as follows:**

#### ***An Interstate Compact to***

#### ***Conserve Oil and Gas***

#### ***Article I***

***This agreement may become effective within any compacting state at any time as prescribed by that state, and shall become effective within those states ratifying it whenever any three of the States of Texas, Oklahoma, California, Kansas, and New Mexico have ratified and Congress has given its consent. Any oil-producing state may become a party hereto as hereinafter provided.***

#### ***Article II***

***The purpose of this compact is to conserve oil and gas by the prevention of physical waste thereof from any cause.***

#### ***Article III***

***Each state bound hereby agrees that within a reasonable time it will enact laws, or if the laws have been enacted, to continue the same in force, to accomplish within reasonable limits the prevention of:***

***(a) The operation of any oil well with an inefficient gas-oil ratio.***

*(b) The drowning with water of any stratum capable of producing oil or gas, or both oil and gas, in paying quantities.*

*(c) The avoidable escape into the open air or the wasteful burning of gas from a natural gas well.*

*(d) The creation of unnecessary fire hazards.*

*(e) The drilling, equipping, locating, spacing or operating of a well or wells so as to bring about physical waste of oil or gas or loss in the ultimate recovery thereof.*

*(f) The inefficient, excessive or improper use of the reservoir energy in producing any well.*

*The enumeration of the foregoing subjects shall not limit the scope of the authority of any state.*

#### *Article IV*

*Each state bound hereby agrees that it will, within a reasonable time, enact statutes, or if such statutes have been enacted that it will continue the same in force, providing in effect that oil produced in violation of its valid oil and/or gas conservation statutes or any valid rule, order or regulation promulgated thereunder, shall be denied access to commerce; and providing for stringent penalties for the waste of either oil or gas.*

#### *Article V*

*It is not the purpose of this compact to authorize the states joining herein to limit the production of oil or gas for the purpose of stabilizing or fixing the price thereof, or to create or perpetuate monopoly, or to promote regimentation, but is limited to the purpose of conserving oil and gas and preventing the avoidable waste thereof within reasonable limitations.*

#### *Article VI*

*Each state joining herein shall appoint one representative to a commission hereby constituted and designated as The Interstate Oil Compact Commission, the duty of which shall be to make inquiry and ascertain from time to time such methods, practices, circumstances, and conditions as may be disclosed for bringing about conservation and the prevention of physical waste of oil and gas, and at such intervals as the Commission deems beneficial it shall report its findings and recommendations to the several states for adoption or rejection.*

*The Commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their several jurisdictions to promote the maximum ultimate recovery from the petroleum reserves of the states and to recommend measures for the maximum ultimate recovery of oil and*

*gas. The Commission shall adopt suitable rules and regulations for the conduct of its business.*

*No action shall be taken by the Commission except: (1) By the affirmative vote of the majority of the whole number of the compacting states represented at any meeting, and (2) by a concurring vote of a majority in interest of the compacting states at the meeting, such interest to be determined as follows: The vote of each state shall be in the decimal proportion fixed by the ratio of its daily average production during the preceding calendar half-year to the daily average production of the compacting states during that period.*

#### *Article VII*

*No state by joining herein shall become financially obligated to any other state, nor shall the breach of the terms hereof by any state subject that state to financial responsibility to the other states joining herein.*

#### *Article VIII*

*This compact shall continue in effect until Congress withdraws its consent. Any state joining herein may, upon sixty (60) days' notice, withdraw herefrom.*

*The representatives of the signatory states have signed this agreement in a single original which shall be deposited in the archives of the Department of State of the United States, and a duly certified copy shall be forwarded to the Governor of each of the signatory states.*

*This compact shall become effective when ratified and approved as provided in Article I. Any oil-producing state may become a party thereto by affixing its signature to a counterpart to be similarly deposited, certified and ratified.*

*§ 45.1-273. Governor to act as representative to Commission.—A. The Governor is hereby designated as the official representative of the Commonwealth of Virginia on the Interstate Oil Compact Commission provided for in the compact ratified by this chapter. The Governor shall exercise and perform for the Commonwealth all powers and duties imposed by the compact upon representatives to the Interstate Oil Compact Commission.*

*B. The Commissioner of the Department of Labor and Industry is hereby designated to be the assistant representative and shall act as the official representative of the Commonwealth on the Interstate Oil Compact Commission when the authority to so act is delegated to him by the Governor.*

**2. There is hereby appropriated from the funds of the Department of Labor and Industry the sum of \$2,000 for the purposes of contributing the annual membership fee of the Interstate Oil Compact Commission.**

