

Chapter 16. Virginia Gas and Oil Act

Article 1. General Provisions

§ 45.2-1600. (Effective October 1, 2021) Definitions

As used in this chapter, unless the context requires a different meaning:

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

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

"Barrel" means 42 U.S. gallons of liquids, including slurries, at a temperature of 60 degrees Fahrenheit.

"Board" means the Virginia Gas and Oil Board.

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

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

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

"Coal claimant" means a person identified as possessing an interest in production royalties when a drilling unit is force-pooled or who asserts or possesses a claim to funds that are held in escrow, for a force-pooled coalbed methane gas well, or in suspense, for a voluntarily pooled coalbed methane gas well, by virtue of owning an interest in the coal estate contained within the drilling unit subject to the pooling order or agreement.

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

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

"Coal seam" means any stratum of coal 20 inches or more in thickness. "Coal seam" includes a stratum of less than 20 inches in thickness if it (i) is being commercially worked or (ii) in the judgment of the Department could foreseeably be commercially worked and will require protection if a well is drilled through it.

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

equivalent.

"Cubic foot of gas" means the volume of gas contained in one cubic foot of space at a standard pressure base of 14.73 pounds per square foot and a standard temperature base of 60 degrees Fahrenheit.

"DEQ" means the Department of Environmental Quality.

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

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

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

"Evidence of a proceeding or agreement" means written evidence that the coal claimant has (i) filed and has pending a judicial or arbitration proceeding against the gas claimant to determine the ownership of the coalbed methane gas and the right to the funds held in escrow or suspense or (ii) reached an agreement with the gas claimant to apportion the funds between them.

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

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

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

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

"Gas claimant" means a person who is identified as possessing an interest in production royalties when a drilling unit is forced-pooled or who asserts or possesses a claim to funds that are held in escrow, for a force-pooled coalbed methane gas well, or in suspense, for a voluntarily pooled coalbed methane gas well, by virtue of owning an interest in the gas estate contained within the drilling unit subject to the pooling order or agreement.

"Gas or oil operations" means any (i) activity relating to drilling, re-drilling, deepening, stimulating, production, enhanced recovery, converting from one type of a well to another, combining or physically changing to allow the migration of fluid from one formation to another,

or plugging or replugging any well; (ii) ground-disturbing activity relating to the development, construction, operation, or abandonment of a gathering pipeline; (iii) development, operation, maintenance, or restoration of any site involved with gas or oil operations; or (iv) work undertaken at a facility used for gas or oil operations. "Gas or oil operations" embraces all of the land or property that is used for or that contributes directly or indirectly to a gas or oil operation, including all roads.

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

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

"Gas title conflicts" means conflicting ownership claims between gas claimants. "Gas title conflicts" does not include conflicting ownership claims between a gas claimant and a coal claimant.

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

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

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

"Ground-disturbing" means any changing of land that could result in soil erosion from water or wind and the movement of sediments into state waters, including clearing, grading, excavating, drilling, and transporting and filling of land.

"Ground-disturbing geophysical exploration" or "geophysical operation" means any activity in search of gas or oil that breaks or disturbs the surface of the earth, including road construction or core drilling. The term does not include the conduct of (i) a gravity, magnetic, radiometric, or similar geophysical survey or (ii) a vibroseis or similar seismic survey.

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

"Inspector" means the Virginia Gas and Oil Inspector appointed by the Director pursuant to [§ 45.2-1604](#) or such other public officer, employee, or other authority who in an emergency acts instead of, or by law is assigned the duties of, the Virginia Gas and Oil Inspector.

"Log" means the written record progressively describing all strata, water, oil, or gas encountered in drilling, depth and thickness of each bed or seam of coal drilled through, quantity of oil, volume of gas, pressures, rate of fill-up, freshwater-bearing and saltwater-bearing horizons and depths, cavings strata, casing records, and other information usually recorded in the normal procedure of drilling. "Log" includes electrical survey records or electrical survey logs.

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

"Mineral" means the same as that term is defined in § [45.2-1200](#).

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

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

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

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

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

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

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

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

"Person under a disability" means the same as that term is defined in § [8.01-2](#).

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

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

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

coalbed methane gas.

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

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

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

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

"Stimulation" means any action taken by a gas or oil operator to increase the inherent productivity of a gas or oil well, including 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, or other agents that affect the gas or oil being produced, as distinguished from the producing formation.

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

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

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

"Waste from gas, oil, or geophysical operations" means any substance other than gas or oil that is produced or generated during or results from (i) the development, drilling, and completion of any well and associated facility or the development and construction of gathering pipelines or (ii) well, pipeline, and associated facility operations, including brines and produced fluids other than gas or oil. "Waste from gas, oil, or geophysical operations" includes all rubbish and debris, including all material generated during or resulting from well plugging, site restoration, or the removal and abandonment of gathering pipelines and associated facilities.

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

or public use.

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

1982, c. 347, § 45.1-288; 1984, c. 590; 1987, c. 452; 1988, c. 160; 1990, c. 92, § 45.1-361.1; 1992, c. 812; 1993, c. 254; 2015, c. 396; 2021, Sp. Sess. I, c. 387.

§ 45.2-1601. (Effective October 1, 2021) Regulation of coal surface mining not affected by chapter

Nothing in this chapter shall be construed as limiting the powers of the Director relating to coal surface mining operations and reclamation. The provisions of Chapter 10 (§ 45.2-1000 et seq.), including requirements for permits and bonds, shall apply to gas, oil, or geophysical operations located on any area for which a coal surface mining permit is in effect and shall be in addition to the requirements for gas, oil, or geophysical operations set forth in this chapter, except that well work and the operation of pipelines on an area that has been reclaimed by the surface mine operator or the Director shall be treated as postmining uses. The Director shall give special consideration to the development and adoption of variances from the postmining use requirements of Chapter 10 for gas, oil, or geophysical operations; however, all such variances shall be consistent with the provisions of Chapter 10.

1982, c. 347, § 45.1-289; 1984, c. 590; 1990, c. 92, § 45.1-361.2; 2013, cc. 47, 129; 2021, Sp. Sess. I, c. 387.

§ 45.2-1602. (Effective October 1, 2021) Construction; purposes

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

1. To foster, encourage, and promote the safe and efficient exploration for and development, production, utilization, and conservation of the Commonwealth's gas and oil resources;
2. To provide a method of gas and oil conservation for maximizing exploration, development, production, and utilization of gas and oil resources;
3. To recognize and protect the rights of any person owning an interest in gas or oil resources contained within a pool;
4. To ensure the safe recovery of coal and other minerals;
5. To maximize the production and recovery of coal without substantially affecting the right of a gas or oil owner proposing to drill a gas or oil well to explore for and produce gas or oil;
6. To protect the citizens and the environment of the Commonwealth from the public safety and environmental risks associated with the development and production of gas or oil; and

7. To recognize that the use of the surface for gas or oil development shall be only the use that is reasonably necessary to obtain the gas or oil.

1982, c. 347, § 45.1-290; 1990, c. 92, § 45.1-361.3; 2021, Sp. Sess. I, c. 387.

§ 45.2-1603. (Effective October 1, 2021) Virginia Gas and Oil Board; membership; compensation

A. The Virginia Gas and Oil Board is established as a policy board in the executive branch of state government. The purpose of the Board is to carry out the provisions of this chapter.

B. The Board shall have a total membership of seven members that shall consist of six nonlegislative citizen members and one ex officio member. Nonlegislative citizen members of the Board shall be appointed to be appointed by the Governor, subject to confirmation by the General Assembly, as follows: one who is a representative of the gas and oil industry and not the coal industry, one who is a representative of the coal industry and not the gas and oil industry, and four who are not representatives of the gas, oil, or coal industry. The Director or his designee shall serve ex officio with voting privileges. A chairman shall be designated by the Governor from among the membership of the Board.

C. All vacancies occurring on the Board shall be filled in the same manner as the original appointment within 60 days of the occurrence of the vacancy. The ex officio member of the Board shall serve terms coincident with such member's term of office. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of six years from the day on which the term of their immediate predecessor expired. All members may be reappointed. Nonlegislative citizen members of the Board shall be citizens of the Commonwealth, and the Governor shall seek to appoint persons who reside in localities with significant oil or gas production or storage.

D. Each member of the Board shall receive compensation for the performance of his duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Department.

1982, c. 347, § 45.1-295; 1985, c. 448; 1987, c. 452; 1988, c. 483; 1989, c. 529; 1990, c. 92, § 45.1-361.13; 1998, c. 159; 2021, Sp. Sess. I, c. 387.

§ 45.2-1604. (Effective October 1, 2021) Duties and responsibilities of the Director; Virginia Gas and Oil Inspector

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

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

1990, c. 92, § 45.1-361.4; 2021, Sp. Sess. I, c. 387.

§ 45.2-1605. (Effective October 1, 2021) Exclusivity of regulation and enforcement

No locality or other political subdivision of the Commonwealth shall impose any condition or

require any other local license, permit, fee, or bond that varies from or is in addition to the requirements of this chapter to perform any gas, oil, or geophysical operation. However, no provision of this chapter shall be construed to limit or supersede the jurisdiction or requirements of any other state agency, local land-use ordinance, regulation of general purpose, or § 58.1-3712, 58.1-3713, 58.1-3713.3, 58.1-3713.4, 58.1-3741, 58.1-3742, or 58.1-3743.

1990, c. 92, § 45.1-361.5; 2013, cc. 305, 618; 2016, c. 305; 2021, Sp. Sess. I, c. 387.

§ 45.2-1606. (Effective October 1, 2021) Confidentiality

The Director shall hold confidential all logs, surveys, and reports relating to the drilling, completion, and testing of a well that are filed by a gas or oil operator under this chapter for a period of 90 days after the completion of the well or 18 months after the total depth of the well has been reached, whichever occurs first. Upon receipt of a gas, oil, or geophysical operator's written request, the Director shall hold confidential such information concerning an exploratory well or corehole for a period of two years after completion of the well or four years from the date such well or hole reaches total depth, whichever occurs first. The Director, for good cause shown by the gas, oil, or geophysical operator, may annually extend the period of time for which information regarding exploratory drilling is held confidential. However, the Director shall upon request provide a copy of any survey or log for strata through the lowest coal seam to the coal owner.

1990, c. 92, § 45.1-361.6; 2021, Sp. Sess. I, c. 387.

§ 45.2-1607. (Effective October 1, 2021) Expenditure of funds

All funds, except civil penalties collected pursuant to § 45.2-1608, collected by or appropriated to the Department pursuant to the provisions of this chapter shall be expended only for the purpose of carrying out the provisions of this chapter.

1990, c. 92, § 45.1-361.7; 2021, Sp. Sess. I, c. 387.

§ 45.2-1608. (Effective October 1, 2021) Violations; penalties

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

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

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

1982, c. 347, §§ 45.1-358, 45.1-360; 1984, c. 590; 1990, c. 92, § 45.1-361.8; 2021, Sp. Sess. I, c. 387

§ 45.2-1609. (Effective October 1, 2021) Appeals; venue; standing

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

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

C. The Director and all parties required to be given notice of hearings of the Board pursuant to the provisions of § 45.2-1618 shall have standing to appeal any order or decision of the Board that directly affects them. The permittee or permit applicant, the Director, and those parties with standing to object pursuant to the provisions of § 45.2-1632 shall have standing to appeal any order or decision of the Board that directly affects them. However, except for an aggrieved permit applicant or the Director, no person shall have standing to appeal a decision of the Board concerning a permit application unless such person has previously filed an objection with the Director pursuant to the provisions of § 45.2-1637. The filing of any petition for appeal concerning the issuance of a new permit that was objected to pursuant to the provisions of § 45.2-1611 or 45.2-1612 or by a gas storage field operator who asserts that the proposed well work will adversely affect the operation of a gas storage field certificated by the State Corporation Commission shall automatically stay the permit until such stay is dissolved or the appeal is decided by the circuit court. However, in an appeal by a gas storage field operator, such automatic stay shall not apply to an oil, gas, or coalbed methane well completed more than 100 feet above the cap rock above the storage stratum.

1990, c. 92, § 45.1-361.9; 1997, c. 759; 2021, Sp. Sess. I, c. 387.

§ 45.2-1610. (Effective October 1, 2021) Copy of lease to lessor

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

1982, c. 347, § 45.1-352; 1990, c. 92, § 45.1-361.10; 2021, Sp. Sess. I, c. 387.

§ 45.2-1611. (Effective October 1, 2021) Objections by coal owner

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

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

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

indicates that the proposed activity will be unsafe:

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

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

1. The extent to which the proposed drilling unit or drilling location or coalbed methane gas well stimulation will unreasonably interfere with present or future coal mining operations;
2. The feasibility of moving the proposed drilling unit or drilling location to a mined-out area, an area below the coal outcrop, or some other area;
3. The feasibility of a drilling moratorium for not more than two years in order to permit the completion of coal mining operations;
4. The methods proposed for the recovery of coal and gas;
5. The practicality of locating the unit or the well on a uniform pattern with other units or wells;
6. The surface topography and use; and
7. Whether the decision will substantially affect the right of the gas operator to explore for and produce the gas.

D. The factors in subsection C are not intended to and shall not be construed to authorize the Director, or the Board under § 45.2-1638, to supersede, impair, abridge, or affect any contractual rights or obligations existing between the respective owners of coal and gas or any interest therein.

1982, c. 347, § 45.1-318; 1990, c. 92, § 45.1-361.11; 2021, Sp. Sess. I, c. 387.

§ 45.2-1612. (Effective October 1, 2021) Distance limitations of certain wells

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

B. The distance limitation established by this section shall not apply if (i) the proposed well will be drilled through an existing or planned pillar of coal required for protection of a preexisting

well drilled to any depth and (ii) the proposed well will neither require enlargement of the pillar nor otherwise have an adverse effect on existing or planned coal mining operations.

1982, c. 347, § 45.1-319; 1990, c. 92, § 45.1-361.12; 2021, Sp. Sess. I, c. 387.

Article 2. Gas and Oil Conservation

§ 45.2-1613. (Effective October 1, 2021) Meetings of the Board; notice; general powers and duties

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

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

1982, c. 347, § 45.1-296; 1987, c. 452; 1990, c. 92, § 45.1-361.14; 2021, Sp. Sess. I, c. 387.

§ 45.2-1614. (Effective October 1, 2021) Additional duties and responsibilities of the Board

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

1. Foster, encourage, and promote the safe and efficient exploration for and development, production, and conservation of gas and oil resources located in the Commonwealth;
2. Administer a method of gas and oil conservation for the purpose of maximizing exploration, development, production, and utilization of gas and oil resources;
3. Administer procedures for the recognition and protection of the rights of gas or oil owners with interests in gas or oil resources contained within a pool;
4. Promote the maximum production and recovery of coal without substantially affecting the right of a gas owner proposing a gas well to explore for and produce gas; and
5. Hear and decide appeals of the Director's decisions and orders issued under Article 3 (§ 45.2-1629 et seq.).

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

1. Prevent waste through the design, spacing, or unitization of wells, pools, or fields.
2. Protect correlative rights.
3. Enter spacing and pooling orders.
4. Establish drilling units.
5. Establish maximum allowable production rates for the prevention of waste and the protection of correlative rights.

6. Provide for the maximum recovery of coal.
7. Classify pools and wells as gas, oil, gas and oil, or coalbed methane gas.
8. Collect data, make investigations and inspections, examine property, leases, papers, books, and records, and require or provide for the keeping of records and the making of reports.
9. Set application fees.
10. Govern practices and procedures before the Board.
11. Require additional data from parties to any hearing.
12. Take actions reasonably necessary to carry out the provisions of this chapter.

1982, c. 347, § 45.1-296; 1987, c. 452; 1990, c. 92, § 45.1-361.15; 2021, Sp. Sess. I, c. [387](#).

§ 45.2-1615. (Effective October 1, 2021) Applicability and construction

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

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

1982, c. 347, § 45.1-300; 1987, c. 452; 1990, c. 92, § 45.1-361.16; 2021, Sp. Sess. I, c. [387](#).

§ 45.2-1616. (Effective October 1, 2021) Statewide spacing of wells

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

1. No well drilled in search of oil shall be located closer than 1,250 feet to any well completed in the same pool; however, this spacing requirement is subject to [§ 45.2-1612](#);

2. No well drilled in search of gas shall be located closer than 2,500 feet to any other well completed in the same pool or closer than 2,500 feet to any storage well within the boundary of a gas storage field certificated by the State Corporation Commission prior to January 1, 1997, if the well to be drilled is to be completed within the same horizon as the certificated gas storage field; and

3. No well shall be drilled closer to the boundary of the acreage supporting the well, whether such acreage is a single leasehold or other tract or a contractual or statutory drilling unit, than one-half of the applicable minimum well spacing distance prescribed in this section.

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

1. No well drilled in search of coalbed methane gas shall be located closer than 1,000 feet to any other coalbed methane gas well, or in the case of a coalbed methane gas well located in the gob, closer than 500 feet to any other coalbed methane gas well located in the gob.

2. No coalbed methane gas well shall be drilled closer than 500 feet, or in the case of a well

located in the gob, closer than 250 feet, from the boundary of the acreage supporting the well, whether such acreage is a single leasehold or other tract or a contractual or statutory drilling unit.

3. The spacing limitations set forth in this subsection are subject to the provisions of §§ [45.2-1611](#) and [45.2-1612](#).

1990, c. 92, § 45.1-361.17; 1996, c. [854](#);1997, c. [759](#);2021, Sp. Sess. I, c. [387](#).

§ 45.2-1617. (Effective October 1, 2021) Voluntary pooling of interests in drilling units; validity of unit agreements

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

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

1982, c. 347, § 45.1-302; 1987, c. 452; 1989, c. 529; 1990, c. 92, § 45.1-361.18; 2021, Sp. Sess. I, c. [387](#).

§ 45.2-1618. (Effective October 1, 2021) Notice of hearing; standing; form of hearing

A. Any person who applies for a hearing in front of the Board pursuant to the provisions of § [45.2-1619](#), [45.2-1620](#), or [45.2-1622](#) shall simultaneously with the filing of such application provide notice by commercial delivery service, return receipt requested, or certified mail, return receipt requested, to each gas or oil owner, coal owner, or mineral owner having an interest underlying the tract that is the subject of the hearing and to the operator of any gas storage field certificated by the State Corporation Commission as a public utility facility whose certificated area includes the tract that is the subject of the hearing. Whenever a hearing applicant is unable to provide such written notice because the identity or location of a person to whom notice is required to be given is unknown, the hearing applicant shall promptly notify the Board of such inability.

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

C. The Board shall conduct all hearings on any application made to it pursuant to the formal litigated issues hearing provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.). The applicant and any person to whom notice is required to be given pursuant to subsection A shall have standing to be heard at the hearing. The Board shall render its decision on such application within 30 days of the hearing's closing date and shall provide notification of its decision to all parties to the hearing pursuant to the provisions of the Administrative Process Act.

1982, c. 347, § 45.1-304; 1989, c. 529; 1990, c. 92, § 45.1-361.19; 1997, c. [759](#);2008, c. [534](#);2019, c. [351](#);2021, Sp. Sess. I, c. [387](#).

§ 45.2-1619. (Effective October 1, 2021) Field rules and drilling units for wells; hearings and orders

A. In order to prevent the waste of gas or oil or the drilling of unnecessary wells or to protect correlative rights, the Board on its own motion or upon application of the gas or oil owner may establish or modify drilling units. Drilling units, to the extent reasonably possible, shall be of uniform shape and size for an entire pool. Any gas, oil, or royalty owner may apply to the Board for the establishment of field rules and the creation of drilling units for the field. Unless such motion is made or an application is received at least 30 days prior to the next regularly scheduled monthly meeting of the Board, it shall not be heard by the Board at such meeting and shall be heard at the next meeting of the Board thereafter.

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

1. Whether the proposed drilling unit is an unreasonable or arbitrary exercise of a gas or oil owner's right to explore for or produce gas or oil;
2. Whether the proposal would unreasonably interfere with the present or future mining of coal or other minerals;
3. The acreage to be included in the order;
4. The acreage to be embraced within each drilling unit and its shape;
5. The area within which wells may be drilled on each unit; and
6. The allowable production of each well.

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

D. If an order to establish or modify a drilling unit will allow a well to be drilled into or through a coal seam, any coal owner within the area to be covered by the drilling unit may object to the establishment of the drilling unit. Upon a coal owner's objection, and without superseding, impairing, abridging, or affecting any contractual rights or obligations existing between coal and gas owners, the Board shall make its determination in accordance with the provisions of §§ [45.2-1611](#) and [45.2-1612](#).

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

F. Unless otherwise provided for by the Board, after an application for a hearing to establish or

modify drilling units or pool boundaries has been filed, no additional well shall be permitted in the pool until the Board's order establishing or modifying the pool or units has been entered.

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

1982, c. 347, § 45.1-301; 1987, c. 452; 1989, c. 529; 1990, c. 92, § 45.1-361.20; 2021, Sp. Sess. I, c. 387.

§ 45.2-1620. (Effective October 1, 2021) Pooling of interests in drilling units

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

1. Two or more separately owned tracts are embraced in a drilling unit;
2. There are separately owned interests in all or part of any such drilling unit and those owners having interests have not agreed to pool their interests; or
3. There are separately owned tracts embraced within the minimum statewide spacing requirements prescribed in § 45.2-1616.

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

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

C. Every pooling order entered by the Board pursuant to the provisions of this section shall:

1. Authorize the drilling and operation of a well, including the stimulation of all coal seams in the case of a coalbed methane well when authorized pursuant to clause (iii) of subdivision F 2 b of § 45.2-1631, subject to the permit provisions contained in Article 3 (§ 45.2-1629 et seq.);
2. Include the time and date when such order expires;
3. Designate the gas or oil owner who is authorized to drill and operate the well. Except in the case of a coalbed methane gas well, such designated operator shall possess the right to conduct operations or possess the written consent of owners with the right to conduct operations on at least 25 percent of the acreage included in the unit;
4. Prescribe the conditions under which a gas or oil owner may become a participating operator or exercise a right of election under subdivision 7;
5. Establish the sharing of all reasonable costs, including a reasonable supervision fee, between participating operators so that each participating operator pays the same percentage of such costs as his acreage bears to the total unit acreage;

6. Require that any nonleasing gas or oil owner be provided with reasonable access to unit records submitted to the Director or Inspector;

7. Establish a procedure for a gas or oil owner who received notice of the hearing but does not decide to become a participating operator to elect to (i) sell or lease his gas or oil ownership to a participating operator, (ii) enter into a voluntary agreement to share in the operation of the well at a rate of payment mutually agreed to by the gas or oil owner and the gas or oil operator authorized to drill the well, or (iii) share in the operation of the well as a nonparticipating operator on a carried basis after the proceeds allocable to his share equal the following:

- a. In the case of a leased tract, 300 percent of the share of such costs allocable to his interest; or
- b. In the case of an unleased tract, 200 percent of the share of such costs allocable to his interest.

D. Any gas or oil owner whose identity and location remain unknown at the conclusion of a hearing concerning the establishment of a pooling order for which public notice was given shall be deemed to have elected to lease his interest to the gas or oil operator at a rate to be established by the Board. The Board shall cause to be established an escrow account into which the unknown lessor's share of proceeds shall be paid and held for his benefit. Such escrowed proceeds shall be deemed to be unclaimed property and shall be disposed of pursuant to the provisions of the Virginia Disposition of Unclaimed Property Act (§ 55.1-2500 et seq.). Upon discovery of the identity and location of any unknown owner of an interest that is subject to escrow under the provisions of this subsection and is not subject to conflicting claims of ownership, the designated operator shall, within 30 days, file with the Board a petition for disbursement of funds to be considered at the next available hearing. The petition shall include a detailed accounting of all funds deposited in escrow that are subject to the proposed disbursement.

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

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

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

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

1982, c. 347, § 45.1-302; 1987, c. 452; 1989, c. 529; 1990, c. 92, § 45.1-361.21; 1995, c. 269; 1996, c. 854; 2006, c. 498; 2021, Sp. Sess. I, c. 387.

§ 45.2-1621. (Effective October 1, 2021) Coalbed methane gas; ownership

No conveyance, reservation, or exception of coal shall be deemed to include coalbed methane gas. Nothing in this section shall affect a coal operator's right to vent coalbed methane gas for safety purposes or release coalbed methane gas in connection with mining operations. The provisions of this section shall not affect any settlement of any dispute, or any judgment or

governmental order, as to the ownership or development of coalbed methane gas made or entered into prior to April 13, 2010.

2010, cc. [730](#), [762](#), § 45.1-361.21:1; 2021, Sp. Sess. I, c. [387](#).

§ 45.2-1622. (Effective October 1, 2021) Pooling of interests for coalbed methane gas wells; conflicting claims to ownership

A. If there are conflicting claims to the ownership of coalbed methane gas, the Board, upon application from any claimant, shall enter an order pooling all interests or estates in the coalbed methane gas-drilling unit for the development and operation thereof.

B. In addition to the provisions of § [45.2-1620](#), the following provisions shall apply to the order provided in subsection A:

1. Simultaneously with the filing of such application, the gas or oil owner applying for the order shall provide notice pursuant to the provisions of § [45.2-1618](#) to each person identified by the applicant as a potential owner of an interest in the coalbed methane gas underlying the tract that is the subject of the hearing.

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

3. The coalbed methane gas well operator shall deposit into the escrow account any money paid by a person claiming a contested ownership interest as a participating operator's share of costs pursuant to the provisions of § [45.2-1620](#) and the order of the Board.

4. The coalbed methane gas well operator shall deposit into the escrow account one-eighth of all proceeds attributable to the conflicting interests plus all proceeds in excess of ongoing operational expenses attributable to a participating or nonparticipating operator as provided for under § [45.2-1620](#) and the order of the Board.

5. The Board shall order payment of principal and accrued interest, less escrow account fees, from the escrow account to conflicting claimants only after (i) a final decision of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between them is issued, (ii) a determination is reached by an arbitrator pursuant to § [45.2-1623](#), or (iii) an agreement is reached among all claimants owning conflicting estates in the tract in question or any undivided interest therein. Upon receipt of an affidavit from conflicting claimants affirming such decision, determination, or agreement, the designated operator shall, within 30 days, file with the Board a petition for disbursement of funds on behalf of the conflicting claimants. The petition shall include a detailed accounting of all funds deposited in escrow that are subject to the proposed disbursement. The amount to be paid to the conflicting claimants shall be determined on the basis of (a) the percentage of ownership interest of the conflicting claimants as shown in the operator's supplemental filing, made part of the pooling order that established the escrow account; (b) the operator's records of deposits attributable to those tracts for which funds are being requested; and (c) the records of the escrow account for the coalbed methane gas-drilling unit. The petition for disbursement shall be placed on the first available Board docket. Funds shall be disbursed within 30 days after the Board decision and receipt by the Department of all documentation required by the Board. The interests of any covenants that have not been resolved by the agreement or by judicial decision shall remain in the escrow account.

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

1990, c. 92, § 45.1-361.22; 1999, c. 122; 2006, c. 498; 2010, c. 442; 2021, Sp. Sess. I, c. 387.

§ 45.2-1623. (Effective October 1, 2021) Conflicting claims of ownership; arbitration

A. The Board shall enter an order requiring that the matter of disputed ownership be submitted to arbitration and notify the circuit court in the jurisdiction in which the majority of the subject tract is located (i) upon written request from all claimants to the ownership of coalbed methane gas related to the subject tract under § 45.2-1622; (ii) upon receipt of an affidavit executed by all such claimants affirming that there is no other known surface owner, gas or oil owner, coal owner, mineral owner, or operator of a gas storage field certificated by the State Corporation Commission having an interest underlying the subject tract; (iii) after a hearing noticed pursuant to subsection B of § 45.2-1618; and (iv) upon a determination by the Department whether sufficient funds are available to pay the estimated costs of the arbitration pursuant to subsection F. Within 30 days of receipt of the notice from the Board, the circuit court shall appoint an attorney from the list maintained by the Department pursuant to subsection C or, at the discretion of the court, another attorney meeting the qualifications set forth in subsection C. Prior to his appointment as an arbitrator of a particular dispute, the attorney shall certify to the circuit court that he has not derived more than 10 percent of his income during any of the preceding three years from any (a) claimants asserting ownership or rights in the subject tract or (b) affiliated entities or immediate family members of such claimants. If the attorney cannot provide such certification, he shall notify the circuit court and he will be disqualified from serving as arbitrator for that particular dispute.

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

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

D. The arbitrator shall determine a time and place for the arbitration hearing and cause written notification of such hearing to be served on each surface owner, gas or oil owner, coal owner, mineral owner, or operator of a gas storage field certificated by the State Corporation Commission having an interest underlying the tract that is the subject of the hearing. Parties shall be served personally or by certified mail, return receipt requested, not less than 14 days before the hearing. Appearance at the hearing waives such party's right to challenge notice. Any party to the arbitration has the right to representation before the arbitrator pursuant to § 8.01-

[581.05](#). In accordance with § [8.01-581.06](#), the arbitrator may issue subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence; administer oaths; and, upon application by a party to the arbitration, permit the taking of depositions for use as evidence. The arbitrator shall hear and determine the controversy upon the evidence and consistent with applicable law, notwithstanding the failure of a party to appear at the hearing.

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

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

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

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

2010, c. [442](#), § 45.1-361.22:1; 2021, Sp. Sess. I, c. [387](#).

§ 45.2-1624. (Effective October 1, 2021) Release of funds held in escrow or suspense because of conflicting claims to coalbed methane gas

A. For a coalbed methane gas well that was force-pooled prior to July 1, 2015, the coalbed methane gas well operator shall, on or before January 1, 2016, apply to the Board for the release of the funds in escrow and give written notice of such application to every conflicting claimant identified in the pooling orders, or to the successor of such claimant where the successor is known to the coalbed methane gas well operator or has identified himself to the coalbed methane gas well operator or the Board. Such notice shall be in accordance with the applicable provisions of § [45.2-1618](#) and, if any unknown person or unlocatable conflicting claimant is subject to escrow, such notice shall also be published in a newspaper of general circulation in the county or counties where the drilling unit is located once each week for four successive weeks. The application shall include a detailed accounting in accordance with subdivision B 5 of § [45.2-1622](#). The Board shall order payment of the principal and accrued interest, less escrow account fees, held in escrow, along with all future royalties attributable to the drilling unit, to each gas claimant identified in the pooling order unless, within 45 days of the coalbed methane gas well operator's notice of its application, the coal claimant provides the Board and the coalbed methane gas well operator with evidence of a proceeding or agreement. The Board, pursuant to its authority granted by § [45.2-1614](#), may extend the time for filing the application and delay the payment of funds for a gas title conflict, the existence of an unknown gas claimant, the existence of an unlocatable gas claimant, an unresolved gas heirship issue, or any other reason beyond the reasonable control of the coalbed methane gas well operator and shall not order payment if the gas claimant fails to provide the Board with information needed under applicable law or regulation to distribute the funds.

B. For a coalbed methane gas well force-pooled on or after July 1, 2015, the Board, in its pooling order, shall direct the coalbed methane gas well operator to pay royalties to the gas claimant unless the coal claimant provides the coalbed methane gas well operator and the Board with evidence of a proceeding or agreement not later than the time and place of the pooling hearing. The coalbed methane gas well operator shall provide written notice of the hearing to every gas claimant and coal claimant in accordance with § 45.2-1618. However, the Board, pursuant to its authority granted by § 45.2-1614, shall not order the coalbed methane gas well operator to make payment to a gas claimant if there exists any gas title conflict, unknown gas claimant, unlocatable gas claimant, unresolved gas heirship issue, or other reason beyond the reasonable control of the coalbed methane gas well operator or if the gas claimant fails to provide the coalbed methane gas well operator with the information required under applicable law or regulation to pay royalties. If the Board so declines to order payment to be made to a gas claimant, the coalbed methane gas well operator shall provide each affected gas claimant and the Board with written notice of the reason payment is not required to be made in accordance with the applicable provisions of § 45.2-1618. If payment is not required to be made due to the gas claimant's failure to provide needed information under applicable law or regulation, the notice shall identify the information that is needed to enable the payment to be made.

C. For a coalbed methane gas well voluntarily pooled at any time, the coalbed methane gas well operator shall pay royalties, including past royalties held, to each gas claimant unless, within 45 days of the coalbed methane gas well operator's provision of written notice to the coal claimant that the operator will be paying royalties to the gas claimants, the coal claimant provides the coalbed methane gas well operator and each gas claimant with evidence of a proceeding or agreement. For any unit voluntarily pooled before July 1, 2015, the coalbed methane gas well operator shall provide such written notice to each gas claimant and coal claimant on or before January 1, 2016. For any unit voluntarily pooled on or after July 1, 2015, the coalbed methane gas well operator shall provide such written notice to each gas claimant and coal claimant not later than 45 days after production commences. However, the coalbed methane gas well operator shall not be required to make payment to a gas claimant if there exists any gas title conflict, unknown gas claimant, unlocatable gas claimant, unresolved gas heirship issue, or other reason beyond the reasonable control of the coalbed methane gas well operator or if the gas claimant fails to provide the coalbed methane gas well operator with information to process or pay royalties. If the Board so declines to order payment to be made to a gas claimant, the coalbed methane gas well operator shall provide each affected gas claimant with written notice of the reason payment is not required to be made in accordance with the applicable provisions of § 45.2-1618. If payment is not required to be made due to a gas claimant's failure to provide needed information, the notice shall identify the information that is needed to enable the payment to be made.

D. Any pending judicial or arbitration proceeding shall be pursued by the coal claimant with diligence and shall not be voluntarily dismissed or nonsuited without the consent of the gas claimant. No default judgment shall be entered against a gas claimant in such proceeding. Royalties shall be paid as determined by the final order in the proceeding. A prevailing gas claimant may recover from the nonprevailing coal claimant reasonable costs and attorney fees if such gas claimant substantially prevails on the merits of the case and the coal claimant's position is not substantially justified.

E. A coalbed methane gas well operator paying funds to a gas claimant in accordance with this

section shall have no liability to a coal claimant for the payments made by the coalbed methane gas well operator to a gas claimant.

F. This section shall not operate to extinguish any other right or cause of action or defense thereto, including any claim for an accounting or claim under § 8.01-31. Nothing in this section shall create, confer, or impose a fiduciary duty.

2015, c. 396, § 45.1-361.22:2; 2021, Sp. Sess. I, c. 387.

§ 45.2-1625. (Effective October 1, 2021) Appeals of the Director's decisions; notices; hearings and orders

A. With the exception of an aggrieved permit applicant, no person shall have standing to appeal a decision of the Director to the Board concerning a new permit application unless such person has previously filed an objection with the Director pursuant to the provisions of § 45.2-1637.

B. When a person applies for a hearing to appeal a decision of the Director to the Board, the Board shall, at least 20 days prior to the hearing, give notice by certified mail, return receipt requested, to the person making the appeal and, if different, to the gas or oil operator subject to the appeal.

C. Upon submittal of the petition for appeal of a decision of the Director to the Board, the Director shall forward to the Board (i) the permit application or order and associated documents; (ii) all required notices; and (iii) the written objections, proposals, and claims recorded during the informal fact-finding hearing.

D. In any appeal involving a permit for a new well that was objected to (i) pursuant to the provisions of § 45.2-1611 or 45.2-1612 or (ii) by a gas storage field operator who asserts that the proposed well work will adversely affect the operation of a gas storage field certificated by the State Corporation Commission, the filing of a petition for appeal shall stay any permit until the case is decided by the Board or the stay is dissolved by a court of record. However, in an appeal by a gas storage field operator, such automatic stay shall not apply to any oil, gas, or coalbed methane well completed more than 100 feet above the cap rock above the storage stratum. In any other appeal, the Director may order the permit or other decision stayed for good cause shown until the case is decided by the Board or the stay is dissolved by a court of record. An appeal based on an alleged risk of danger to any person not engaged in the gas or oil operations shall be prima facie proof of good cause for a stay.

E. The Board shall conduct all hearings under this section in accordance with the formal litigated issues hearing provisions of Article 3 (§ 2.2-4018 et seq.) of the Administrative Process Act. However, any person to whom notice is required to be given pursuant to subsection B shall have standing to be heard at the hearing. The Board shall render its decision on such appeals within 30 days of the hearing's closing date and shall provide notification of its decision to all parties pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

1990, c. 92, § 45.1-361.23; 1997, c. 759; 2021, Sp. Sess. I, c. 387.

§ 45.2-1626. (Effective October 1, 2021) Enforcement

The Director shall enforce the provisions of this article pursuant to the provisions of Article 3 (§ 45.2-1629 et seq.). In addition, if any person violates or threatens to violate any provision of this article, regulation adopted thereunder, or order of the Board, the Board may maintain suit to restrain any such violation or threatened violation.

1982, c. 347, § 45.1-306; 1990, c. 92, § 45.1-361.24; 2021, Sp. Sess. I, c. 387.

§ 45.2-1627. (Effective October 1, 2021) Standing when Director or Board fails to act

If the Director or Board fails to take enforcement action within 10 days of the Board's receipt of a petition alleging that the petitioner is or will be adversely affected by a violation or threatened violation of any provision of this article, regulation adopted thereunder, or order of the Board, the petitioner shall have standing to file a complaint in the appropriate circuit court. The Board, in addition to the person violating or threatening to violate the provision of this article, regulation adopted thereunder, or order of the Board, shall be made a party to any such action.

1982, c. 347, § 45.1-307; 1990, c. 92; 2021, Sp. Sess. I, c. 387.

§ 45.2-1628. (Effective October 1, 2021) Recording of orders

The Inspector shall cause a true copy of any order entered by the Board that establishes a drilling unit or pools any interests to be recorded in the office of the clerk of the circuit court of each locality wherein any portion of the relevant drilling unit is located. Such order shall be recorded in the record book in which gas or oil leases are normally recorded. The sole charge for recordation shall be a tax equal to \$10 plus \$1 per page of the order. From the time noted on the recordation by the clerk, the recordation shall be notice of the order to all persons.

1982, c. 347, § 45.1-308; 1990, c. 92, § 45.1-361.25; 2021, Sp. Sess. I, c. 387.

Article 3. Regulation of Gas and Oil Development and Production

§ 45.2-1629. (Effective October 1, 2021) Duties, responsibilities, and authority of the Director

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

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

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

1. The protection of the citizens and environment of the Commonwealth from the public safety and environmental risks associated with the development and production of gas or oil;

2. The means of ensuring the safe recovery of coal and other minerals without substantially affecting the right of coal, minerals, gas, oil, or geophysical operators to explore for and produce coal, minerals, gas, or oil; and

3. The protection of safety and health on permitted sites for coalbed methane wells and related facilities.

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

D. Whenever the Director determines that an emergency exists, he shall issue an emergency order without advance notice or hearing. Such order shall have the same validity as an order issued with advance notice and hearing but shall remain in force no longer than 30 days from its effective date. After issuing an emergency order, the Director shall promptly notify the public of the order by publication and hold a public hearing for the purposes of modifying, repealing, or making permanent the emergency order. An emergency order shall prevail as against a general regulation or order when in conflict with it. Emergency orders shall apply to gas, oil, or geophysical operations and to particular fields, geographical areas, subject areas, subject matters, or situations.

E. The Director also may:

1. Issue, condition, and revoke permits;

2. Issue notices of violation and orders upon the violation of any provision of this chapter or regulation adopted thereunder;

3. Issue closure orders in cases of imminent danger to persons or damage to the environment or upon a history of violations;

4. Require or forfeit bonds or other financial securities;

5. Prescribe the nature of and form for the presentation of any information or documentation required by any provision of this article or regulation adopted thereunder;

6. Maintain suit in the county or city where a violation has occurred or is threatened or wherever a person who has violated or threatens to violate any provision of this chapter is found in order to restrain the actual or threatened violation;

7. At reasonable times and under reasonable circumstances, enter upon any property and take action as necessary to administer and enforce the provisions of this chapter; and

8. Inspect and review all properties and records thereof as necessary to administer and enforce the provisions of this chapter.

F. The Director has no jurisdiction to hear objections with respect to any matter subject to the jurisdiction of the Board as set out in Article 2 (§ 45.2-1613 et seq.). Such objections shall be referred to the Board in a manner prescribed by the Director.

1982, c. 347, §§ 45.1-315, 45.1-316, 45.1-317; 1987, c. 452; 1989, c. 529; 1990, c. 92, § 45.1-361.35; 1996, c. 854; 1998, c. 228; 2002, c. 277; 2021, Sp. Sess. I, c. 387.

§ 45.2-1630. (Effective October 1, 2021) Powers, duties, and responsibilities of the Inspector

A. The Inspector shall administer the laws and regulations and shall have access to all records and properties necessary for this purpose. He shall perform all duties delegated by the Director pursuant to § 45.2-105 and maintain permanent records of the following:

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

B. The Inspector or another Department employee as determined by the Director shall serve as the principal executive of the staff of the Board.

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

1982, c. 347, § 45.1-293; 1987, c. 452; 1989, c. 164; 1990, c. 92, § 45.1-361.28; 2021, Sp. Sess. I, cc. 387, 532.

§ 45.2-1631. (Effective October 1, 2021) Permit required; gas, oil, or geophysical operations; coalbed methane gas wells; environmental assessment

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

B. For each permit issued on or after July 1, 1996, a new permit issued by the Director shall be issued only for the following activities: geophysical operations, drilling, casing, equipping, stimulating, producing, reworking an initially productive zone, plugging a well, or construction and operation of a gathering pipeline. An application for a new permit to conduct geophysical operations shall be accompanied by an application fee of \$130. An application for a new permit for any other activity shall be accompanied by an application fee of \$600.

C. For a permit issued prior to July 1, 1996, prior to commencing any reworking, deepening, or plugging of a well, or other activity not previously approved on the permitted site, a permittee shall first obtain a permit modification from the Director. Each application for a permit modification shall be accompanied by a permit modification fee of \$300. For a permit issued on or after July 1, 1996, prior to commencing any new zone completion, a permittee shall first obtain a permit modification from the Director.

D. Every permit and all operations provided for under this section shall conform to the regulations and orders of the Director and the Board. If permit terms or conditions required or provided for under this article are in conflict with any provision of a conservation order issued pursuant to the provisions of Article 2 (§ 45.2-1613 et seq.), the terms or conditions of the permit shall control. In such event, the operator shall return to the Board for reconsideration of the conservation order in light of the conflicting permit. Every permittee shall be responsible for all operations, activities, or disturbances associated with the permitted site.

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

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

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

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

b. The consent required by this subsection may be (i) contained in a lease or other such agreement; (ii) contained in an instrument of title; or (iii) in any case where a coal operator cannot be located or identified and the operator has complied with § 45.2-1618, provided by a pooling order entered pursuant to § 45.2-1620 or 45.2-1622 if such order contains a finding that the operator has exercised due diligence in attempting to identify and locate the coal operator, contained in such order. The consent required by this subsection shall be deemed to be granted for any tract where title to the coal is held by multiple owners if the applicant has obtained consent to stimulate from the cotenants holding a majority interest in the tract and none of the coal cotenants has leased the tract for coal development. The requirement of signed consent contained in this subsection shall in no way be considered to impair, abridge, or affect any contractual rights or objections arising out of a coalbed methane gas contract or coalbed methane gas lease entered into prior to January 1, 1990, between the applicant and any coal operator or any extension or renewal thereto, and the existence of such lease or contractual arrangement and any extension or renewal thereto shall constitute a waiver of the requirement for the applicant to file an additional signed consent.

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

G. No permit that is required by this chapter for an activity to be conducted within an area of Tidewater Virginia where drilling is authorized under subsection B of § 45.2-1646 shall be granted until the environmental impact assessment required by § 45.2-1646 has been conducted and the assessment has been reviewed by the Department.

H. The applicant for a permit for a gathering pipeline, oil or gas well, or coalbed methane well shall identify in the permit application any cemetery, as identified on a United States Geological Survey topographic map or located by routine field review, within 100 feet of the permitted activity.

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

1982, c. 347, § 45.1-311; 1985, c. 601; 1987, c. 452; 1988, c. 160, § 45.1-311.1; 1990, cc. 92, 967, § 45.1-361.29; 1994, c. 957; 1995, c. 269; 1996, c. 854; 1997, cc. 759, 765; 1998, c. 229; 2003, cc. 542, 550; 2008, c. 227; 2021, Sp. Sess. I, c. 387.

§ 45.2-1632. (Effective October 1, 2021) Notice of permit applications and permit modification applications required; content

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

1. Every surface owner, coal owner, and mineral owner on the tract to be drilled;
2. Every coal operator who has registered an operation plan with the Department for activities located on the tract to be drilled;
3. Every surface owner on a tract where the surface is to be disturbed;
4. Every gas, oil, or royalty owner (i) within one half of the distance specified in § 45.2-1616 for that type of well or one half of the distance to the nearest well completed in the same pool, whichever is less, or (ii) within the boundaries of a drilling unit established pursuant to the provisions of this chapter;
5. Every coal operator who has applied for or obtained a mining or prospecting permit with respect to a tract located within 500 feet of the proposed well location or, in the case of a proposed coalbed methane gas well location, within 750 feet thereof;
6. Every coal owner or mineral owner on a tract located within 500 feet of the proposed well location or, in the case of a proposed coalbed methane gas well location, within 750 feet thereof; and
7. Every operator of a gas storage field certificated by the State Corporation Commission as a public utility facility whose certificated area includes the well location or whose certificated boundary is within 1,250 feet of the proposed well location.

B. Within one day of the day on which the application for a permit modification for a gas or oil operation is filed, the applicant requesting such permit modification shall provide notice of the application to all persons listed in subsection A who may be directly affected by the proposed activity.

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

D. Each notice required to be given pursuant to subsection A, B, or C shall contain a statement of the time within which objections may be made and the name and address of the person to whom

objections shall be forwarded. Only a person entitled to notice under subsection A, B, or C shall have standing to object to the issuance of the proposed permit or permit modification for a gas, oil, or geophysical operation as the use may be. Upon receipt of notice, any person may waive in writing the time and right to object.

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

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

1982, c. 347, § 45.1-313; 1984, c. 590; 1987, c. 452; 1989, c. 529; 1990, c. 92, § 45.1-361.30; 1996, c. 854; 2008, c. 534; 2021, Sp. Sess. I, c. 387.

§ 45.2-1633. (Effective October 1, 2021) Bonding and financial security required

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

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

1. For one to 10 wells, \$25,000.
2. For 11 to 50 wells, \$50,000.
3. For 51 to 200 wells, \$100,000.
4. For more than 200 wells, \$200,000.

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

C. Any gas or oil operator who elects to post a blanket bond shall pay into the Gas and Oil Plugging and Restoration Fund those fees and assessments required under the provisions of § 45.2-1634.

1990, c. 92, § 45.1-361.31; 2019, c. 351; 2021, Sp. Sess. I, c. 387.

§ 45.2-1634. (Effective October 1, 2021) Gas and Oil Plugging and Restoration Fund

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Gas and Oil Plugging and Restoration Fund, referred to in this section as "the Fund." All payments made into the Fund by gas or oil operators, all collections of debt for expenditures made from the Fund, and all interest payments made into the Fund pursuant to the provisions of this section shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to the Fund. The Fund shall be established on the books of the Comptroller and any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director or his designee.

B. Each permittee operating under a blanket bond pursuant to § 45.2-1633 shall annually pay to the Fund an amount equal to \$50 multiplied by the number of permits he then holds, such payment to be submitted with the annual report required under § 45.2-1640, until the payments and interest accruing to the Fund totals \$100,000. Whenever the Director determines that the Fund's balance has fallen below \$25,000 due to uncollectible debts, the Director shall assess a fee of \$50 per permit per year on each permittee with a blanket bond until the Fund's balance once again reaches \$100,000.

C. Moneys in the Fund shall be used solely for the purpose of supplementing bond proceeds in order to pay for the full cost of plugging and restoration in the event of a blanket bond forfeiture.

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

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

F. In the event of a discontinuance of the Fund, any amounts remaining in the Fund shall be returned to each gas or oil operator with a blanket bond in proportion to the number of permits under the blanket bond of each operator.

1990, c. 92, § 45.1-361.32; 2021, Sp. Sess. I, c. 387.

§ 45.2-1635. (Effective October 1, 2021) Expiration of permits

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

1990, c. 92, § 45.1-361.33; 1996, c. 854; 2003, cc. 542, 550; 2021, Sp. Sess. I, c. 387.

§ 45.2-1636. (Effective October 1, 2021) Abandonment or cessation of well or corehole operation; plugging required

Upon the abandonment or cessation of the operation of any well or corehole, the gas, oil, or geophysical operator shall immediately fill and plug the well or corehole in the manner required

by regulations in force at the time of abandonment or the operation's cessation.

1990, c. 92, § 45.1-361.34; 2021, Sp. Sess. I, c. 387.

§ 45.2-1637. (Effective October 1, 2021) Objections to permits; hearing

A. Objections to a new permit or permit modification may be filed with the Director by any person having standing as set out in § 45.2-1632. Such objections shall be filed within 15 days of the objecting party's receipt of the notice required by § 45.2-1632. Any person objecting to a permit shall state the reasons for his objections.

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

1. The operations plan for soil erosion and sediment control is not adequate or not effective;
2. Measures in addition to the requirement for a well's water-protection string are necessary to protect freshwater-bearing strata;
3. The permitted work will constitute a hazard to the safety of any person;
4. Location of the coalbed methane well or coalbed methane well pipeline will unreasonably infringe on the surface owner's use of the surface, so long as a reasonable alternative site is available within the unit and granting the objection will not materially impair any right contained in an agreement, valid at the time of the objection, between the surface owner and the operator or their predecessors or successors in interest; and
5. If the surface owner is an interstate park commission, the location of the well or pipeline will unreasonably infringe on the surface owner's use of the surface, so long as a reasonable alternative site is available within the unit and granting the objection will not materially impair any right contained in an agreement, valid at the time of the objection, between the surface owner and the operator or their predecessors or successors in interest.

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

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

D. Objections to permits or permit modifications may be raised by a coal owner or operator pursuant to the provisions of §§ 45.2-1611 and 45.2-1612.

E. The only objections to permits or permit modifications that may be raised by a mineral owner are those that could be raised by a coal owner under § 45.2-1611, so long as the mineral owner makes the objection and affirmatively proves that it does in fact apply with equal force to the mineral in question.

F. The only objections to permits or permit modifications that may be raised by a gas storage

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

G. The Director shall fix a time and place for an informal fact-finding hearing concerning an objection filed pursuant to this section. The hearing shall be scheduled for not less than 20 nor more than 30 days after the objection is filed. The Director shall prepare a notice of the hearing, stating all objections and by whom each is made, and send a copy of such notice by certified mail, return receipt requested, at least 10 days prior to the hearing date to the permit applicant and to every person with standing to object as prescribed by § 45.2-1632.

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

1982, c. 347, §§ 45.1-315, 45.1-316, 45.1-317; 1987, c. 452; 1989, c. 529; 1990, c. 92, § 45.1-361.35; 1996, c. 854; 1998, c. 228; 2002, c. 277; 2021, Sp. Sess. I, c. 387.

§ 45.2-1638. (Effective October 1, 2021) Appeals of Director's decisions to the Board

A. Any person with standing under the provisions of § 45.2-1632 who is aggrieved by a decision of the Director may appeal to the Board, subject to the limitations imposed by subsection B, by petition to the Board filed within 10 days following the appealed decision.

B. No petition for appeal may raise any matter other than a matter that was raised by the Director or that the petitioner put in issue either by application or by an objection, proposal, or claim made and specified in writing at the informal fact-finding hearing held under § 45.2-1637 leading to the appealed decision.

1982, c. 347, § 45.1-325; 1984, c. 590; 1990, c. 92, § 45.1-361.36; 2021, Sp. Sess. I, c. 387.

§ 45.2-1639. (Effective October 1, 2021) Persons required to register; designated agents

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

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

1990, c. 92, § 45.1-361.37; 2021, Sp. Sess. I, c. 387.

§ 45.2-1640. (Effective October 1, 2021) Report of permitted activities and production required; contents

A. Each holder of a permit for a gas or oil well or gathering pipeline shall file monthly and annual reports of his activities as prescribed by the Director. Such reports shall be for the purpose of obtaining information regarding the production and sale of gas and oil resources, as well as information concerning the ownership and control of permitted activities. Filing of such reports by a permittee shall be a condition of such permit. Every annual report filed by a permittee shall contain a certification that such permittee has paid all severance taxes levied under the provisions of §§ [58.1-3712](#), [58.1-3713](#), and [58.1-3741](#).

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

1990, c. 92, § 45.1-361.38; 1992, c. 361; 2013, cc. [305](#), [618](#); 2016, c. [305](#); 2021, Sp. Sess. I, c. [387](#).

§ 45.2-1641. (Effective October 1, 2021) Developing a gas or oil well as a water well

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

1982, c. 347, § 45.1-350; 1990, c. 92, § 45.1-361.39; 2021, Sp. Sess. I, c. [387](#).

§ 45.2-1642. (Effective October 1, 2021) Orphaned Well Fund; orphaned wells

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Orphaned Well Fund, referred to in this section as "the Fund." All moneys appropriated to it and any surcharges collected pursuant to subsection D shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. The Fund shall be established on the books of the Comptroller. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys from the Fund shall be used solely for purposes of restoration and plugging of orphaned wells. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director or his designee.

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

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

D. Each operator who applies for a new permit for any activity other than geophysical operations

shall pay a \$200 surcharge per permit into the Fund. Such surcharge shall continue until the Director determines that all orphaned wells in the Commonwealth are properly plugged and their sites are properly stabilized.

E. In the event of a discontinuance of the Fund, any amounts remaining in the Fund shall be placed in the Gas and Oil Plugging Restoration Fund created pursuant to § 45.2-1634.

1990, c. 92, § 45.1-361.40; 2017, c. 18; 2021, Sp. Sess. I, c. 387.

§ 45.2-1643. (Effective October 1, 2021) Interference by injection wells with groundwater supply

A. For purposes of this section:

"Beneficial use" means the same as that term is defined in § 62.1-255.

"Groundwater" means the same as that term is defined in § 62.1-255.

B. Any person who owns or operates an injection well in a manner that proximately causes the contamination or diminution of groundwater used for a beneficial use by any person who resides within the lesser of (i) the area of review required by the U.S. Environmental Protection Agency for the permitting of such injection well or (ii) a one-half-mile radius of the well shall provide the person with a replacement water supply. A replacement water supply shall provide the person with water of equivalent quality and quantity as was provided by groundwater prior to the contamination or diminution of the water supply resulting from the operation of the injection well. A replacement water supply shall include the provision of necessary storage and service facilities.

C. This section shall apply to any injection well operating under a permit from the Director.

1992, c. 324, § 45.1-361.41; 1993, c. 276; 2021, Sp. Sess. I, c. 387.

§ 45.2-1644. (Effective October 1, 2021) Safety in coalbed methane gas, oil, and geophysical operations

The Director shall inspect permitted coalbed methane well and related facility operations to ensure the safety of persons on permitted sites. If an inspection reveals any hazardous condition that creates an imminent danger, the Director shall issue a closure order pursuant to § 45.2-1629 requiring the area to be cleared or the equipment removed from use, except for (i) work necessary to continue to vent methane from an active underground mine if such work can be done safely and (ii) any work necessary to correct or eliminate the imminent danger. The Director shall lift the closure order when he finds that the imminent danger has been corrected or eliminated. If an inspection reveals any other condition that creates a risk to the safety or health of any person on the permitted site, the Director shall notify the Department of Labor and Industry for actions under Title 40.1, as applicable.

1997, c. 421, § 45.1-361.42; 2021, Sp. Sess. I, c. 387.

**Article 4. Drilling for Gas or Oil in the Chesapeake Bay or Tidewater Virginia;
Hydraulic Fracturing**

§ 45.2-1645. (Effective October 1, 2021) Chesapeake Bay; drilling for gas or oil prohibited

Notwithstanding any other law, no person shall drill for gas or oil in the waters of the Chesapeake Bay or any of its tributaries. The provisions of this subsection shall be enforced consistent with the requirements of this chapter.

1989, c. 325; § 62.1-195.1; 1990, c. 967; 1992, cc. 480, 887; 1993, c. 239; 1994, c. 957; 2012, cc. 785, 819; 2013, cc. 756, 793; 2021, Sp. Sess. I, c. 387.

§ 45.2-1646. (Effective October 1, 2021) Tidewater Virginia; drilling for gas or oil prohibited in certain areas

A. In Tidewater Virginia, as defined in § 62.1-44.15:68, no person shall drill for gas or oil (i) within 500 feet of the shoreline of the waters of the Chesapeake Bay or any of its tributaries, as measured landward of the shoreline, or (ii) if it is farther than 500 feet from such shoreline, in any Chesapeake Bay Preservation Area, as defined in § 62.1-44.15:68, that a local government designates as a Resource Protection Area and incorporates into its local comprehensive plan. Resource Protection Areas shall be defined according to the criteria developed by the State Water Control Board pursuant to § 62.1-44.15:72.

B. If any person desires to drill for gas or oil in any area of Tidewater Virginia where drilling is not prohibited by the provisions of subsection A, he shall submit an environmental impact assessment to the Department as part of his application for a permit to drill. Such environmental impact assessment shall include:

1. The probabilities and consequences of accidental discharge of gas or oil into the environment during drilling, production, and transportation for:

- a. Finfish, shellfish, and other marine or freshwater organisms;
- b. Birds and other wildlife that use the air and water resources;
- c. Air and water quality; and
- d. Land and water resources;

2. Recommendations for minimizing any adverse economic, fiscal, or environmental impacts; and

3. An examination of the secondary environmental effects of induced economic development due to the drilling and production.

C. Upon receipt of an environmental impact assessment, the Department shall notify the Department of Environmental Quality to coordinate a review of the environmental impact assessment. DEQ shall:

1. Publish in the Virginia Register of Regulations a notice that is sufficient to identify the environmental impact assessment and provides an opportunity for public review of and comment on the assessment. The period for public review and comment shall not be less than 30 days from the date of publication;

2. Submit the environmental impact assessment to all appropriate state agencies to review the assessment and submit their comments to DEQ; and

3. Based upon the review by all appropriate state agencies and the public comments received, submit findings and recommendations to the Department within 90 days after notification and receipt of the environmental impact assessment from the Department.

D. The Department shall not grant a permit under § 45.2-1631 until it has considered the

findings and recommendations of DEQ.

E. DEQ shall, in conjunction with other state agencies and in conformance with the Administrative Process Act (§ 2.2-4000 et seq.), develop criteria and procedures to assure the orderly preparation and evaluation of environmental impact assessments required by this section.

F. A person may drill an exploratory well or a gas well in any area of Tidewater Virginia where drilling is not prohibited by the provisions of subsection A only if:

1. For directional drilling, the person has the permission of the owners of all lands to be directionally drilled into;
2. The person files an oil discharge contingency plan and proof of financial responsibility to implement the plan, both already filed with and approved by the State Water Control Board. For purposes of this section, such oil discharge contingency plan shall comply with the requirements set forth in § 62.1-44.34:15. The State Water Control Board's regulations governing the amount of any financial responsibility required shall take into account the type of operation, the location of the well, the risk of discharge or accidental release, the potential damage or injury to state waters or sensitive natural resource features or the impairment of their beneficial use that may result from discharge or release, the potential cost of containment and cleanup, and the nature and degree of injury or interference with general health, welfare, and property that may result from discharge or accidental release;
3. All land-disturbing activities resulting from the construction and operation of the permanent facilities necessary to implement the contingency plan and the area within the berm will be located outside any area described in subsection A;
4. The drilling site is stabilized with boards, gravel, or other materials that will result in minimal amounts of runoff;
5. Persons certified in blowout prevention are present at all times during drilling;
6. Conductor pipe is set as necessary from the surface;
7. Casing is set and pressure-grouted from the surface to a point at least 2,500 feet below the surface or 300 feet below the deepest known groundwater, as defined in § 62.1-255, for a beneficial use, as defined in § 62.1-10, whichever is deeper;
8. Freshwater-based drilling mud is used during drilling;
9. There is no onsite disposal of drilling muds, produced contaminated fluids, waste contaminated fluids, or other contaminated fluids;
10. Multiple blow-out preventers are employed; and
11. The person complies with all requirements of Chapter 16 (§ 45.2-1600 et seq.) and regulations adopted thereunder.

G. The provisions of subsection A and subdivisions F 1 and 4 through 9 shall be enforced consistent with the requirements of Chapter 16 (§ 45.2-1600 et seq.).

H. If exploration activities in Tidewater Virginia result in a finding by the Director that

production of commercially recoverable quantities of oil is likely and imminent, the Director shall notify the Secretary of Commerce and Trade and the Secretary of Natural and Historic Resources. At that time, the Secretaries shall develop a joint report to the Governor and the General Assembly assessing the environmental risks and safeguards, transportation issues, state-of-the-art oil production well technology, economic impacts, regulatory initiatives, operational standards, and other matters related to the production of oil in the region. No permit for an oil production well shall be issued until (i) the Governor has had an opportunity to review the report and make recommendations, in the public interest, for legislative and regulatory changes; (ii) the General Assembly, during the next upcoming regular session, has acted on the Governor's recommendations or on its own initiatives; and (iii) any resulting legislation has become effective. The report by the Secretaries and the Governor's recommendations shall be completed within 18 months of the notification of the Secretaries of the findings of the Director.

1989, c. 325; § 62.1-195.1; 1990, c. 967; 1992, cc. 480, 887; 1993, c. 239; 1994, c. 957; 2012, cc. 785, 819; 2013, cc. 756, 793; 2021, Sp. Sess. I, cc. 387, 401.

§ 45.2-1647. (Effective October 1, 2021) Hydraulic fracturing; groundwater management area

No person shall conduct any hydraulic fracturing in any well that has been drilled through any portion of a groundwater management area declared by regulation prior to January 1, 2020, pursuant to the provisions of the Ground Water Management Act of 1992 (§ 62.1-254 et seq.). For purposes of this section, "hydraulic fracturing" means the treatment of a well by the application of hydraulic fracturing fluid, including a base fluid and any additive, under pressure for the express purpose of initiating or propagating fractures in a target geologic formation to enhance production of natural gas or oil.

2020, c. 626; § 62.1-195.3; 2021, Sp. Sess. I, c. 387.

Article 5. Replacement of Water by Gas Well Operators

§ 45.2-1648. (Effective October 1, 2021) Operator's right to sample water

An operator may enter upon surface land at reasonable times and in a reasonable manner to obtain samples of water from any water well that is (i) located within 1,320 feet of a proposed or existing gas well and (ii) actually being utilized by the surface owner or occupant for domestic use. If the surface owner or occupant refuses to allow the operator to sample or causes the operator to be prevented from sampling any such water well, the operator shall promptly notify the Department of such refusal or prevention. The Department shall maintain a record of such notifications. In the event of such a refusal or prevention, the surface owner shall not be entitled to the remedies set forth in § 45.2-1649.

1998, c. 227, § 45.1-361.43; 2009, c. 293; 2017, c. 17; 2021, Sp. Sess. I, c. 387.

§ 45.2-1649. (Effective October 1, 2021) Replacement of water supply

If any water supply of a surface owner who obtains all or part of his supply of water for domestic use from a water well has been materially affected by contamination or partial or complete interruption proximately resulting from a gas well operation within 1,320 feet of the water well, the operator of such gas well shall promptly provide a replacement water supply that shall be capable of meeting the uses such water supply met prior to the contamination or partial or complete interruption.

1998, c. 227, § 45.1-361.44; 2009, c. 293; 2017, c. 17; 2021, Sp. Sess. I, c. 387.