

Chapter 383

(House Bill 72)

AN ACT concerning

Department of the Environment – Oil and Gas Production Permits – Fees

FOR the purpose of requiring the Department of the Environment to establish and collect certain fees; requiring the Department to consider certain factors in establishing and reviewing the fees; establishing an Oil and Gas Fund in the Department for the collection of certain oil and gas permit and production fees; providing that the Fund is a special, nonlapsing fund; requiring certain fees to be paid into the Fund; requiring the Department to use the Fund for certain purposes; requiring the Department annually to submit a certain report; requiring the Department to adopt certain regulations; defining certain terms; and generally relating to oil and gas development and production.

BY repealing and reenacting, with amendments,

Article – Environment

Section 14–102 and 14–105

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,

Article – Environment

Section 14–104

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

BY adding to

Article – Environment

Section 14–122 through 14–125

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Environment

14–102.

(a) In this subtitle the following words have the meanings indicated.

(b) “Coalbed methane” means methane and any other gaseous substance occurring in or produced from a coal seam or related, associated, or adjacent rock materials.

(c) “County” includes Baltimore City unless otherwise indicated.

(d) “Department” means the Department of the Environment.

(e) “Field” means the general area underlaid by one or more pools.

(F) “FUND” MEANS THE OIL AND GAS FUND.

~~(G)~~ **(G)** “Gas” means all natural gas and other fluid hydrocarbons, not defined as oil, which are produced from a natural reservoir.

~~(H)~~ **(H)** “Oil” means crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the wellhead in liquid form, except liquid hydrocarbons known as distillate or condensate recovered or extracted from gas.

~~(I)~~ **(I)** “Owner” means the person who has the right to drill into and produce from a pool, or to store in a pool, and appropriate the oil or gas the person produces or stores either for the person or others.

~~(J)~~ **(J)** “Person” means any individual, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind.

~~(K)~~ **(K)** “Pool” means an underground reservoir containing a common accumulation of oil, gas, or both.

~~(L)~~ **(L)** “Producer” means the owner of a well capable of producing oil, gas, or both.

~~(M)~~ **(M)** “Product” means any commodity produced in its natural state by an oil or gas well.

~~(N)~~ **(N)** (1) **“PRODUCTION” MEANS THE ACT OR PROCESS OF PRODUCING OIL OR GAS FROM A NATURAL RESERVOIR.**

(2) “PRODUCTION” DOES NOT INCLUDE THE SALE OR DISTRIBUTION OF OIL OR GAS.

~~(O)~~ **(O)** (1) “Underground storage” means the storing of gas or oil in a geological stratum beneath the surface of the earth.

(2) “Underground storage” includes the injection of gas or oil into and withdrawal from an underground storage reservoir and any other operation necessary for or convenient to the storage of gas or of oil.

[(n)] ~~(O)~~ (P) “Underground storage reservoir” means the stratum and subsurface area that are used or are to be used for or in connection with the underground storage of gas or of oil.

14–104.

(a) A person may not drill any well for the exploration, production, or underground storage of gas or oil in the State without obtaining a permit from the Department of the Environment under the terms and conditions and on the forms the Department prescribes.

(b) (1) The Department shall require an applicant to submit an environmental assessment for the purpose of evaluating an application.

(2) The Department shall coordinate with the Department of Natural Resources in its evaluation of the environmental assessment.

(c) The permit serves as the permit required under the provisions of Title 9, Subtitle 13 of this article, dealing with well drillers.

(d) A person may not dispose of any product of a gas or oil well without the necessary permits issued by the Department.

14–105.

(a) An applicant for a permit to drill a well under § 14–104 of this subtitle shall submit an application in a manner satisfactory to the Department.

(B) THE DEPARTMENT SHALL ESTABLISH AND COLLECT FEES FOR:

(1) THE ISSUANCE OF A PERMIT TO DRILL A WELL UNDER § 14–104 OF THIS SUBTITLE;

(2) THE RENEWAL OF A PERMIT TO DRILL A WELL UNDER § 14–104 OF THIS SUBTITLE; AND

(3) THE PRODUCTION OF OIL AND GAS WELLS INSTALLED AFTER OCTOBER 1, 2010.

(C) THE FEES IMPOSED UNDER SUBSECTION (B) OF THIS SECTION SHALL BE SET BY THE DEPARTMENT AT THE RATE NECESSARY TO IMPLEMENT THE PURPOSES SET FORTH IN § 14–123 OF THIS SUBTITLE.

(D) IN ANY FISCAL YEAR, IF THE FEE SCHEDULE ESTABLISHED BY THE DEPARTMENT GENERATES REVENUE THAT EXCEEDS THE AMOUNT NECESSARY TO OPERATE A REGULATORY PROGRAM TO OVERSEE THE DRILLING OF OIL AND GAS WELLS, THE DEPARTMENT SHALL REDUCE THE FEES IN THE FOLLOWING FISCAL YEAR.

(E) THE FEES COLLECTED BY THE DEPARTMENT UNDER THIS SECTION SHALL BE DEPOSITED IN THE OIL AND GAS FUND ESTABLISHED UNDER § 14-122 OF THIS SUBTITLE.

[(b)] ~~(E)~~ (F) The Department shall provide public notice, public informational hearings, and judicial review in accordance with the provisions of § 5-204 of this article.

14-122.

(A) THERE IS AN OIL AND GAS FUND.

(B) THE FUND ~~SHALL CONSIST~~ CONSISTS OF:

(1) FEES COLLECTED BY THE DEPARTMENT UNDER § 14-105 OF THIS SUBTITLE;

(2) FUNDS APPROPRIATED BY THE GENERAL ASSEMBLY FOR DEPOSIT TO THE FUND;

(3) FINES AND BOND FORFEITURES ~~IN EXCESS OF FUNDS NEEDED~~ COLLECTED BY THE DEPARTMENT IN ACCORDANCE WITH THIS SUBTITLE THAT EXCEED THE AMOUNT NECESSARY TO RESTORE A SITE; AND

(4) ANY ADDITIONAL MONEY MADE AVAILABLE FROM ANY SOURCES, PUBLIC OR PRIVATE, FOR THE PURPOSES FOR WHICH THE FUND HAS BEEN ESTABLISHED.

(C) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) NOTWITHSTANDING ANY LAW TO THE CONTRARY, UNUSED MONEY IN THE FUND MAY NOT REVERT TO THE GENERAL FUND.

(D) THE FUND SHALL BE MAINTAINED AND ADMINISTERED BY THE DEPARTMENT IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE AND ANY REGULATIONS THE DEPARTMENT ADOPTS.

14-123.

THE DEPARTMENT SHALL USE MONEY IN THE FUND SOLELY TO ADMINISTER AND IMPLEMENT PROGRAMS TO OVERSEE THE DRILLING, DEVELOPMENT, PRODUCTION, AND STORAGE OF OIL AND GAS WELLS, AND OTHER REQUIREMENTS RELATED TO THE DRILLING OF OIL AND GAS WELLS, INCLUDING ALL COSTS INCURRED BY THE STATE TO:

- (1) REVIEW, INSPECT, AND EVALUATE MONITORING DATA, APPLICATIONS, LICENSES, PERMITS, ANALYSES, AND REPORTS;**
- (2) PERFORM AND OVERSEE ASSESSMENTS, INVESTIGATIONS, AND RESEARCH;**
- (3) CONDUCT PERMITTING, INSPECTION, AND COMPLIANCE ACTIVITIES; AND**
- (4) DEVELOP, ADOPT, AND IMPLEMENT REGULATIONS, PROGRAMS, OR INITIATIVES TO ADDRESS RISKS TO PUBLIC SAFETY, HUMAN HEALTH, AND THE ENVIRONMENT RELATED TO THE DRILLING AND DEVELOPMENT OF OIL AND GAS WELLS, INCLUDING THE METHOD OF HYDROFRACTURING.**

14-124.

BEGINNING NOVEMBER 1, 2010, THE DEPARTMENT SHALL REPORT EACH YEAR TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON:

- (1) THE STATUS OF THE FUND;**
- (2) REVENUES OF AND EXPENDITURES FROM THE FUND;**
- (3) THE EFFICIENCY OF THE REGULATORY PROGRAM UNDER THIS SUBTITLE;**
- (4) COMPLIANCE RATES WITHIN THE REGULATORY PROGRAM UNDER THIS SUBTITLE; AND**
- (5) BASED ON THE FACTORS LISTED IN ITEMS (1) THROUGH (4) OF THIS SECTION, THE NECESSITY TO REVIEW AND ADJUST THE FEE IN ACCORDANCE WITH § 14-105(D) OF THIS SUBTITLE.**

14-125.

THE DEPARTMENT SHALL ADOPT REGULATIONS:

(1) TO CARRY OUT THIS SUBTITLE; AND

(2) TO ESTABLISH PROCEDURES FOR IMPOSING AND COLLECTING THE FEES ESTABLISHED IN ACCORDANCE WITH § 14-105 OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.