



LAW DEPARTMENT

April 13, 2007

Ms. Cindy Raines  
Oil & Gas Conservation Commission  
901 57<sup>th</sup> Street  
Charleston, WV 25304

Re: Special Field Rules

Dear Ms. Raines:

Pursuant to West Virginia Code §22C-9 and the Title 39, Series One, Rules of the Commission, Chesapeake Appalachia, L.L.C. ("Chesapeake") hereby requests a hearing before the Oil & Gas Conservation Commission ("Commission") for the establishment of Special Field Rules. This request is based upon the following facts and circumstances.

Chesapeake is active in drilling wells to the Marcellus Shale formation in portions of Lincoln, Logan, Boone, Mingo and Kanawha Counties, West Virginia. The Marcellus Shale sits directly above the Onondaga Limestone. In West Virginia, pursuant to West Virginia Code §22C-9-2(12), a deep well is defined as any well, other than a shallow well, drilled and completed in a formation at or below the top of the uppermost member of the Onondaga Group. The definition of a shallow well pursuant to West Virginia Code §22C-9-2(11) is any well drilled and completed in a formation above the top of the uppermost member of the "Onondaga Group". Provided, that in drilling a shallow well the operator may penetrate into the "Onondaga Group" to a reasonable depth, not to exceed twenty feet, in order to allow for logging and completion operations, but in no event may the "Onondaga Group" formation be otherwise produced, perforated or stimulated in any manner.

By virtue of the twenty (20) foot drilling limitation in the Onondaga Group, Chesapeake is not able to completely evaluate, treat and stimulate the entire section of the Marcellus Shale. Accordingly, in the area shown on the attached map, Chesapeake wishes to drill wells to a total depth not to exceed seventy-five (75) feet into the Onondaga Limestone. Chesapeake has no intention to produce, perforate or stimulate the Onondaga in any manner at the proposed time. The purpose for drilling seventy-five (75) feet into the Onondaga is to allow sufficient net-hole for logging and completion of the Marcellus Shale. Although the Marcellus Shale is a shallow formation, Chesapeake is required to apply for a deep well permit by virtue of the above definitions. In order to avoid leaving natural gas reserves in place, it is not prudent to develop the Marcellus Shale fields.

Chesapeake Energy Corporation • Energy Works  
901 Fairchase Drive • Charleston, WV 25301 • P.O. Box 870 • Charleston, WV 25302-0870  
(304) 835-3224 • fax (304) 835-3221

Kath E. Hufsch  
Senior Attorney  
901 Fairchase Avenue  
P. O. Box 870  
Charleston, WV 25302-0870  
Tel: 304.835.3221  
Fax: 304.835.3224  
Email: khufsch@chenergy.com

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Ms. Cindy Reiter  
April 13, 2007  
Page 2

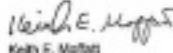
utilizing the required deep well spacing of 3000 feet between wells and 400 feet from the lease line or unit boundary. Therefore, Chesapeake is requesting Special Field Rules establishing 1000 foot spacing between wells, and providing that each well be located not less than 50 feet from the lease line or unit boundary. The Special Field Rules would apply to those wells drilled by Chesapeake to a total depth not to exceed seventy-five (75) feet into the Onondaga Limestone. Chesapeake would agree not to produce, perforate, frac or otherwise stimulate the Onondaga Group, unless and until it obtained a further Order from the Commission. In addition, with regard to deep well permits for Marcellus Shale wells in the subject area, Chesapeake requests that the Special Field Rules provide that Chesapeake would not have to conduct a pre-sight meeting prior to commencing drilling operations or prepare and submit a well site safety plan for each such deep well.

As you know, the public policy of this State is to foster, encourage and promote exploration for the development, production, utilization and conservation of oil and gas resources. The Commission is charged with the obligation to prohibit waste of oil and gas resources and encourage the maximum recovery of same. Chesapeake's request for Special Field Rules is consistent with this public policy because it will permit Chesapeake to efficiently and adequately explore, stimulate, treat and produce the Marcellus Shale.

Chesapeake realizes that a notice of a pre-hearing conference to the Commission and affected operators is required pursuant to the West Virginia Code of State Regulations, Title 38, Series 1 section 6.1. Chesapeake will provide this notice to the Commission after it receives notice that a hearing date has been set. Since Chesapeake does not anticipate any opposition to its request for Special Field Rules, Chesapeake requests that the Commission schedule the pre-hearing conference and hearing on the same day.

Thank you for your consideration of this matter. If you have any questions, please feel free to call me at the above number or Brett Loflin at 391-6616.

Sincerely,



Keith E. Moffatt

Attachment

cc: Brett Loflin - Chesapeake Appalachia, L.L.C.  
Eddy Gray - Chesapeake Appalachia, L.L.C.

\\010662\law\Values\_SpecialFieldRules\4.13.07.doc

7001.0000

MapInfo Professional



Chromatide Appalachia, L.L.C.  
500 Pennsylvania Ave., Charleston, WV 25300  
Area Designated for Special Field Rules  
Date: 6/2017

MapInfo Professional  
www.mapinfo.com

Scale: 1:50,000  
7-12-17 10:00:00 AM

May 3, 2007

To: West Virginia Oil & Gas Conservation Comm.  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304

From:

Donald DeLong  
221 Hillcrest Drive  
Logan, WV 25601

To Whom It May Concern:

In regards to the Chesapeake  
Appalachia application, I wish to  
protest. I live in the Mitchell Heights  
area in Logan County & have major  
concerns with the consequences of the  
permit.

Thank You,

Donald DeLong

FAX MESSAGE/COVER SHEET

From  
DAVID B. McMAHON  
922 Quaker Street, Suite 525, Charleston, WV 25301  
Phone 304-344-3144 • Fax 304-344-3145  
Cellular Phone 304-415-4288  
e-mail [webster@specrules.com](mailto:webster@specrules.com)

Fax Date: May 3, 2007

Number of pages 1

(Including this page, but not any business fax cover sheet)

To: West Virginia Oil and Gas Conservation Commission  
501 57<sup>th</sup> Street SE  
Charleston, WV 25304  
By Fax Only 926-0432

Please note that, at least for the present, I am appearing as an opponent of the Chesapeake Appalachia, L.L.C. application to the Oil and Gas Conservation Commission for the establishment of Special Field Rules covering lands located in Boone, Kanawha, Lincoln, Logan, Mingo and Wayne Counties, West Virginia. I will appear at the pre-hearing conference set at 9:00 a.m. on May 17, 2007.





May 2, 2007

VIA FACSIMILE (304-626-0432) AND U. S. MAIL.

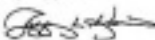
West Virginia Department of Environmental Protection  
Oil and Gas Conservation Commission  
601 37<sup>th</sup> Street, SE  
Charleston, WV 25301

Re: Notice of Hearing Docket No. 179 Case No. 194  
Request by Chesapeake Appalachia, LLC for  
Special Field Rules  
Hearing Date: May 17, 2007

**Comments:**

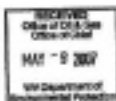
Cabot Oil & Gas Corporation desires to have the special field rules as referenced above apply to it as well. We wonder if it would be possible to "piggy-back" on the currently established hearing. Cabot would like the special field rules to apply to areas other than those set out in the Chesapeake application. Please advise the procedure for accomplishing this desire.

Very truly yours,



Jeffrey L. Kania  
Regional Land Manager

CHARLES AND DONNA BRANHAM  
BC 70 BOX 358  
LENORE, WV 25678  
PHONE: 384 475 2421



May 4, 2007

West Virginia Oil and Gas Conservation Commission  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304

TO WHOM IT MAY CONCERN

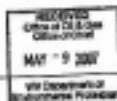
This letter is in response to the application made by the Chesapeake Appalachia, L.L.C. to the Oil and Gas Conservation Commission for the establishment of Special Field Rules covering land in Boone, Kanawha, Lincoln, Logan, Mingo and Wayne counties, West Virginia. We live in Mingo County. Allowing the establishment of Special Field Rules would allow Chesapeake Gas Company to drill and close roads to close to personal property, also it would affect the water wells people have for their drinking and home use. The roads that would allow for logging or operations would only add to faster runoff, and increase the flooding problems we already experience now. There are just some of the problems that could occur. The rules were put in place to prevent such occurrences. Changing these rules would not be in the best interest to the people or the environment.

As an opponent to the application for Special Field Rules, this letter is written here to the Commission, that a pre-hearing notice or pre-hearing conference should be held.

Sincerely:

Charles and Donna Branham

Boone East Development Co.



P.O. Box 1007  
Charleston, West Virginia 25307  
Tel: (304) 526-1000  
Fax: (304) 526-1001

May 1, 2007

VIA CERTIFIED MAIL #2007-2100004 1186 1127  
RETURN RECEIPT REQUESTED

West Virginia Oil and Gas Conservation Commission  
401 17<sup>th</sup> Street, SE  
Charleston, WV 25304

RE: Chesapeake Appalachia, LLC Application for Special Field Rules Covering Leaks  
Located in Southern West Virginia

**Letter and Conditions:**

Boone East Development Co. is in possession, control and all and gas in the affected counties. While we wish to see our oil and gas reserves developed in a prudent manner, we also wish to protect the coal reserves. Therefore, we propose the following conditions to be made to the terms and conditions outlined in Chesapeake's proposal prior to approval by the Oil and Gas Conservation Commission.

1. Well spacing should be 1200 feet between wells and at least 200 feet from a lease line or well boundary.
2. Hydrologic profile drawings should be required at the surface. In addition, a full and detailed report of top occurrence of hydrogen sulfide, including calculated quantities, should be made to the coal owner and coal operator within ten days of completion of the drilling.
3. Drilling progress should provide for a three stage sequence of the production window. Each for lowest methane coal seam. An application of this could be as follows:
  1. 8 1/2" to 10 1/2" below the pavement of the design methane coal seam, as designed by the WV Department of Gas and Petroleum, measured to the surface.
  2. 7" to 12" from the Big Seam, measured to at least 200' above the design methane coal seam.
  3. 4 1/2" production casing, measured to 200' above the bottom of the 7".

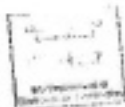
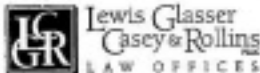
We will be happy to meet with Chesapeake and/or the Commission prior to the hearing date to draft a mutually acceptable proposal.

Very truly yours,

R. Paul Miller  
President  
TEChem

CC: Chesapeake Appalachia, LLC





200 Commerce Street  
8th Floor, Suite 100  
New Office Box 174  
Charleston, WV 25304  
Telephone: 304.343.2000  
Telefax: 304.343.1000

West Virginia State Bar

[mcclint@lgr.com](mailto:mcclint@lgr.com)

May 4, 2007

**Via Hand Delivery**

James Martin, Chief  
Office of Oil and Gas  
Oil and Gas Conservation Commission  
West Virginia Department of Environmental Protection  
601 5<sup>th</sup> Street  
Charleston, WV 25304

Re: Decree No. 179, Cause No. 104: Objections to Request by Chesapeake Appalachia, LLC for an Order from the Commission Establishing Special Field Rules

Dear Mr. Martin:

This letter is written on behalf of Penn Virginia Oil and Gas Corporation ("Penn Virginia") in response to the Notice of Pre-hearing conference and hearing scheduled for May 17, 2007 in the above-referenced matter. Penn Virginia is an operator of record adjacent to some of the quadrangles and within the counties as described in Chesapeake Appalachia, LLC's ("Chesapeake") Petition. For the reasons set forth below, Penn Virginia objects to Chesapeake's request for Special Field Rules and requests a hearing regarding the same.

**I. SUMMARY OF POSITION**

Penn Virginia does not object to Chesapeake's proposed drilling project. Indeed, Penn Virginia supports the use of the seventy-five foot drilling to allow for sufficient setbacks for logging and completion of the Marcellus Shale formation. Penn Virginia does object, however, to the implementation of Special Field Rules for spacing as applied to wells which will produce gas from a shallow formation. As set forth below, the Legislature has made a clear distinction for regulatory purposes between shallow wells and deep wells. Chesapeake's request for spacing of 1000 feet between wells and 30 feet for a lease line or boundary for these shallow wells would circumvent the stated intent of the legislature. Penn Virginia submits that special spacing rules for shallow formations will have lasting detrimental consequences on the natural gas industry.

## II. DEFINITIONS OF SHALLOW WELLS AND DEEP WELLS

As defined by statute, whether a well is classified as shallow or deep is primarily determined by whether or not there is drilling at or below the top of the uppermost member of the Onondaga Group. W.Va. Code § 22C-9-2(11) and (12). Specifically, a "shallow well" is defined as "any well drilled and completed in a formation above the top of the uppermost member of the Onondaga Group." Provided, That in drilling a shallow well the operator may penetrate into the Onondaga Group to a reasonable depth, not in excess of twenty feet, in order to allow for logging and completion operations, but in no event may the Onondaga Group formation be otherwise produced, perforated or stimulated in any manner." A "deep well" is defined as "any well, other than a shallow well, drilled and completed in a formation at or below the top of the uppermost member of the Onondaga Group." W.Va. Code § 22C-9-2(11) and (12).

Here, Chesapeake admits that it will not produce, stimulate or complete any formation below the base of the Marcellus shale section, thus all production will come from shallow formations. Yet, Chesapeake recognizes that the 75 foot required for logging and completion will categorize the drilling as "deep wells." In effect, Chesapeake is asking this Commission to recognize a new regulatory hybrid to not apply the appropriate spacing applicable for deep wells, but rather apply conventional spacing regulations to shallow wells.

## III. AS A MATTER OF LAW, SHALLOW WELLS ARE NOT SUBJECT TO SPACING RULES AND REGULATIONS

Shallow wells are not governed by spacing rules and regulations. In its declaration of public policy and legislative findings, the legislature stated:

... oil and gas deposits in each shallow sands or strata have geological and other characteristics different than those found in deeper formations; and that in order to encourage the maximum recovery of oil and gas from all productive formations in this state, it is not in the public interest, with the exception of shallow wells utilized in a secondary recovery program, to enact statutory provisions relating to the exploration for or production from oil and gas from shallow wells ...

W.Va. Code § 22C-9-1(2007)(emphasis added). Applying the spacing rules requested by Chesapeake would thwart the express legislative intent not to enact such rules for shallow wells and would be against public policy. Additionally, shallow wells are specifically excluded from the statutory regulations. See W.Va. Code § 22C-9-3(2007). Further, the shallow formations are subject to the Law of Capture. See *Cramer v. Emco Oil Co.*, 195 W.Va. 58, 454 S.E.2d 723 (1992)(determining as a matter of law and based on doctrine of pooling and uniting "the Legislature has enacted a comprehensive scheme for the regulation of pooling and spacing of oil and gas wells. ... The legislative enactment

May 4, 2007  
Page 3

Lewis Glasser  
Casey & Rolling

require secondary pooling or otherwise only in certain circumstances involving so-called deep wells, involving shallow wells drilled in coal fields, and involving shallow wells which are a part of a secondary recovery program...")

#### IV. EFFECT OF REQUESTED SPECIAL FIELD RULES

In addition to being contrary to expressly stated legislative intent and public policy, leaving the Special Field Rules requested by Chesapeake for what are essentially shallow formations would have a chilling effect on the rights of others. If this Commission adopts the proposed spacing requirements, other producers can effectively be spaced out from drilling and extracting oil and natural gas in shallow wells both in this area and potentially in other portions of the state. This would effectively limit natural gas production in the State.

#### V. CONCLUSION

Chesapeake's request for Special Field Rules should be denied as a matter of law. The legislature has explicitly addressed the drilling and spacing of the types of wells at issue here, and a prohibition on the drilling and spacing of these wells in the proposed special field rules governing spacing for production from shallow formations such as the Marcellus Shale, would thwart the legislative intent and would have a potentially serious effect on the market.

WHEREFORE, West Virginia respectfully requests that this Commission not grant Chesapeake's request for spacing of 1000 feet between wells and 50 feet from a lease line or boundary.

Respectfully Submitted,



West Virginia Oil and Gas Corporation  
By Richard L. Gortek, Esq.

cc: Barry Ley, Chairman, West Virginia Oil & Gas Conservation Commission  
James McKinney

BEFORE THE OIL AND GAS CONSERVATION COMMISSION  
OF THE STATE OF WEST VIRGINIA

IN THE MATTER OF THE REQUEST BY  
CHESAPEAKE APPALACHIA, L.L.C., FOR AN  
ORDER FROM THE COMMISSION ESTABLISHING  
SPECIAL FIELD RULES IN BOONE, KANAWHA,  
LINCOLN, LOGAN AND MINGO COUNTIES, WEST  
VIRGINIA, COVERING NESTLOW, BRANCHLAND,  
HAGER, JULIAN, GRIFFITHSVILLE, RADNOR,  
KIAHSVILLE, RANGER, BIG CREEK, MUD, WEBB,  
WILSONDALE, TRACE, CHAPMANVILLE, KERMIT  
NAUGATUCK, MYRTLE, HOLDEN WILLIAMSON,  
DELBARTON AND BARNABUS QUADRANGLES.

DOCKET NO. 179

CAUSE NO. 164

ORDER NO. 1

REPORT OF THE COMMISSION

Chesapeake Appalachia, L.L.C. ("Chesapeake") requested a hearing before the Commission for the establishment of special field rules covering all acreage it now owns or controls or may acquire in the future within the area shown on the map attached hereto as Exhibit "A" and incorporated herein by reference, which designated area is located in Boone, Kanawha, Lincoln, Logan and Mingo Counties, West Virginia. Chesapeake wishes to drill wells in the special field rule area in order to produce from the Marcellus Shale formation and other shallower formations. Although the Marcellus Shale is a "shallow" formation, Chesapeake proposes to drill up to 75 feet into the Onondaga Group to enable the logging and completion of the entire Marcellus Shale section. Chesapeake will not perforate or complete any formation below the base of the Marcellus Shale formation; however, by definition, since the proposed wells will be drilled in excess of twenty feet into the Onondaga Group, they will be considered deep wells. Therefore, Chesapeake requested that the Commission set spacing for any proposed wells drilled by Chesapeake under these special field rules to conform to the following: 1,000' between wells and 50' from a lease line or unit boundary.

FINDINGS OF FACT

1. Applicant, Chesapeake, is an operator within the meaning of paragraph (4) subsection (a) of West Virginia Code §22C-9-2.
2. Chesapeake currently owns or controls approximately 427,000 acres of lessorhold or oil and gas interests in the area for which special field rules have been requested as shown on Exhibit "A", which area is located in Boone, Kanawha, Lincoln, Logan and Mingo Counties of West Virginia. Chesapeake may acquire additional acreage within this area in the future. One of the target formations in this area is the Marcellus Shale, which lies directly above the Onondaga Group. Chesapeake wishes to drill wells in the special field rule area utilizing up to 75 feet of rat hole in

the Onondaga Group. Chesapeake's witnesses testified that 75 feet of rat hole is necessary to effectively log, complete, and produce the wells in the Marcellus formation. The 75 feet of rat hole will allow Chesapeake to get cementing tools, logging tools, casing and tubing, and perforating tools to a sufficient depth below the Marcellus formation to effectively develop the natural gas reserves from the Marcellus formation in a safe and efficient manner. Without the additional rat hole, the Marcellus Shale cannot be completed through its entire interval and reserves of natural gas may not be produced.

3. Chesapeake's witnesses stated that the Onondaga Group would not be produced or completed in any wells without additional approval from the Commission.

4. It would not be prudent to develop the Marcellus Shale reserves under the spacing requirements imposed on deep wells because recoverable reserves would be left in place. In order to avoid leaving recoverable reserves in place and to provide flexibility in spotting well locations, exceptions to Operational Rule §39-1-4.2 or the establishment of special field rules is necessary. Chesapeake's witness testified that Chesapeake has approximately 1700 future locations in the special field rule area. Chesapeake is requesting special field rules from the Commission as it is the most cost effective and administratively efficient manner in which to address the issues faced in drilling, logging, completing and producing Marcellus Shale wells, rather than requesting spacing exceptions on case-by-case or a well-by-well basis.

5. Chesapeake asked the Commission to set spacing for wells drilled under the special field rules at a minimum distance of 1,000' between wells and 50' from a lease line or unit boundary. The Commission, however, believed it was more appropriate to space these wells at a minimum distance of 1,000' between wells and 100' from a lease or unit boundary in order to maintain uniformity with existing special field rules obtained by Eastern American Energy Corporation covering Marcellus Shale wells, subject to paragraph 6 below.

6. Pocahontas Land Corporation by letter dated May 15, 2007, filed a written objection to Chesapeake's request for special field rules. Pocahontas, through counsel, withdrew its objection but only insofar as it related to this particular hearing based upon agreement with Chesapeake that in the event a coal seam owner or operator objected to the proposed drilling or deepening of a well to the Marcellus Shale, then the terms and provisions of West Virginia Code §22C-8-8 would apply.

7. Chesapeake's witness testified that the Onondaga Group is between 110 feet and 180 feet thick in the area subject to the request for special field rules.

8. Chesapeake has complied with the requirements of the statute and Operational Rule §39-1-6.

### CONCLUSIONS OF LAW

1. That due notice of the time, place and purpose of the hearing has been given in all respects as required by law.
2. Definitions found in §22C-9-2(11-12) state that shallow well means any well drilled and completed in a formation above the top of the uppermost member of the "Onondaga Group"; provided, that in drilling a shallow well the operator may penetrate into the "Onondaga Group" to a reasonable depth, not in excess of twenty feet, in order to allow for logging and completion operations, but in no event may the "Onondaga Group" formation be otherwise produced, perforated or stimulated in any manner, and deep well means any well, other than a shallow well, drilled and completed in a formation at or below the top of the uppermost member of the "Onondaga Group".
3. That Marcellus Shale wells drilled more than twenty feet into the Onondaga Group are deep wells.
4. That Operational Rule §39-1-4.2 requires that all deep wells drilled shall be not less than 3,000 feet from a permitted deep well location or from a deep well drilling to or capable of producing hydrocarbons from the objective pool of the deep well and no deep well shall be less than 400 feet from a lease or unit boundary. Operational Rule §39-1-4.3 allows for an exception to Operational Rule §39-1-4.2 or for the establishment of special field rules.
5. That pursuant to Chapter §22C, Article 9, Code of West Virginia of 1931, as amended, the Commission has jurisdiction over the subject matter embraced in said notice, and the persons interested therein, and jurisdiction to promulgate the hereinafter prescribed Order.

### ORDER

Now, therefore, based on the Findings of Fact and Conclusions of Law, the request by Chesapeake for the establishment of special field rules is granted upon the following grounds:

1. The designated area covered by these special field rules is shown on the map attached hereto as Exhibit "A" and incorporated herein by reference, containing approximately 570,000 acres.
2. The special field rules apply only to leases or property owned or controlled, now or hereinafter, by Chesapeake.
3. The special field rules shall allow Chesapeake to drill wells in the designated area to a depth not to exceed 75 feet into the Onondaga Group or to the base of the Onondaga Group, whichever is shallower. Each well drilled under the special field

rules shall be located a minimum distance of 1,000 feet from each well covered by this Order and 100 feet from a lease line or unit boundary.

4. In the event that a coal seam owner or operator objects to the drilling or deepening of a well to the Marcellus Shale under these special field rules, then the terms and provisions of West Virginia Code §22C-8-8 will apply.
5. For each well covered by these special field rules, Chesapeake shall submit a deep well permit application. Upon completion of any well drilled under these special field rules, Chesapeake shall submit a copy of the open hole log, perforating log and an affidavit signed by a principal of the company stating that no formation below the top of the Onondaga Group has been perforated or produced in any manner. Thereafter, Chesapeake shall not, perforate, frac or otherwise stimulate the Onondaga Group, unless it subsequently files for, and receives a permit to rework, deepen or complete the Onondaga Group.
6. The Commission waives the requirement that Chesapeake must submit a site safety plan and hold a pre-spud meeting for the drilling of wells covered by this Order. However, Chesapeake is required to maintain H<sub>2</sub>S monitoring equipment on site for use, if needed.

IN THE NAME OF THE STATE OF WEST VIRGINIA:

OIL AND GAS CONSERVATION COMMISSION  
OF THE STATE OF WEST VIRGINIA

By:

  
Barry K. Lay, Commissioner

Dated this \_\_\_\_ day of July, 2007, at Charleston, West Virginia.