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Groups applaud additions to oil & gas rules, but urge additional changes Coalition says stronger rules need to protect public health and the environment

(Charleston, WV) A coalition of statewide organizations concerned about oil and gas issues is applauding amendments and additions to the rules that regulate drilling in West Virginia, but says additional changes are needed to more fully protect public health and the environment.

“It has been more than 25 years since any significant changes were made to West Virginia’s drilling rules. The state’s regulation of oil and gas well drilling already has many problems, and new exploration using new processes, such as horizontal drilling and large volume fracturing, is creating new kinds of problems that need to be addressed, as well as the need for additional resources to address them,” said Don Garvin, legislative coordinator for the West Virginia Environmental Council (WVEC), a coalition member. “The proposed agency rule makes some changes in response to the drilling of new Marcellus Shale formation wells, however, additional changes should be made, and existing rules need to be improved.”

The comments submitted to the Department of Environmental Protection by WVEC, the West Virginia Rivers Coalition, the West Virginia Chapter of the Sierra Club, the West Virginia Highlands Conservancy, the West Virginia Citizen Action Group (WV-CAG), the West Virginia Surface Owners' Rights Organization (WV SORO) and the Appalachian Center for the Economy and the Environment highlight several problems associated with new wells being drilled to the Marcellus Shale formation. This drilling uses technological advances that cause an exponential increase in surface disturbance, water use and waste disposal. More than 1,700 wells are planned and related problems include:

- Instead of a one or two acre drilling site on the surface, a Marcellus Shale well requires five acres or more, and some drillers have received permission from the Oil and Gas Conservation Commission to drill these wells as close as 1,000 feet apart. If all 1,700 wells become active, West Virginia will have one well for every 40 acres of land.
- The new fracturing techniques that make the drilling of Marcellus Shale wells possible require at least an Olympic swimming pool size impoundment of water. West Virginia has insufficient regulation of water withdrawals from streams, rivers and wells to prevent de-watering of these valuable resources. (Fracturing, or fracing, is a method of stimulating oil or gas production by opening new flow channels in the formation surrounding a production well.)
- West Virginia has no requirement for public disclosure, let alone regulation, of the chemicals that can be put into the water used to frac a well. This is especially alarming since 20-40% of the fracing fluids remain underground.
- There is a lack of approved underground injection wells and wastewater treatment facilities capable of handling the fluids that flow back to the surface before or during the start-up of production.

- There is insufficient data to understand the levels of salt and naturally occurring radioactive materials (NORMs) from deep geological formations that are brought to the surface as a result of drilling and fracing a well.

“The possible contamination of groundwater is a concern that is not adequately addressed in the rule,” said Beth Little of the Sierra Club. “Many areas in the eastern counties of West Virginia have a karst geology. Drilling in karst can disturb the circulation of water in successive layers of caves, and it can affect wells and springs further from the drilling than the rule recognizes as the responsibility of the driller. Where there is karst geology, studies should be done before permitting. The rule also has no limitations on pit location with respect to ground or surface water. DEP should develop siting requirements and restrictions for pits to prevent contamination of freshwater and to protect human health and the environment.”

“We share the environmental community’s concerns and feel strongly that the rule should require disclosure of the chemicals that are used in hydraulic fracturing. The industry already has to supply Material Safety Data Sheets for the chemicals it transports, but they are impossible to find without asking the truck drivers for them, and the truck drivers should not be responsible for that. It is our understanding that the exact chemicals are not trade secrets, just the mixtures. And in any case, trade secrets should yield to the importance of public and environmental safety,” said Julie Archer of WV-CAG.

In addition to the comments and recommendations above, the coalition:

- Supports the proposed rule change requiring all pits and impoundments to have a synthetic liner to prevent seepage or leakage. DEP should be applauded for making this long-overdue change.
- Recommends that reclamation of all pits and impoundments should include removal of all solid wastes, including the liners, to authorized off-site waste disposal facilities.
- Supports the addition of section 35-4-21 “Construction of Pits and Impoundments with Capacity of Greater Than Five Thousand (5,000) Barrels.” This new section will help protect freshwater water resources throughout the drilling process, and will provide for more responsible reclamation.
- Supports the requirement that a registered professional engineer design and certify the plans for and inspect all pits and impoundments before use.
- Supports the requirement that all pits and impoundments be inspected every three days for the life of the structure.
- Recommends that drillers at the well site be required to have an emergency plan that includes a list of landowners down gradient and emergency service personnel to contact in the event of any pit or impoundment failure.
- Recommends that any potential hazard discovered during an inspection be reported immediately to DEP and appropriate emergency agencies.
- Recommends the rule require testing and disclosure of the flow-back water contents, in addition to monitoring and reporting the flow-back volumes.
- Recommends that the flow-back water from all large volume frac jobs (greater than five thousand (5,000) barrels) be captured and transported off-site to authorized disposal or treatment facilities.
- Recommends testing water supplies for additional parameters to provide both landowners and operators greater confidence in whether or not the quality of a landowner’s water well changed during or after drilling.
- Recommends specific changes to make sure surface owners understand and are aware of a driller’s proposed activity. These include notifying them prior to the construction of all pits and impoundments and consulting them prior to approving changes to the driller’s reclamation plan.

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