

West Virginia Issues Emergency Horizontal Drilling Rule

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On August 22, 2011, the West Virginia Department of Environmental Protection (WVDEP) filed an emergency rule with the Secretary of State to address concerns regarding drilling for shale gas. The rule addresses horizontal drilling and fracking practices that are used to produce shale gas. Upon approval by the Secretary of State, the rule will remain in effect for 15 months and will require submittal of the following information with well work permit applications for horizontal wells:

- If the well site will disturb three acres or more of surface, the application must include erosion and sediment control plans, site construction plans, and well site safety plans
- If more than 210,000 gallons of water is going to be used within a one-month period, water management plans must include information on:
 - Type of water source;
 - Anticipated volume of water withdrawals;
 - Anticipated timeframe for water withdrawals;
 - A list of additives that will be used for fracking (and upon well completion, a list of the additives that were actually used)
 - Planned methods for the disposal of fracking and production wastewater; and
 - An identification of current water uses, a demonstration that sufficient water flow will be available immediately downstream of the point of withdrawal, and an identification of planned methods for minimizing significant adverse impacts to aquatic life for all surface water withdrawals.

The rule will also require that permit applicants notify area residents of the proposed well. Finally, the rule includes operational standards to protect the quality and quantity of surface and groundwater resources. These standards require that all drill cuttings and drilling mud be disposed of at approved solid waste facilities or managed on-site in a manner otherwise approved by the Secretary, and casing and cementing requirements to prevent the migration of fluids into groundwater and coal seams.

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