



West Virginia Environmental Council

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WVEC Opposes Governor's Marcellus Shale Draft Bill

For the last three years the West Virginia Environmental Council has worked cooperatively with the WV Department of Environmental Protection and the WV Legislature to craft a regulatory framework that would protect human health and the environment while allowing the drilling of Marcellus shale gas wells to continue.

Unfortunately, we find that the Governor's bill proposed for consideration in the recently called Special Session of the Legislature falls far short of that goal, and we must oppose it as currently written.

Below is a partial list of our concerns with the bill. It is our hope that the Legislature will restore the provisions in the Select Committee bill that were removed in the Governor's bill draft. If that does not occur, the Legislature should "kill" the bill and start over in the next regular session.

Public Notice and Comment – The Governor's bill removes the public notice and comment provisions for permit applications to drill Marcellus shale gas wells from the Select Committee bill. It also eliminates the provision that allowed DEP to call a public hearing on a drilling permit application. The Governor's bill also eliminates the provisions requiring legal notice to adjacent landowners.

Air Quality – The Governor's bill removes the provision in the Select Committee bill that gave the Office Of Air Quality the authority to regulate air emissions at drilling sites. Removes the language that required DEP to regulate aggregate air emissions. The Office of Oil and Gas does not have the expertise or the resources to regulate air emissions. The bill still calls for a study of air quality issues, but provides no funding.

Special Conditions – The Governor's bill removes the Select Committee provisions that allowed DEP to "condition" or deny drilling permits based on proximity to water supplies, municipalities and densely populated areas, impact on water tables, public resources, natural landmarks, archeological sites, historical sites, rare flora and fauna, and other special places.

Drilling Pits – The Governor's bill allows drilling pits (drill cuttings and associated drilling mud) to be buried on site.

Water Withdrawals – Neither the Governor's bill or the Select Committee bill actually regulate water withdrawals by the industry. Both bills still rely on DEP's Water Withdrawal Guidance document. We continue to call on the state to adopt a water withdrawal permit system, to assure adequate stream flows to protect water supplies for public use and aquatic life. Language from the Select Committee bill requiring operators to provide "documentation of measures that will be

taken to allow the State to manage the quantity of waters for present and future use” was also removed in the Governor’s bill.

Well Location Restrictions – The Governor’s bill applies a 100’ buffer zone only to perennial streams, and reduces the 200’ buffer zone from wetlands to 100’. Depending on site topography, these buffers are inadequate to protect water sources from sedimentation. The buffer zones do not apply to well roads. The Governor’s bill retains the 300’ buffer for reproducing trout streams, which is a good provision.

Drilling in Karst Geology – The Governor’s bill guts the minimum Karst requirements contained in the Select Committee bill. It gives the Secretary rule making discretion instead, but takes away specific emergency rulemaking authorization.

Authority to Waive Requirements – The Governor’s bill gives the Secretary of DEP “broad authority to waive certain minimum requirements” of the bill. Similar language appears throughout the bill.

Drilling Permit Fees – The Governor’s bill removes the Select Committee provision allowing the Secretary to increase the fee by rule. This insures that the funding of DEP from fees is kept under the thumb of the industry legislative lobbyists.

Well Bonding – Both the Governor’s bill and the Select Committee bill establish \$50,000 individual well bonds and a \$250,000 “blanket bond” covering all of an operator’s wells. A blanket bond for these operations is inadequate and should be removed.

Hydraulic Fracturing – The Governor’s bill eliminates the provision in the Select Committee bill requiring DEP to participate in a review of the state’s hydraulic fracturing regulations under the STRONGER state review process.