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west virginia department of environmental protection

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Office of Oil and Gas  
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Earl Ray Tomblin, Governor  
Randy C. Huffman, Cabinet Secretary  
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**\*\*\* MEMORANDUM \*\*\***

TO: All Operators

FROM: James Martin

DATE: December 6, 2011

RE: Water Management Plans in accordance with W. Va. Code R. § 35-8 *et. seq.*

Effective August 29, 2011, West Virginia Code of State Rules § 35-8 mandates that all horizontal well permit applications submitted to the Office of Oil and Gas include a Water Management Plan if more than two hundred ten thousand (210,000) gallons of water will be used in conjunction with drilling, fracturing, or stimulating that well.<sup>1</sup> Water Management Plan/Water Addendum application forms<sup>2</sup> and instructions are now available on the Office of Oil and Gas webpage.

DEP will evaluate each Water Management Plan/Water Addendum to determine its suitability based on the particular type(s) of water sources and disposal methods proposed.

For all surface water intakes, DEP will:

- Determine designated uses of the stream;
- Identify any public water supplies within one mile downstream;
- Verify right of access to the water source;
- Evaluate water availability based on the maximum pump rate, provided by the operator, at the withdrawal location;
- Identify the USGS-operated stream gauge which must be referenced prior to withdrawal;
- Determine a minimum reading at that reference gauge which must be surpassed prior to withdrawal; and

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<sup>1</sup> This rule in no way abrogates the statutory requirement that water withdrawals in excess of seven hundred fifty thousand (750,000) gallons per calendar month be registered with the Division of Water and Waste Management. See W. Va. Code § 22-26-1. Contact the Water Use Section for more details

<sup>2</sup> The “Well Work Permit Application Addendum” (also known as the Water Addendum) has now been fully incorporated into the Water Management Plan. Please use the Water Management Plan/Water Addendum form for all matters formerly handled by use of the Water Addendum.

- Establish a minimum pass-by flow requirement at the location of withdrawal.

For all non-surface water intakes, DEP will:

- Evaluate the source based on the specific information requested in the Water Management Plan/Water Addendum form;
- Determine the feasibility/suitability of the proposed water source; and
- Verify right of access to the water source.

Once a Water Management Plan/Water Addendum is submitted and approved by the DEP, any modification of that plan will require submittal of a written request to the Office of Oil and Gas at least sixty (60) days prior to the anticipated withdrawal date.

Be advised that any terms for water withdrawal established within the Water Management Plan/Water Addendum approval document will supersede any determinations made by the DEP's previously used voluntary Water Withdrawal Guidance Tool. Please note that the Water Management Plan/Water Addendum will become part of the permit and the terms for withdrawal established therein are enforceable as such.

W. Va. Code R. § 35-8 also mandates that prior to beginning of withdrawal, 24 to 48 hours advance notice be given to the DEP. This process should be initiated by an e-mail to [dep.water.use@wv.gov](mailto:dep.water.use@wv.gov). The e-mail should include a contact name and telephone number for reply. Upon receipt of the e-mail request DEP will review the information and contact the operator with a final approval. W. Va. Code R. § 35-8 also requires signage at every withdrawal location. A copy of W. Va. Code R. § 35-8 can be obtained from <http://www.sos.wv.gov/administrative-law/emergencyrules/Documents/35-08.pdf>.

Please recognize that this is a new process and the DEP may need to make future modifications when presented with future situations. I welcome feedback and suggestions for improvement. Please direct any questions concerning the Water Management Plan/Water Addendum to the Office of Oil and Gas.