

Pending 10-13 Permit considerations for DEP

Delegates *Manchin, Fleischauer, Ireland, Anderson and Campbell* move to amend the bill on page thirty-nine, section eight, line two, immediately following the end of the word "supplies" and the period, by inserting the following as a new subsection "(e)":

1        "(e) In addition to the other considerations set forth in this  
2 section, in determining whether a permit should be issued, issued  
3 with conditions, or denied, the Secretary shall also consider:

4        (A) Whether the drilling location is above or in close  
5 proximity to any existing public or private water supply source,  
6 and the extent to which the well's location and proposed drilling  
7 activities potentially threaten public and private water sources;

8        (B) The adequacy of the proposed well protections, including  
9 emergency response measures which are proposed in the event of a  
10 spill or impoundment overflow or pit failure, to reasonably protect  
11 integrity of such public and private water supplies when the  
12 proposed drilling activities are to be conducted within 2500 feet  
13 of such wells and springs, or within one mile upstream of any  
14 public water intake on a water course.

15        (C) The proposed well location's proximity to municipalities  
16 or densely populated or urban areas, and the proposed well  
17 location's impact on those areas.

18        (D) Any unresolved objections raised by the surface owner on

1 which the drilling activities or land disturbances, or the surface  
2 owner of any immediately adjacent properties or any water purveyor.

3 (E) In cases where the well location restrictions set forth in  
4 section \_\_\_\_ of this article have not been complied with, and the  
5 affected surface owner or water purveyor does not consent to a  
6 waiver of those location restrictions, the Secretary shall consider  
7 the impact of enforcing the distance restriction on the mineral  
8 rights owner's right to produce or share in the oil or gas  
9 underlying the surface tract. The Secretary shall also consider  
10 whether additional measures, facilities or practices should be  
11 employed during well site construction, drilling and operations to  
12 insure the safety and protection of affected persons and property  
13 if a variance to the well location restrictions were granted by the  
14 Secretary.

15 (F) The adequacy of the permit's proposed erosion and sediment  
16 control plan, well site safety plan and emergency response plan.

17 (G) The permit's proposed water use plan, and its potential  
18 impact on the water table and water supply sources.

19 (H)The permit's proposed plans for collection, storage,  
20 recycling, reuse and or disposal of returns, discharges or waste  
21 from the well during the drilling or stimulation activities.

22 (I) The impact of the proposed well on public resources,  
23 including, but not limited to, the following:

24 (i) Publicly owned parks, forests, gamelands and wildlife

1 areas.

2 (ii) National or State scenic rivers.

3 (iii) National natural landmarks.

4 (iv) Habitats of rare and endangered flora and fauna and other  
5 critical communities.

6 (v) Historical or archaeological sites listed on the Federal  
7 or State list of historic places.

8 (J) The Applicant's safety record and record of compliance  
9 with well reporting requirements, well site restoration and  
10 reclamation requirements, bonding requirements and highway  
11 maintenance agreements for other well permits that have been issued  
12 in this state.

13 (K) Whether the well site for which a permit is requested is  
14 in violation of the provisions of this act, or any other applicable  
15 environmental statute, rule or regulation."

AND

On page thirty-nine, section eight, line three, by deleting the subsection designation "(e)" and inserting in lieu thereof "(f)", and by redesignating the remainder of subsections of section eight accordingly.