

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

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SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: DEPARTMENT OF ENERGY TITLE NUMBER: 38
RULE TYPE: Interpretive; CITE AUTHORITY W. Va. Code Chapters 22-1, 22B-1, 29A-1-2(c)
AMENDMENT TO AN EXISTING RULE: YES ___ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 5

TITLE OF RULE BEING PROPOSED: Interpretation of "gross Devonian age stratigraphic interval encountered by a well bore" for purposes of 18 CFR 272.103(e) and W. Va. Code §§ 22B-1-2(c) (11) and 29A-1-2(c).

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON August 21, 1987 AT 8:00 AM.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Division of Oil and Gas
322 70th Street, S.E.
Charleston, West Virginia 25304

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL



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(Plus all the volunteer
help we can get)

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

March 15, 1988

NOTICE OF THE WITHDRAWAL OF A PROPOSED INTERPRETIVE RULE

AGENCY: Department of Energy
TITLE NUMBER: Title 38
RULE TITLE: Interpretation of Gross Devonian Age Stratigraphic
Interval Encountered by a Well Bore.
SERIES NUMBER: Series 5

The above rule has been withdrawn as a proposed rule by action
of WV Code 29A-38.

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SUMMARY OF DEPARTMENT OF ENERGY

SERIES 5

INTERPRETATIVE RULE

Department of Energy, Series 5, Interpretive Rule sets forth the interpretation of "gross Devonian age stratigraphic interval encountered by a well bore" for purposes of 18 CFR 272.103(e) and W. Va. Code §§ 22B-1-2(c)(11) and 29A-1-2(c), to be applied by the Division of Oil and Gas in evaluation of applications for classification of oil and gas wells under Section 107(c)(4) of the Natural Gas Policy Act of 1978, 92 Statutes at Large 3352 et seq.

WEST VIRGINIA INTERPRETIVE RULE
DEPARTMENT OF ENERGY
DIVISION OF OIL AND GAS
CHAPTERS 22-1 and 22B-1

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SERIES 5

Title: Interpretation of "gross Devonian age stratigraphic interval encountered by a well bore" for purposes of 18 CFR 272.103(e) and W. Va. Code §§ 22B-1-2(c) (11) and 29A-1-2(c).

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WEST VIRGINIA INTERPRETIVE RULE
DEPARTMENT OF ENERGY
DIVISION OF OIL AND GAS
CHAPTERS 22-1 and 22B-1

SERIES 5

Title: Interpretation of "gross Devonian age stratigraphic interval encountered by a well bore" for purposes of 18 CFR 272.103(e) and W. Va. Code §§ 22B-1-2(c)(11) and 29A-1-2 (c).

Section 1. General

1.1 Scope - In qualifying gas production as "natural gas produced from Devonian shale" under Section 107(c)(4) of the Natural Gas Policy Act, the Division of Oil and Gas is required by 18 CFR 272.103(e) to determine that at least 95 percent of the "gross Devonian age stratigraphic interval encountered by a well bore" has a gamma ray index of 0.7 or greater. This has given rise to the question of how the term "gross Devonian age stratigraphic interval encountered by a well bore" should be defined under the geological conditions prevailing in West Virginia, and what additional requirements must be met before the Division will make a determination that natural gas production qualifies under this section of the statute. This rule is intended as an exercise of the authority delegated to the Division of Oil and Gas pursuant to Section 503 of the Natural Gas Policy Act to make such determinations.

1.2 Authority and Related Citations -- Sections 107 and 503 of 92 Statutes at Large 3352 et seq., Natural Gas Policy Act of 1978, W. Va. Code §§ 29A-1-2 (c), 22-1 and 22B-1.

1.3 Effective Date -

1.4 Filing Date -

Section 2. Definition.

2.1 No more than one gross interval per well may be qualified as "natural gas produced from Devonian shale" for purposes of Section 107(c)(4) of the Natural Gas Policy Act, and for the purposes of 18 C.F.R. 272.103(e). The party requesting that the Division certify that gas production from a well owned or operated by it be so qualified shall, at its option, and for purposes of 18 CFR 272.103(e), select as the "gross Devonian age stratigraphic interval encountered by a well bore" a stratigraphic interval which meets one of the following definitions:

2.1.1 The entire interval of Devonian age rock that lies between the base of the Mississippian Berea Sand or, if absent the base of the Osage Series, and the shallower of (a) the top of the Onondaga limestone formation or its chert equivalent, the top of the Hunton group of carbonates, or (b) the total depth of the well.

2.1.2 A single interval of Devonian age rock --

(a) which lies entirely within the interval described in Subsection 2.1.1;

(b) at least 95 percent of which has a gamma ray index of 0.7 or greater; and

(c) such that

(i) if the top of the interval is at a lower depth than the top of the interval described in Subsection 2.1.1, then at least 95 percent of the top 100 feet of the interval selected has a gamma ray index of 0.7 or greater; and

(ii) if the bottom of the interval is at a lesser depth than the bottom of the interval described in Subsection 2.1.1, then at least 95 percent of the bottom 100 feet of the interval selected has a gamma ray index of 0.7 or greater.

Section 3. Additional Requirements

3.1 If the applicant elects to select an interval pursuant to Subsection 2.1.2 herein, and the selected interval is perforated in the top 100 feet (in the case of an interval which qualifies under Subsection 2.1.2(c)(i)), or in the bottom 100 feet (in the case of an interval which qualifies under Subsection 2.1.2(c)(ii)), the applicant must demonstrate with specificity that the gas produced at the point of the perforation is produced from the fractures, micropores, and bedding planes of shale deposited during the Paleozoic Devonian Period.

3.2 All gamma ray indexes required to be calculated pursuant to Section 2 herein shall be calculated at any point by dividing the gamma ray log value at that point by the gamma ray log value at the shale base line established over the gross Devonian age stratigraphic interval defined under Subsection 2.1.1 herein.

3.3 In the case of a well in which gas is produced from Devonian shale and from other stratigraphic intervals which are not qualified as Devonian shale, production may, at the discretion of the applicant, either be (a) separately produced and metered, or (b) allocated between the Devonian shale interval and the non-Devonian shale interval or intervals on the basis of any approved allocation method.

Section 4. Reservation of Authority.

4.1 If otherwise qualified the Division of Oil and Gas will approve applications for Devonian shale qualification which meet the rules and definitions set forth above, and disapprove applications which do not meet these rules and definitions. The Division reserves the authority, however, to approve individual applications which do not meet all of the requirements set forth herein, and to disapprove individual applications which meet all of these requirements if, in extraordinary circumstances, approval or disapproval, as the case may be, of such applications would

be necessary to effectuate the purposes and policies of the
Natural Gas Policy Act.