

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #3

FILED

AUG 3 1 30 PM '99

OFFICE OF THE SECRETARY OF STATE  
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Bureau of Environment  
Oil and Gas Conservation Commission TITLE NUMBER: 39

CITE AUTHORITY 22C-9

AMENDMENT TO AN EXISTING RULE: YES  NO

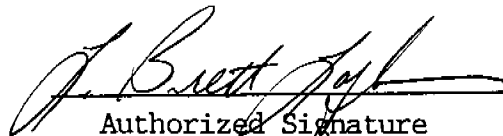
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: "Rules of the Commission"

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

  
Authorized Signature

\$9.60



Executive Office  
#10 McJunkin Road  
Nitro, WV 25143-2506  
Telephone: (304) 759-0515  
Fax: (304) 759-0526

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## West Virginia Bureau of Environment

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Cecil H. Underwood  
Governor

Michael C. Castle  
Commissioner

August 3, 1999

Ms. Judy Cooper  
Director, Administrative  
Law Division  
Secretary of State's Office  
Capitol Complex  
Charleston, WV 25305

RE: 39CSR1 - "Rules of the Commission"

Dear Ms. Cooper:

This letter is to give my approval for filing of the above-referenced rule with your Office and the Legislative Rule-Making Review Committee as "Notice of an Agency-Approved Rule."

Your cooperation in this matter is very much appreciated. If you should have questions or need additional information, please call Brett Loflin at 759-0516.

Sincerely yours,

A handwritten signature in cursive script that reads "Michael C. Castle".

Michael C. Castle  
Commissioner

MCC:cc

Attachment

cc: Brett Loflin  
Carrie Chambers

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period, Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: August 3, 1999

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Oil and Gas Conservation Commission

#10 McJunkin Road, Nitro, WV 25143-2506 Phone(304) 759-0516

LEGISLATIVE RULE TITLE: Rules of the Commission

1. Authorizing statute(s) citation 22C-9

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

June 17, 1999

b. What other notice, including advertising, did you give of the hearing?

DEP's InDEPth; DEP's Public Notice Bulletin; State-Wide News Releases

c. Date of Public Hearing(s) or Public Comment Period ended:

July 19, 1999



hearing for the taking of evidence and a general description of the issues to be decided.

N/A  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. Date of hearing or comment period:

N/A  
\_\_\_\_\_

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A  
\_\_\_\_\_

d. Attach findings and determinations and reasons:

Attached N/A  
\_\_\_\_\_

**BUREAU OF ENVIRONMENT  
OIL AND GAS CONSERVATION COMMISSION**

**BRIEFING DOCUMENT**

**Rule Title:** 39CSR1

**A. AUTHORITY:** WV Code 22C-9

**B. SUMMARY OF RULE:** Rule is in place to enforce provisions WV Code 22C-9. The rule pertains to the permitting and drilling of deep wells in West Virginia. The rule has not been revised since 1988. It was necessary to clean up language to comport with the revisions made to WV Code 22C-9. Two substantial changes were made. First, language in subsection 4.4.a was changed (requirement for surface owners consent and easement) to comport with court decision. Second, additional notice requirements found in subsection 4.5 to apply to operators applying for a deep well drilling permit.

**C. STATEMENT OF CIRCUMSTANCES WHICH REQUIRE RULE:**  
39CSR1 has not been revised since 1988. Rule will be filed as a legislative rule instead of procedural. Changes to WV Code 22C-9 warranted changes to the applicable rule.

**D. FEDERAL COUNTERPART REGULATIONS - INCORPORATION BY REFERENCE/DETERMINATION OF STRINGENCY:**

N/A

**APPENDIX B**

**FISCAL NOTE FOR PROPOSED RULES**

**Rule Title:** Title 39, Series 1 Rules of the Commission

**Type of Rule:** X **Legislative**           **Interpretive**           **Procedural**

**Agency** Oil and Gas Conservation Commission

**Address** #10 McJunkin Road

Nitro, West Virginia 25143-2506

**1. Effect of Proposed Rule**

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<b>ESTIMATED TOTAL COST</b>	\$	\$	\$	\$	\$
<b>PERSONAL SERVICES</b>					
<b>CURRENT EXPENSE</b>	2,430		-0-	2,430	2,430
<b>REPAIRS &amp; ALTERNATIONS</b>					
<b>EQUIPMENT</b>					
<b>OTHER</b>					

**2. Explanation of above estimates:**

Estimates based on Rule resulting in six additional administrative hearings before the Commission. Each hearing cost is approximately \$405.00 for per diem for members, legal advertisement and court reporter.

**3. Objectives of these rules:**

Revised statute necessitated rule revisions. The revisions are mostly clean up. However, two substantial changes were made. Amendment to the surface owners consent and easement provision was made to comport with the interpretation of the court. Also, an additional notice provision when a permit to drill a deep well is sought will further protect the correlative rights of adjoining operator and mineral owner interests.

**Rule Title:** Title 39, Series 1 Rules of the Commission

**4. Explanation of Overall Economic Impact of Proposed Rule.**

**A. Economic Impact on State Government.**

Same as outlined in the Effect of Proposed Rule.

**B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.**

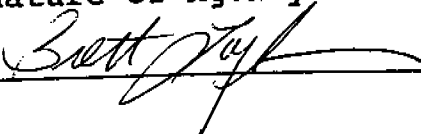
Operators of deep wells will bear the cost of Class II legal advertisement when they apply for a permit to drill. Any other additional cost associated with attending possible administrative hearings.

**C. Economic Impact on Citizens/Public at Large.**

None.

**Date:** June 16, 1999

**Signature of Agency Head or Authorized Representative**

  
\_\_\_\_\_

FILED

Aug 3 1 30 PM '99

OFFICE OF THE SECRETARY OF STATE  
WEST VIRGINIA

**TITLE 39**  
**LEGISLATIVE RULES**  
**WEST VIRGINIA OIL AND GAS CONSERVATION COMMISSION**

**SERIES 1**  
**RULES OF THE COMMISSION**

**§39-1-1. General.**

1.1. Scope. -- All rules of a general nature herein promulgated are to prevent waste, protect correlative rights and to conserve oil and gas in the State of West Virginia and are applicable in all pools and fields developed subsequent to their adoption, except as may be amended, modified, altered or enlarged generally or in specific pools or fields by orders hereafter issued by the Commission. Where special field rules apply, the special field rules shall govern to the extent of any conflict.

1.2. Authority. -- W.Va. Code §22C-9

1.3. Filing Date. --

1.4. Effective Date. --

1.5 Repeal of Former Rule. -- This rule repeals and replaces 39CSR1, filed December 20, 1988, effective December 20, 1988

**§39-1-2. General Rules.**

2.1. Duties of the Commission. -- The duties of the Commission shall be as described in the statute.

2.2. Access to records. -- The Commission and/or its authorized agent shall have access to such deep well and lease records, wherever located, as may be necessary in the performance of its statutory duties. All persons or operators, drilling or servicing deep wells, shall permit the Commission and/or its authorized agent, to come upon any lease, property or deep well operated or controlled by them, and to inspect the record and operation of such deep wells and to have access at reasonable time to such records of deep wells; Provided, that information so obtained shall be kept confidential.

2.3. Reports. -- All operators and purchasers of oil and gas within the state shall, from time to time, file such reports containing such information and covering such periods as the Commission, in order to perform its statutory duties, may require by rule.

2.4. Tests and surveys. -- When deemed necessary or advisable in the performance of its statutory duties, the Commission, by rule or regulation, may require tests and surveys to determine the occurrence of waste of oil, gas, water or reservoir energy and the magnitude thereof.

2.5. Corrective action. -- The Commission shall require correction of any condition which is causing or is likely to cause waste of oil or gas and require

the proper plugging and abandonment of any deep well or wells no longer used or useful.

2.6. Well designations. -- The operator, upon completion of any deep well, shall install and maintain, upon the deep well site, proper identification thereof, including, but not limited to, the operator's name, name of lease, number of the well, and API number (composed of state, county and permit number).

2.7. Naming of fields. -- All oil and gas fields subject to the statute discovered subsequent to the adoption of this rule shall be named by the Commission or at its direction.

2.8. Forms upon request. -- Forms required by the Commission will be furnished upon request.

**§39-1-3. Definitions.**

3.1. "Commission" means the West Virginia Oil and Gas Conservation Commission, composed of three (3) members appointed by the Governor, the Director of the Division of Environmental Protection and the Chief of the Office of Oil and Gas of the Division of Environmental Protection

3.2. "Commissioner" means the person appointed by the West Virginia Oil and Gas Conservation Commission to the position of Commissioner.

3.3. "Code" means the Code of West Virginia, 1931, as amended.

3.4. "Statute" means WV Code §22C-9.

3.5. "Hearing" means a proceeding in which any matter is heard before the Commission.

3.6. "Day" means a period of twenty-four (24) consecutive hours.

3.7. "Barrel" means forty-two (42) United States gallons of 231 cubic inches each at a temperature of sixty (60) degrees Fahrenheit.

3.8. "Cubic Foot of Gas" means in this rule, the volume of gas contained in 1 cubic foot of space at a standard pressure base and a standard temperature base. The standard pressure base shall be fourteen and seventy-three hundredths (14.73) psia, and the standard temperature base shall be sixty degrees Fahrenheit.

3.9. "Log or Well Log" means a systematic detailed geological record of formations encountered in the drilling of a well.

3.10. The words, "Person, Operator, Royalty Owner, Independent Producer, Oil, Gas, Pool, Well, Shallow Well, Deep Well, Drilling Unit, Waste, Correlative Rights, and Just and Equitable Share of Production", are defined by the statute and said definitions are hereby adopted in this rule.

3.11. "Oil Well" means any well which produces less than 6,000 cubic feet of gas to each one barrel of oil on initial gas-oil ratio test, defining oil and gas as in the statute.

3.12. "Gas Well" means any well which produces 6,000 cubic feet or more than 6,000 cubic feet of gas to each one barrel of oil on initial gas-oil ratio test, defining oil and gas as in the statute.

3.13. "Completion" - An oil well shall be considered completed when the well is first capable of producing new oil through wellhead equipment into lease tanks from the ultimate producing interval after the producing string has been run. A gas well shall be considered completed when the well is capable of producing gas through wellhead equipment from the ultimate producing zone after the producing string has been run. A dry hole shall be considered completed when all provisions of plugging have been performed. A multiple completion is the completion of more than one pool of hydrocarbon fluids into one wellbore.

3.14. "Purchaser" means any person who directly or indirectly purchases, transports, takes or otherwise removes oil, gas or other hydrocarbon to his account from a well, lease, drilling unit or pool.

3.15. "Field" means a geographic area which is underlaid or appears to be underlaid by at least one pool; and "Field" shall include the underground reservoir or reservoirs containing oil or gas or both. The words "Field" and "Pool" are synonymous when only one underground reservoir is involved; however, "Field" may relate to two or more pools.

3.16. "Well Spacing" means the pattern or minimum distances from drilling unit boundary lines and from other deep wells drilling to or producible from the same pool, at which deep wells may be located on the surface.

3.17. "Unit" means a lease or two or more leases which have been combined in such a manner that the combined leases may be regarded as a common lease for the drilling and operation of a deep oil or gas well.

3.18. "Designated Agent" - The designated agent shall be a resident of the State of West Virginia upon whom process, notices, orders or other communications issued pursuant to this rule may be served. Change in designated agent must be received by the Commission within five days after such change.

3.19. "Authorized Agent" means a representative of the Commission.

3.20. "Special Field Rules" are rules ordered after a deep well has been drilled establishing a field or pool and an application is filed by the operator of the deep well or by the operator of any lands directly and immediately affected by the drilling of such deep well or wells in the field or pool. The special field rules will designate the field or pool by name, the area to which they are applicable, the acreage of each drilling unit, the shape thereof, the minimum distance from the outside boundary of each drilling unit at which a deep well may be drilled and a minimum distance between deep wells. The Commission may conform the size and shape of the drilling unit upon which a deep well is situated to the applicable special field rules.

3.21. "Test well" shall mean a well intended to discover a "new " pool in accordance with WV Code §22C-9-2(a)(9).

3.22. "Annual" shall mean twelve calendar months beginning January 1 and ending December 31.

### **39-1-4. Operational Rules.**

#### 4.1. Notices - General and Emergency.

Any written notice of intention to do work which requires the Commission's approval or to change plans previously approved by the Commission must be filed with the Commission in triplicate, unless otherwise directed, and must receive its approval before the work is begun.

In case of emergency or a situation where operations might be unduly delayed, any written notice or approval required by this rule to be given to or received from the Commission may be given or received orally or by wire, and, if approval is obtained, the transaction shall be confirmed in writing within ten working days as a matter of record.

#### 4.2. Location of Wells.

To prevent waste, in the absence of an application for special field rules or special field rules ordered by the Commission establishing drilling units or authorizing different deep well spacing or location patterns for a particular field or pool or parts thereof, each deep well drilled shall be not less than 3,000 feet from a permitted deep well location or from an existing well capable of producing hydrocarbons from the objective pool of the deep well and no deep well shall be less than 400 feet from a lease or unit boundary.

The Commission shall have the discretion to determine pattern location of deep wells adjacent to an area governed by special field rules where there is sufficient evidence to indicate that the pool or reservoir spaced by the special field rules may extend beyond the boundary of the spacing order and the uniformity of the spacing pattern is necessary to ensure orderly development of the pool or field.

#### 4.3. Exception to Location of Wells.

When exception to subsection 4.2 of this rule or a special field rule applicable to the location of deep wells is desired, the operator shall file a supplemental application to the application required by subsection 4.4 of this rule with the Commission.

The supplemental application shall be accompanied by a plat or sketch with appropriate coordinates drawn to the scale of 1 inch equaling to 2,000 feet accurately showing to scale all other completed, drilling, or permitted deep oil and gas wells on said property or surrounding property within a distance of two miles if the plat or sketch submitted under subsection 4.4 of this rule does not accurately reflect the hereinabove information. The plat shall show:

4.3.a The location at which a deep oil or gas well could be drilled in order to be in compliance with the applicable order, or rule;

4.3.b The location at which the applicant requests permission to drill; and

4.3.c The location at which deep oil or gas wells have been drilled or could be drilled in accordance with the applicable special field order or rule, directly or diagonally offsetting the proposed exception.

The Commission, after notice and hearing, may grant or deny the application and require the withholding or approve issuing of a permit pursuant to subsection 4.4 of this rule.

No exception shall prevent any operator from drilling a deep oil or gas well on adjacent lands, directly or diagonally offsetting the exception, at locations permitted by any applicable special field rules ordered by the Commission.

#### 4.4. Application for Permit.

All applications submitted to the Chief of the Office of Oil and Gas for a permit to drill, redrill, stimulate, operate, plug, abandon, deepen, case fracture, pressure, convert or combine any deep well, or physically change any deep well to allow the migration of fluid from one formation to another shall be reviewed by the Commission or by an authorized agent to ascertain compliance with this rule. The Commission will provide the Chief of the Office of Oil and Gas with a statement either approving or disapproving the application based upon its compliance with Oil and Gas Conservation rule and the statute. The permit will be issued by the Chief of the Office of Oil and Gas when the applicant has complied with this rule. The application shall contain, or show by plat or sketch, in addition to the requirements of WV Code §22C-9-1(k), and this rule, the following:

4.4.a. For all wells drilled within an area that has been established through special field rules pursuant to WV Code §22C-9-7, a certificate of consent and easement from all owners of the surface of the tract on which the deep well is to be drilled;

4.4.b. A tabulation of all deep wells within one mile of the proposed location, including the API number of the deep well, well name and the name and address of the operator;

4.4.c. Shown on a plat for a proposed deep well location in an area covered by special field rules, the boundaries of the drilling unit, the distances from the proposed deep well location to the nearest outside boundary and the acreage of each tract within the drilling unit. Such plat shall accompany the application and shall be drawn to a scale of 1 inch to 2,000 feet. The plat shall be prepared by a licensed land surveyor or registered engineer showing the district and county in which the tract of land upon which the well to be drilled is located, the acreage of the tract, the name of mineral owners or lessees of adjacent tracts, the proposed or actual location of the well determined by survey, the courses and distances of such locations from two permanent points or landmarks on said tracts and the number to be given the deep well. The

plat will show all deep oil and gas including abandoned deep oil and gas wells within one mile of the proposed or actual deep well for which a permit is being sought and the distances to each;

4.4.d. Any other information which the Commission, by rule, or order, may require to perform its statutory duties.

#### 4.5. Annual Report of Monthly Oil and Gas Production.

For each deep oil or gas well, an annual report of production by month shall be filed with the Commission. The report will be filed on or before the succeeding March 31st. The report will be filed regardless of the status of the deep well.

The report to be submitted by the operator or a person specified by the operator shall include the operator's name, place of business, lease or well name, API number (composed of state, county and permit number), days produced during the report month, volume of oil measured in barrels or gas measured in thousand cubic feet, and other pertinent information as the Commission, by rule, may require in the performance of its statutory duties.

#### 4.6. Filing of Well Logs.

Within ninety days after the completion of drilling or recompletion of a deep well, the operator shall submit to the Commission a copy of the well log and the electrical, radioactive or other similar conventional log if they have been run. In addition, and upon the request of the Commission, operators shall file a copy of drill stem test charts, formation water analysis, porosity, permeability or fluid saturation measurements, core analysis and lithologic log or sample description as compiled within 90 days of completion: **Provided**, that no such information shall be required unless the operator has compiled such information in the ordinary course of business. No interpretation of the data is to be filed.

All information furnished to the Commission hereunder with respect to a deep well marked "confidential" shall be kept confidential for one year after the date the information is required to be filed hereunder, unless the owner gives written permission to release such information at an earlier date.

#### 4.7. Measurement of Oil.

The volume of production of oil shall be computed in terms of barrels of clean oil on the basis of meter measurement or tank measurements of oil level difference, made and recorded to the nearest 1/4 inch of one hundred percent (100%) capacity tables, subject to the following corrections:

4.7.a. Correction for impurities. - The percentage of impurities (water, sand and other foreign substances, not constituting a natural component of the oil) shall be determined to the satisfaction of the Commission and the observed gross volume of oil shall be corrected to exclude the entire volume of such impurities; and

4.7.b. Temperature correction. - The observed volume of oil corrected for impurities shall be further corrected to the standard volume at

sixty degrees Fahrenheit in accordance with A.S.T.M.D. - 1250, Table 7, or any revisions thereof and any supplements thereto or any close approximation thereof approved by the Commission.

4.8. Measurement of Gas. -- All gas except gas used on the lease for development purposes, lease operations or free gas, when produced or sold shall be measured by an approved meter of sufficient capacity. The standard pressure base for reporting purposes shall be 14.73 psia regardless of atmospheric pressure at the point of measurement and the standard temperature base shall be sixty degrees Fahrenheit.

#### 4.9. Multiple Pool Completion or Commingling in One Well Bore.

In the absence of special field rules, an operator will, within seventy-two hours after commencing to complete a deep well in more than one pool, file a written notice to the office of the Conservation Commission of the intended multiple completion. Within fourteen days after the multiple completion and before any production for the deep well is marketed, the operator shall file a report stating whether the production is segregated or commingled, include a diagrammatic sketch of the mechanical installation, name and address of the operators, and a plat showing the location of the deep well and deep wells within two miles of the deep multiple completion well which have been or may be capable of being completed in the same pool or pools.

The Commission will provide all operators of deep wells within two miles of the multiple completion a copy of the report. If, within 15 days no protest is received and the Commission determines that no waste will result from the completion, the completion will be approved without notice and hearing.

In the event the pools are segregated, the Commission may require tests as it deems necessary to determine the effectiveness of the segregation of the different producing pools.

#### 4.10. Intentional and Unintentional Deviation in Drilling.

Before beginning intentional directional drilling, other than sidetracking due to hole conditions, when the intent is to direct the bottom of the hole away from the vertical, notice of intention to do so shall be filed with the permit application and approval obtained. Such notice include the name and address of the operator, the well or farm name, lease name, field or pool, county, the depth, exact surface location of the well bore, proposed direction of deviation and proposed horizontal distance between the bottom of the hole and surface location, reason for intentional deviation and a list of offset operators. The applicant shall notify via certified mail offset operators of the applicant's intention. If an objection is received by the Commission within ten days the application will be set for hearing. If no objection is received, the application shall be approved. If approval is obtained, the operator shall file, with the Commission within sixty days after the completion of the work, an accurate and complete copy of the directional survey.

In all deep wells, all operators shall, when the safety of the well bore is not in jeopardy, survey their well bore for unintentional deviation from the vertical at least every 500 feet or every bit change if less than 500 feet, but no more frequently than 250 feet. The operator shall calculate the cumulative

random drift of the bore hole from such survey as drilling progresses. The operator shall file a copy of such record within sixty days after completion of the drilling operation and before the sale of hydrocarbons is made from the well.

In the event safety precludes a survey being performed as described above, the operator shall, before the sale of hydrocarbons from the well, run cased hole deviation surveys or directional surveys on the well bore to determine that the bore hole is within the confines of the drilling unit.

If the operator has reason to suspect that cumulative random drift exceeds the surface distance of the well from the nearest drilling unit boundary, the operator shall run a directional survey on the bore hole to determine where the bore hole actually lies and file a copy of such record within sixty days after completing the survey.

4.11. Production potential, shut-in pressure and gas-oil ratio testing and reports. -- Production potential, shut-in pressure and gas-oil ratio testing and reporting may be required by the Commission to perform its statutory responsibilities. In deep well gas testing, the methods prescribed in the Interstate Oil Compact Commission's "Manual of Gas Well Testing" shall be used.

4.12. Gas-oil ratio test. -- Each operator shall take a gas-oil ratio test not later than thirty days following the completion or recompletion of any deep well producing from a pool which contains both oil and gas. The results of such test shall be reported to the Commission within fifteen days after the completion of the test. Upon request, the Commission may waive or extend the time for making a gas-oil ratio test. Additional tests may be taken at any time and shall be taken as required by the Commission to perform its statutory responsibilities.

#### §39-1-5. Secondary Recovery Rules.

5.1. Waterflooding and Other Recovery Operation. -- Applications for secondary or additional recovery operations, whether by waterflooding or repressuring or pressure maintenance operations, for a pool productive of oil shall contain:

5.1.a. A plat drawn to a scale of 1 inch equal to 2,000 feet showing the area involved, together with the well or wells, including shallow wells and dry and abandoned wells located thereon, all of which shall be properly designated;

5.1.b. The name, description and depth of the formations to be affected;

5.1.c. The log of any injection well or such similar information as is available;

5.1.d. A description of any injection well's casing or the proposed casing program and the proposed method for testing casing before use in any injection well;

5.1.e. A statement as to the type of fluid to be used for injection, its source and the estimated amounts to be injected daily;

5.1.f. A full description of the particular operation for which approval is requested, including the additional oil recovery anticipated and the economic feasibility of the project;

5.1.g. A copy of the unit agreement showing the approval of the plan and its terms of operation by the operators of at least three fourths (3/4) of the acreage (calculating partial interests on a pro rata basis for operator interests on any parcel owned in common) and the royalty owners of at least three fourths (3/4) of the acreage (calculating partial interests on a pro rata basis for royalty interests on any parcel owned in common); and

5.1.h. A statement of the designated operator for the unit.

5.2. Unit Operations. -- Subsequent to notice and hearing, at which the applicant will provide a copy of the unit agreement showing the approval of the plan and its terms of operation by the operators of at least three fourths (3/4) of the acreage (calculating partial interests on a pro rata basis for operator interests on any parcel owned in common) and the royalty owners of at least three fourths (3/4) of the acreage (calculating partial interests on a pro rata basis for royalty interests on any parcel owned in common), the Commission may enter an order as provided in WV Code §22C-9-8.

5.3. Monthly Report. -- A monthly report of fluids injected and withdrawn shall be filed in a form prescribed by the Commission.

5.4. Notice of commencement and discontinuance of injection operations. -- The Commission shall be notified in writing within three days of commencement of injection operations and within ten days of ceasing injection operations. No injection well will be plugged without a permit.

### **§39-1-6. Rules of Practice and Procedure.**

6.1. All proceedings relating to the determination of special field rules for the conservation of oil and gas, shall, in addition to the provisions of WV Code §22C-9-10, require evidence from an applicant as follows:

6.1.a. A topographic map at a scale of 1 inch equals 2,000 feet with an outline of the area for which special field rules are requested;

6.1.b. Known lease ownership of the area for which special field rules are requested by plat at a scale of 1 inch equals 2,000 feet and/or a tabulation of such ownership;

6.1.c. Geologic mapping, records and testimony relevant to the area to be spaced;

6.1.d. Reservoir data anticipated for an average proposed drilling unit within the spaced area; and

6.1.e. A comparative economic evaluation of spacing patterns, based on estimated production and rate of production of oil and/or gas of the average proposed drilling unit within the spaced area.

6.2. Conduct of attorneys before the Commission shall be the same as required of attorneys before the Circuit Courts of the State of West Virginia. Attorneys or persons representing themselves shall stand when addressing the Commission or a witness. Any person testifying in response to a subpoena or subpoena duces tecum issued by the Commission and any person testifying in support of an application, or in opposition thereto, shall be required to do so under oath or affirmation administered by the Commission. Witnesses shall be examined with courtesy and respect and their good faith shall be presumed.

The conduct and demeanor of attorneys and persons when present during the proceedings shall be such as to reflect respect for the dignity and authority of the Commission and to maintain the proceedings as an objective search for the applicable facts and the correct principles of law.

The electronic and/or photographic recording of any session is prohibited except as may be required by the Commission for preserving a record thereof for the use of the Commission in connection with the matter being heard. A transcript of testimony shall be taken and preserved as part of the permanent record. Interested parties may examine the official transcript or purchase a copy from the Commission.

6.3. Any operator intending to apply for special field rules, shall, along with the application which shall show applicant's name and address and describe the area for which a spacing order is requested, send a notice of a prehearing conference to the Commission and the operators of any lands directly or immediately affected by the proposal. The prehearing notice shall include a list of the names and addresses of all operators to whom it was sent, a statement that a diligent effort has been made to determine to whom the notice must be sent, a statement that opponents to the application must file written notice with the Commission within ten days or the conference will not be held, and the evidence required in subsection 6.1 of this rule. The Commission shall set a day, time and place for the prehearing conference to be not less than twenty days following the date of the prehearing notice. If no written opposition to the application is received by the Commission within the ten days after the date of the prehearing notice, the Commission will advise all persons to whom the prehearing notice was sent that a conference will not be held. If any operator relates in writing to the Commission opposition to the applicant's proposal, within ten days, a conference will be held. Any operator may attend and participate in the conference even though he did not request it. Opponents to the application shall present evidence, as required of an applicant in subsection 6.1 of this rule, indicating where there is disagreement with the applicant, sufficient to permit all operators to attempt to resolve the difference.

6.4. The Commission shall assign the application a cause number and enter the proceeding along with the date of filing on a separate page of the docket. Notice of the docket and the time and place of the hearing shall be in accordance with the provisions of the statute. A hearing shall not be less than 20 days and not more than 45 days following receipt of the application.

In addition to any other notice required by law or this rule, any person who believes that he may be interested in any hearing before the Commission who has filed a request for notices, in writing, shall be entitled to receive a copy of the docket for the hearing mailed by the Commission not later than ten days before the date of the hearing. Upon request, such person will be furnished a copy of the application filed with the Commission.

6.5. The applicant will open the hearing and present testimony and exhibits offered in support of the application. The applicant's witnesses will be subject to cross-examination by the Commission or any interested parties. The Commission shall determine the order of the appearances of the other participants in the hearing. Each interested party affected by the application who has complied with the Rules of Practice and Procedure, may present testimony and exhibits in support of or in opposition to the applicant's proposals. All witnesses shall be subject to cross-examination as previously set forth.

The applicant may offer rebuttal testimony and exhibits, but the witnesses will again be subject to cross-examination. Surrebuttal testimony and exhibits and subsequent testimony and exhibits may be permitted at the discretion of the Commission.

Closing statements and statements of position may be made by the participants and all other interested persons before the hearing is closed or at such time as designated by the Commission. No order shall be made which is not supported by competent legal evidence.

6.6. In addition to any special hearings which may be held, regular monthly hearings shall be held before the Commission. Where circumstances permit, the Commission, after sounding the docket, may first call up and dispose of all noncontested matters and motions for continuance.

6.7. Any interested party may petition the Commission for the promulgation, amendment or repeal of any rule by filing a written petition setting forth such facts and arguments as support the petition. Upon receiving such petition, the Commission, as soon as practicable, shall either:

6.7.a. Deny the petition in writing (stating its reasons for denial),  
or

6.7.b. Initiate rule-making proceedings pursuant to WV Code §29A-3 or other appropriate provisions of the WV Code.

6.8. The Commission shall enter a spacing order or dismiss the application within 45 days after the application for a spacing order has been filed.

6.9. Any person who is bound by any order of the Commission shall have the right to compel a hearing on the matter if no such hearing has been held.

# **PUBLIC   HEARING**

## **OIL AND GAS CONSERVATION COMMISSION 39CSR1 - "RULES OF THE COMMISSION"**

**The Public Hearing for 39CSR1 was held in DEP's Training Center, Nitro, at 6:00 p.m., Monday, July 19. A.V. Gallagher, Chief, DEP's Public Information Office, conducted the hearing. Written comments were received concerning the proposed rule; however, no oral comments were made for the record. Attached are the sign-in sheet of those people submitting written comments, copies of the comments that were received, and the response to those comments.**

Sign-in Sheet Public Hearing  
On Nitro, July 19, 1999 39CSR1

Name	Address	Who you represent
Larry Malone	Po Box 6070 Chas. WV 25362	Columbia Natural Resources
Ron Griffin	P.O. Box 1550 Clbg WV 26302	Equi-Trans
Mike McThomas	Box 1791 Chas WV 25326	Robinson McElwee

July 19, 1999

**R. Neal Pierce** ✓  
Vice President, General Counsel  
and Secretary

PO Box 6070  
Charleston, WV 25362-0070

900 Pennsylvania Avenue  
Charleston, WV 25302

Direct Dial 304.353.5107  
Fax No 304.353.5249

Mr. Barry Lay  
Chairman  
Oil and Gas Conservation Commission  
#10 McJunkin Road  
Nitro, WV 25143-2506

Re: Notice of Proposed Rulemaking, Revisions to Title 39,  
Series 1, Rules of the Commission

Dear Chairman Lay and Board Members:

I have been asked to submit the comments of Columbia Natural Resources, Inc. (CNR) on the proposed changes to the referenced Legislative Rules as proposed in the Commission's recent notice of June 17, 1999. In order not to burden the Commission unduly, CNR's comments will be limited to two substantive changes from current regulations which CNR believes will not advance the objectives of the Oil and Gas Conservation statute, and should be eliminated in favor of the rules as currently drafted.

§ 39-1-4. Operational Rules

4.2. Location of Wells

This section addresses the spacing of deep wells in the absence of special field rules. Currently the regulations require that this general spacing rule be determined with reference to "deep wells drilling to or capable of producing" from the pool which is the target of a proposed new deep well. This rule as drafted makes good sense as it establishes spacing of additional well sites in relation to reservoir drainage locations that exist or are being drilled.

The Commission proposes to change this rule by substituting "permitted deep well location" for well locations currently being drilled. While it is plain to see how this change eases the Commission's administrative burden, in CNR's view the change will hamper ultimate development. Since permits once issued have a two-year life and in fact may never be drilled, it appears inevitable that some deep wells could be and will be foreclosed by setting spacing based on permitted locations rather than wells actually

being drilled. CNR opposes this change and encourages the Commission to retain the current language of 4.2.

#### 4.5. Notice Requirements

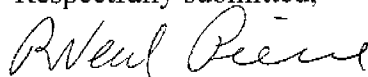
This proposed rule, which is new, should be rejected by the Commission in its entirety. It clearly exceeds the Commission's statutory authority in at least three respects and if adopted will surely be challenged in court and will just as surely fail. First and foremost, the proposed rule places a condition on "filing any application for the drilling of a new deep well". Without question, the sole authority over well permits resides in the Office of Oil and Gas under Chapter 22, Article 6, and the commission has no statutory authority for requiring any action or condition prior to filing a drilling permit.

Second, the hearing notice provisions of the conservation statute are placed on the commission and there is simply no statutory language to support shifting notice obligations on to an applicant.

Third, under proposed rule 4.5.b. an "owner" or "lessee" is purported to be allowed, in response to the notice to request a hearing for purposes of requesting a drilling unit or field rules. Neither "owner" nor "lessee" is defined in either the statute or rules. However, clearly under the language of the statute only "Operators" as defined have standing to request such hearings. Neither "royalty owners" as defined in the statute nor the commission itself currently has statutory authority for instituting field rules or drilling units in the absence of a request by an "Operator." Proposed Rule 4.5 must be rejected in that the Commission cannot expand standing, or notice requirements or attempt to indirectly solicit requests for hearings that it cannot on its own authority initiate, without appropriate amendment to the statute itself. The merit of the rule may be debatable, but the lack of authority of the Commission to promulgate proposed rule 4.5. is not. It should be withdrawn in its entirety prior to promulgation of the final rule in this proceeding.

As one of the most active deep well drillers in West Virginia, CNR continues to support the Oil and Gas Conservation law and reasonable regulations thereunder. However, the current proposal should not attempt to expand or alter the scope or effect of the statute beyond what that statute plainly permits.

Respectfully submitted,



R. Neal Pierce  
Vice President, General Counsel  
and Secretary



Cabot Oil & Gas Corporation

July 19, 1999

Mr. Barry Lay  
Chairman  
Oil & Gas Conservation Commission  
10 McJunkin Road  
Nitro, WV 25143-2506

VIA FAX  
(304) 759-0529

RE: Notice of Proposed Rulemaking,  
Revisions to Title 39, Series 1, Rules of the  
Commission

Dear Chairman Lay and Members of the Board:

The following are comments of Cabot Oil & Gas Corporation with regard to the proposed changes to the referenced Legislative Rules dated June 17, 1999. Our comments specifically address three distinct subsections within Section 39-1-4, Operational Rules.

**Subsection 4.2 (Location of Wells)**

We oppose this language and request that the commission retain the current language of 4.2. While this section addresses deep well spacing in the absence of special field rules, the substituted "permitted deep well location" phraseology essentially sets the spacing of future deep wells based on permitted locations, rather than the actual locations of drilling or completed wells. Given the relatively short two year life span of a drilling permit, coupled with the marginal economics of the times, it seems inevitable that many deep well projects will be further adversely affected by spacing requirements of a well that may not even exist.

**Subsection 4.3 (Exception to Location of Wells)**

This language requires the submittal of various information on 1"-2000' plat map. In many cases this is an inordinate amount of data and would, at times, be impossible or impractical to meet the proposed terms.

**Subsection 4.5 (Notice Requirements)**

It is our opinion that this new proposed language clearly exceeds the statutory authority of the commission. First, this proposal would appear to supercede the authority of the Office of Oil & Gas with regard to drilling permit applications as granted in Chapter 22,

Article 6. The commission has no authority to require any actions or conditions prior to the filing for a drilling permit by an operator. Further, the notification requirements of subsection 4.5.a (one square mile around location) are extremely excessive and we urge the commission to use the existing notice requirements. Finally, under 4.5.b, the terms "owner" or "lessee" are given standing to request a hearing in response to a notice... yet neither of these terms are actually defined in either the statute or the proposed rules. However, on this issue the statute is clear that only "operators" have standing to request such a hearing. We see no reason to change this.

In summation, Cabot Oil & Gas is an active driller of deep wells in West Virginia. Further, we are in longstanding support of the Oil & Gas Conservation Commission and all the reasonable rules and regulations it administers. However, we must protest the proposed revision to Title 39 in its entirety. We believe that the proposal clearly attempts to expand the scope and alter the effect of the statute beyond what the statute permits.

If you have any questions regarding any of the issues brought forth in this commentary, please do not hesitate to contact me.

Respectfully submitted,

*Angus W. McAuliffe* \_\_\_\_\_



West Virginia Oil and Natural Gas Association

July 19, 1999

Brett Loflin  
Oil and Gas Conservation Commission  
#10 McJunkin Road  
Nitro, WV 25143-2506

Re: 39 C.S.R. 1, Rules of the Commission

Dear Brett:

The West Virginia Oil and Natural Gas Association (WVONGA) is the oldest oil and gas trade association in the state. Founded in 1915, the organization was established to "foster a good spirit of fellowship among the producers, transporters, distributors and consumers," of oil and natural gas. Our association represents all segments of the oil and gas industry and several of our member companies have been involved in drilling deep wells. Our organization supports the comments submitted on this matter by Columbia Natural Resources and Cabot Oil and Gas.

While we have circulated the rules to member companies for their review and comment, collectively, we are still analyzing the full impact to the industry of implementing the rules changes. Several member companies have raised concerns regarding the additional notice to persons without the statutory right to complain about a well permit application and shifting the burden of the notice to the deep well applicant.

In addition, the current statute only allows an operator to request special field rules for establishing a drilling unit. However, the proposed rule change allows either an "owner" or a "lessee" of any lands within one square mile to request a pre-hearing conference. While we appreciate the openness of the Commission in allowing access to it, we do not believe that the establishment of a complaint process is currently within the statutory charge of your body.

In summary, due to the serious and unknown ramifications of the proposed rule change, on behalf of our membership I respectfully request that you delay a ruling on this matter for fifteen (15) days. We believe this will allow us to completely review the impact of these rules. As the deadline for filing with the Legislative Rule-Making Review Committee is August 6, 1999, there is sufficient time for the Commission to both extend the comment period and ensure that the rules are filed in a timely manner.

Thank you for your immediate attention and due consideration of our request to extend the public comment period, and if we can answer any questions, please do not hesitate to contact me directly.

Cordially,

A handwritten signature in black ink, appearing to read 'R. Joseph', with a long horizontal line extending to the right.

Raymond I. Joseph  
Executive Director



STATE OF WEST VIRGINIA  
**OIL AND GAS CONSERVATION COMMISSION**  
#10 McJUNKIN ROAD  
NITRO, WEST VIRGINIA 25143-2506

**August 2, 1999**

**R. Neal Pierce**  
**Columbia Natural Resources**  
**P. O. Box 6070**  
**Charleston, West Virginia 25302**

**RE: TITLE 39 – Series 1**  
**Rules of the Commission**

**Dear Mr. Pierce:**

On behalf of the members of the West Virginia Oil and Gas Conservation Commission, I would like to thank you for your comments filed at our July 19, 1999 public hearing. The Commission has reviewed your comments and based on that review, the Commission will take the following action with regard to the proposed regulations:

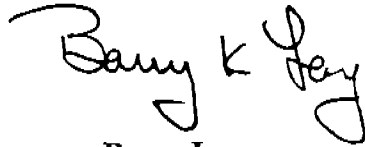
**39-1-4.2.** The change to this subsection was the addition of “permitted deep well locations” to the well spacing requirements. After a great deal of discussion, the Commission has decided to let the proposed language remain as part of our regulations to go to legislative rule review. There are several reasons for leaving this change in the regulations. First, the Commission did not want to create a “race” to drill situation between operators. Secondly, operators may have a great deal of expense in permitting and preparing deep well locations, only to have their permit revoked if another operator spuds his well first. Thirdly, it may be impossible to track which well has commenced drilling, resulting in permits being issued in violation of the Commissions regulations. Furthermore, the term of a permit is two years from date of issuance. Finally, the operator has relief of this issue in the form of special field rules and exception locations.

**39-1-4.3.** The only change to this existing subsection is changing the word Commissioner to Commission. The requirements under this subsection have been in place since the inception of the Commission. The Commission feels that the requirements of this subsection are reasonable and fair. This subsection will remain as changed and filed for legislative review.

**39-1-4.5. This section was an effort of the Commission to provide notice to adjacent Operators that may be affected by the drilling of a deep well. Its purpose was an attempt to resolve issues of pooling and unitization prior to the well being drilled. After reviewing the comments, the Commission has determined that the existing statute and rules allow for the protection of correlative rights and ensure the orderly development of the states resources. Therefore, subsection 4.5 and any references to subsection 4.5 will be deleted from the Commissions proposed regulations.**

**Again, thank you for your comments.**

Sincerely,

A handwritten signature in black ink that reads "Barry K. Lay". The signature is written in a cursive style with a large initial "B" and a distinct "K" and "Lay".

**Barry Lay  
Chairman**



STATE OF WEST VIRGINIA  
**OIL AND GAS CONSERVATION COMMISSION**  
#10 McJUNKIN ROAD  
NITRO, WEST VIRGINIA 25143-2506

**August 2, 1999**

**Greg Moredock  
Cabot Oil & Gas Corporation  
P. O. Box 4544  
Houston, Texas 77210-4544**

**RE: TITLE 39 – Series 1  
Rules of the Commission**

**Dear Mr. Moredock:**

**On behalf of the members of the West Virginia Oil and Gas Conservation Commission, I would like to thank you for your comments filed at our July 19, 1999 public hearing. The Commission has reviewed your comments and based on that review, the Commission will take the following action with regard to the proposed regulations:**

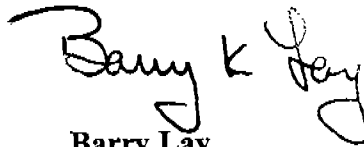
**39-1-4.2. The change to this subsection was the addition of “permitted deep well locations” to the well spacing requirements. After a great deal of discussion, the Commission has decided to let the proposed language remain as part of our regulations to go to legislative rule review. There are several reasons for leaving this change in the regulations. First, the Commission did not want to create a “race” to drill situation between operators. Secondly, operators may have a great deal of expense in permitting and preparing deep well locations, only to have their permit revoked if another operator spuds his well first. Thirdly, it may be impossible to track which well has commenced drilling, resulting in permits being issued in violation of the Commissions regulations. Furthermore, the term of a permit is two years from date of issuance. Finally, the operator has relief of this issue in the form of special field rules and exception locations.**

**39-1-4.3. The only change to this existing subsection is changing the word Commissioner to Commission. The requirements under this subsection have been in place since the inception of the Commission. The Commission feels that the requirements of this subsection are reasonable and fair. This subsection will remain as changed and filed for legislative review.**

**39-1-4.5. This section was an effort of the Commission to provide notice to adjacent Operators that may be affected by the drilling of a deep well. Its purpose was an attempt to resolve issues of pooling and unitization prior to the well being drilled. After reviewing the comments, the Commission has determined that the existing statute and rules allow for the protection of correlative rights and ensure the orderly development of the states resources. Therefore, subsection 4.5 and any references to subsection 4.5 will be deleted from the Commissions proposed regulations.**

Again, thank you for your comments.

Sincerely,

A handwritten signature in black ink that reads "Barry Lay". The signature is written in a cursive style with a large initial "B" and a distinct "Lay" at the end.

**Barry Lay  
Chairman**



STATE OF WEST VIRGINIA  
**OIL AND GAS CONSERVATION COMMISSION**  
#10 McJUNKIN ROAD  
NITRO, WEST VIRGINIA 25143-2506

**August 2, 1999**

**Raymond I. Joseph**  
**West Virginia Oil and Natural Gas Association**  
**P. O. Box 3231**  
**Charleston, West Virginia 25332**

**RE: TITLE 39 – Series 1**  
**Rules of the Commission**

**Dear Mr. Joseph:**

On behalf of the members of the West Virginia Oil and Gas Conservation Commission, I would like to thank you for your comments filed at our July 19, 1999 public hearing. The Commission has reviewed your comments and based on that review, the Commission will take the following action with regard to the proposed regulations:

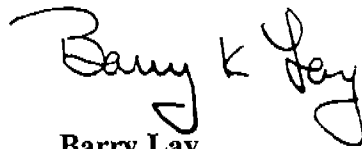
**39-1-4.2.** The change to this subsection was the addition of “permitted deep well locations” to the well spacing requirements. After a great deal of discussion, the Commission has decided to let the proposed language remain as part of our regulations to go to legislative rule review. There are several reasons for leaving this change in the regulations. First, the Commission did not want to create a “race” to drill situation between operators. Secondly, operators may have a great deal of expense in permitting and preparing deep well locations, only to have their permit revoked if another operator spuds his well first. Thirdly, it may be impossible to track which well has commenced drilling, resulting in permits being issued in violation of the Commissions regulations. Furthermore, the term of a permit is two years from date of issuance. Finally, the operator has relief of this issue in the form of special field rules and exception locations.

**39-1-4.3.** The only change to this existing subsection is changing the word Commissioner to Commission. The requirements under this subsection have been in place since the inception of the Commission. The Commission feels that the requirements of this subsection are reasonable and fair. This subsection will remain as changed and filed for legislative review.

39-1-4.5. This section was an effort of the Commission to provide notice to adjacent Operators that may be affected by the drilling of a deep well. Its purpose was an attempt to resolve issues of pooling and unitization prior to the well being drilled. After reviewing the comments, the Commission has determined that the existing statute and rules allow for the protection of correlative rights and ensure the orderly development of the states resources. Therefore, subsection 4.5 and any references to subsection 4.5 will be deleted from the Commissions proposed regulations.

Again, thank you for your comments.

Sincerely,

A handwritten signature in cursive script that reads "Barry K. Lay". The signature is written in black ink and is positioned above the printed name.

Barry Lay  
Chairman



STATE OF WEST VIRGINIA  
**OIL AND GAS CONSERVATION COMMISSION**  
#10 McJUNKIN ROAD  
NITRO, WEST VIRGINIA 25143-2506

August 2, 1999

Ron Griffin  
Equitrans, L.P.  
P. O. Box 1550  
Clarksburg, West Virginia 26302

RE: TITLE 39 – Series 1  
Rules of the Commission

Dear Mr. Griffin:

On behalf of the members of the West Virginia Oil and Gas Conservation Commission, I would like to thank you for your comments filed at our July 19, 1999 public hearing. The Commission has reviewed your comments and based on that review, the Commission will take the following action with regard to the proposed regulations:

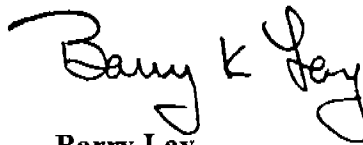
39-1-4.2. The change to this subsection was the addition of “permitted deep well locations” to the well spacing requirements. After a great deal of discussion, the Commission has decided to let the proposed language remain as part of our regulations to go to legislative rule review. There are several reasons for leaving this change in the regulations. First, the Commission did not want to create a “race” to drill situation between operators. Secondly, operators may have a great deal of expense in permitting and preparing deep well locations, only to have their permit revoked if another operator spuds his well first. Thirdly, it may be impossible to track which well has commenced drilling, resulting in permits being issued in violation of the Commissions regulations. Furthermore, the term of a permit is two years from date of issuance. Finally, the operator has relief of this issue in the form of special field rules and exception locations.

39-1-4.3. The only change to this existing subsection is changing the word Commissioner to Commission. The requirements under this subsection have been in place since the inception of the Commission. The Commission feels that the requirements of this subsection are reasonable and fair. This subsection will remain as changed and filed for legislative review.

**39-1-4.5. This section was an effort of the Commission to provide notice to adjacent Operators that may be affected by the drilling of a deep well. Its purpose was an attempt to resolve issues of pooling and unitization prior to the well being drilled. After reviewing the comments, the Commission has determined that the existing statute and rules allow for the protection of correlative rights and ensure the orderly development of the states resources. Therefore, subsection 4.5 and any references to subsection 4.5 will be deleted from the Commissions proposed regulations.**

**Again, thank you for your comments.**

Sincerely,

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**Barry Lay  
Chairman**



STATE OF WEST VIRGINIA  
**OIL AND GAS CONSERVATION COMMISSION**  
#10 McJUNKIN ROAD  
NITRO, WEST VIRGINIA 25143-2506

August 2, 1999

Larry Malone  
Columbia Natural Resources  
P. O. Box 6070  
Charleston, West Virginia 25362

**RE: TITLE 39 – Series 1  
Rules of the Commission**

Dear Mr. Malone:

On behalf of the members of the West Virginia Oil and Gas Conservation Commission, I would like to thank you for your comments filed at our July 19, 1999 public hearing. The Commission has reviewed your comments and based on that review, the Commission will take the following action with regard to the proposed regulations:

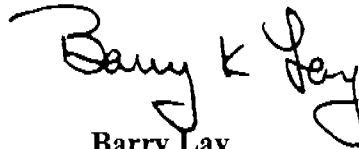
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Again, thank you for your comments.

Sincerely,

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Barry Lay  
Chairman



STATE OF WEST VIRGINIA  
**OIL AND GAS CONSERVATION COMMISSION**  
#10 McJUNKIN ROAD  
NITRO, WEST VIRGINIA 25143-2506

**August 2, 1999**

**Mike McThomas  
Robinson & McElwee  
P. O. Box 1791  
Charleston, West Virginia 25326**

**RE: TITLE 39 – Series 1  
Rules of the Commission**

**Dear Mr. McThomas:**

**On behalf of the members of the West Virginia Oil and Gas Conservation Commission, I would like to thank you for your comments filed at our July 19, 1999 public hearing. The Commission has reviewed your comments and based on that review, the Commission will take the following action with regard to the proposed regulations:**

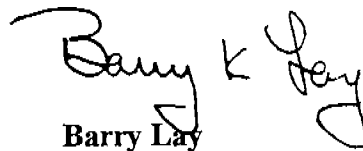
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Again, thank you for your comments.

Sincerely,

A handwritten signature in cursive script that reads "Barry K. Lay". The signature is written in black ink and is positioned above the printed name.

Barry Lay  
Chairman