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Marcellus committee beefs up draft bill

7 amendments added to improve protection

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CHARLESTON — The Joint Select Committee on Marcellus Shale began beefing up its draft regulation bill Tuesday by adding seven amendments aimed at improving various protections.

The committee is using SB 424 — which passed the Senate but died in the House, after substantial alteration, on the last day of the 2011 session — as its draft



bill. After a review of the bill that took up just over half of the two-hour meeting, they began going through the amendments with little or no discussion, except in one case.

In all but one case, the amendments were introduced by House members. In the seventh amendment, Sen. Orphy Klempa, D-

Ohio, was the lead name, joined by the House members.

Amendment highlights

■ If a well operator violates its Division of Highways letter of certification regarding a road maintenance agreement, the Department of Environmental Protection (DEP) will suspend the operator's permit, prohibit further work at the well and deny all other pending permits until the violation is corrected.

■ The acreage for requiring engineering certification of a well pad and the sediment and erosion control plan is reduced from five to three.

■ Waste pit liners must be taken to an approved landfill within 60 days of expiration of their certificate of approval. The DEP must report to the Legislature by July 1, 2012, on the safety of pits and impoundments and evaluate whether further rules are needed regarding radioactivity and toxins held in the pits and impoundments.

■ The DEP's Air Quality Board must regulate and, if appropriate, issue air-quality permits at well sites. For air quality permits, the DEP must consider cumulative impacts of "multiple wells in a

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localized geographic area.

■ By July 1, 2012, the DEP must report to the Legislature on the need for further air pollution regulation — including inspections and health impacts. If more are needed, the DEP must create rules accordingly.

■ All drinking water wells within 2,500 feet of a drilling rig's water supply well (when water is drawn from an underground well) shall be flow-and-quality tested by the operator upon request of the drinking well owner prior to operating the water supply well.

This one caused some confusion because most members weren't sure what a well's water supply well was. Committee counsel Joe Altizer tried to clarify, and Delegate Woody Ireland, R-Ritchie, explained that he saw a water well drilled just a few feet from a river because the river wasn't supplying enough water for the frack job.

Members also questioned what was meant by quality testing. Sen. Corey

Palumbo, D-Kanawha, asked counsel to clarify the water supply well language in the next draft.

Delegate Barbara Evans Fleischauer, D-Monongalia, successfully changed the amendment to direct DEP to create rules on appropriate supply and quality testing.

■ Operators must provide employment information to the Division of Labor, which will report the information annually to the Legislature. That data will include in-state and out-of-state employee numbers and payroll, employee residence, state where they pay income tax and more. Contractors and subcontractors for an operation must also supply the data.

Several more amendments await action when the committee meets today, including one to eliminate the industry-dominated Oil and Gas Examining Board in order to have the DEP hire gas well inspectors directly as civil service employees. Committee co-chair Tim Manchin, D-Marion, said he wanted to make sure the affected parties could attend the meeting.