

Wyoming Rules Requires Oil, Gas Drillers To Test Groundwater

By Tom Oldberg, Law360.com, 11-13-13

Wyoming oil and gas regulators on Tuesday approved rules that will require oil and gas operators to test groundwater before, during and after drilling a well, which environmental groups that consulted on the rules will serve as a model for other states to follow.

The rules approved by the Wyoming Oil and Gas Conservation Commission require companies to test protected water sources within a half-mile radius of a proposed well — including domestic, stock, irrigation, municipal, and other water sources. Companies will have to test the water sources within a year before drilling a well, then twice more during and after operations.

The rules go into effect March 1, 2014.

"This is another example of Wyoming leading the nation in striking the right balance between producing energy and protecting our natural resources," Gov. Matt Mead said in a statement Tuesday.

Under the rules, operators would have to give consent for companies to sample the water sources. There is no cap on the number of private water wells that can be tested.

Any groundwater found in the sampling can't be used to create a presumption of or against liability, fault or causation for the well owner or operator, according to the rule. The admissibility of any sampling that results in a lawsuit proceeding will be determined by whoever oversees that proceeding, the rule said.

The OCC voted to craft groundwater testing rules in July, an initiative championed by Mead, who signed the rules into law. Environmental groups including the Environmental Defense Fund and the Wyoming Outdoor Council played significant roles in helping craft the final rule, according to the governor.

"Wyoming should be proud of this rule," Jon Goldstein, an EDF senior energy policy manager, said in a statement Tuesday. "It sets a new national standard for groundwater baseline testing and monitoring related to oil and gas activity. The open, inclusive approach the state took in formulating this proposal has led to a nationally valid groundwater testing program. This rule will give Wyoming residents important information about the quality of their water."

The U.S. Environmental Protection Agency decided to back away from a draft report linking fracking by Halliburton Co. wells in Wyoming to water pollution.