

## Chapter 12

# Is It a Deep Well or a Shallow Well and Who Cares?

**Timothy M. Miller**  
**Marsha Williams Kauffman**  
*Robinson & McElwee, PLLC*  
Charleston, West Virginia

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**§ 12.01. Introduction.**

Whether a well is classified as a shallow or a deep well can make a difference regarding the permitting agency with jurisdiction to issue the permit, the spacing, unit formation and other permitting, regulatory and operational issues. In West Virginia, a number of operators have permitted Marcellus Shale wells as shallow wells, but have found themselves embroiled in regulatory and legal battles over whether the wells, as drilled, should have been permitted as deep wells. Operators who have erroneously permitted a well as a shallow well have incurred civil penalties, spacing objections, litigation costs and regulatory scrutiny. This problem is not unique to West Virginia, and highlights the need to be cognizant of the differences between shallow and deep wells.

**§ 12.02. Statutory Regulation of Oil and Gas Exploration in West Virginia.**

**[1] — Definitions.**

West Virginia defines a shallow well as any gas well drilled and completed in a formation above the top of the upper most member of the “Onondaga Group.”<sup>1</sup> However, operators drilling a shallow well in West Virginia may penetrate into the “Onondaga Group” not in excess of 20 feet in order to allow for logging and completion operations. West Virginia defines a deep well as any well other than a shallow well, which is drilled and completed in a formation at or below the top of the upper most member of the “Onondaga Group.”<sup>2</sup> Problems have arisen in West Virginia, primarily for drillers of vertical wells attempting to log the Marcellus, because logging tools longer than 20 feet require the breakdown of tools or incomplete logging of the Marcellus to avoid penetrating more than 20 feet into the Onondaga. This problem is not necessarily isolated to Marcellus wells, but any penetration more than 20 feet into the top of the Onandaga.

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<sup>1</sup> W. Va. Code §§ 22C-8-2(21), 22C-9-2(a)(11).

<sup>2</sup> W. Va. Code §§ 22C-8-2(8), 22C-9-2(a)(12).