

## ***Fracking in Virginia***

*Addendum*

*February 4, 2017*

### **Westmoreland County Proposes Regulations to Limit Drilling**

January 2017: The Westmoreland County Board of Supervisors is reviewing proposed regulations that would create regulations to restrict drilling for oil and gas, and will hold public hearings before voting on the matter. Westmoreland Planning Commission Chairman John Felt said, "Our intent is to have strong regulatory regulations in place in this county to render it more challenging to perform fracking economically." The Commission is not proposing a moratorium because it believes oil and gas companies may win a challenge to a complete ban in court. The proposed zoning amendments would require rezoning, a special exception permit, public hearings, and create setback requirements.

Farneth, Linda, "Fight on fracking continues," *Westmoreland News*, January 18, 2017, <http://www.westmorelandnews.net/fight-on-fracking-continues/>, Accessed 4 Feb 17

### **EPA's Study of Hydraulic Fracturing for Oil and Gas and Its Potential Impact on Drinking Water Resources**

*In December 2016 the EPA released the final report following public comments and peer review. The entire report can be found at <https://www.epa.gov/hfstudy>*

EPA found scientific evidence that hydraulic fracturing activities can impact drinking water resources under some circumstances. The report identifies certain conditions under which impacts from hydraulic fracturing activities can be more frequent or severe:

- Water withdrawals for hydraulic fracturing in times or areas of low water availability, particularly in areas with limited or declining groundwater resources;
- Spills during the handling of hydraulic fracturing fluids and chemicals or produced water that result in large volumes or high concentrations of chemicals reaching groundwater resources;
- Injection of hydraulic fracturing fluids into wells with inadequate mechanical integrity, allowing gases or liquids to move to groundwater resources;
- Injection of hydraulic fracturing fluids directly into groundwater resources;
- Discharge of inadequately treated hydraulic fracturing wastewater to surface water; and
- Disposal or storage of hydraulic fracturing wastewater in unlined pits resulting in contamination of groundwater resources.

The report includes Figure ES-8 below. There are no regulations or plans to encourage recycling of fracking wastewater in Virginia at this time.

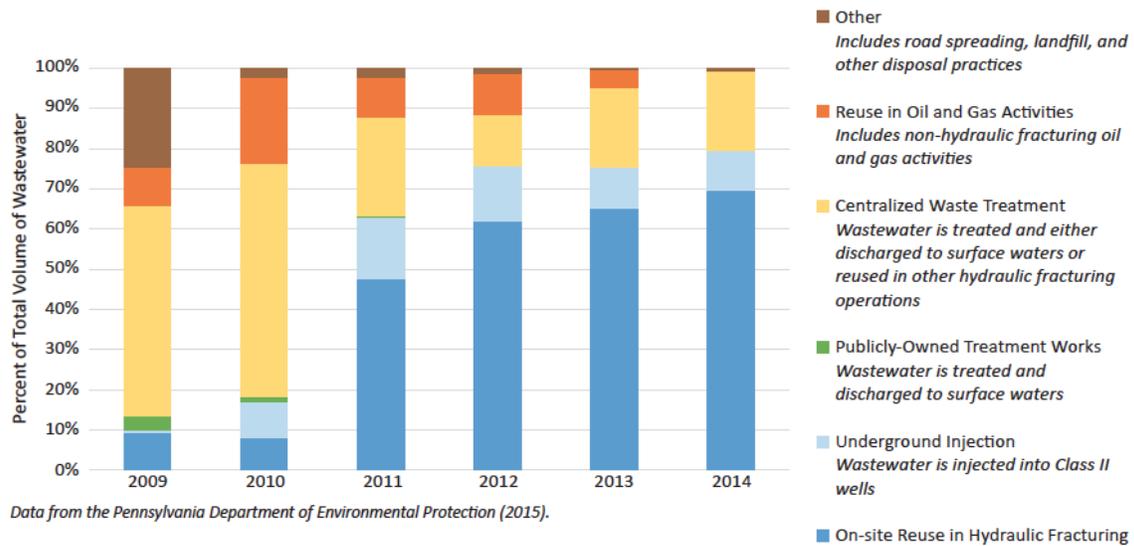


Figure ES-8. Changes in wastewater management practices over time in the Marcellus Shale area of Pennsylvania.

In January 2017, EPA released the EPA Response to SAB Comments on the Review of the Draft Report that can be found at:

<https://cfpub.epa.gov/ncea/hfstudy/recordisplay.cfm?deid=332990>

## DMME Regulations Became Effective Dec. 28, 2016

These regulations can be accessed at [www.register.dls.virginia.gov/details.aspx?id=6055](http://www.register.dls.virginia.gov/details.aspx?id=6055)

### TITLE 4. CONSERVATION AND NATURAL RESOURCES

#### DEPARTMENT OF MINES, MINERALS AND ENERGY

##### Chapter 150

##### Final Regulation

Title of Regulation: 4VAC25-150. Virginia Gas and Oil Regulation (amending 4VAC25-150-10, 4VAC25-150-30, 4VAC25-150-80, 4VAC25-150-100, 4VAC25-150-110, 4VAC25-150-160, 4VAC25-150-280, 4VAC25-150-300, 4VAC25-150-340, 4VAC25-150-360, 4VAC25-150-610; adding 4VAC25-150-310, 4VAC25-150-320, 4VAC25-150-330, 4VAC25-150-350, 4VAC25-150-370, 4VAC25-150-380, 4VAC25-150-390, 4VAC25-150-400, 4VAC25-150-410, 4VAC25-150-420, 4VAC25-150-430, 4VAC25-150-440, 4VAC25-150-450, 4VAC25-150-460, 4VAC25-150-470, 4VAC25-150-480, 4VAC25-150-490, 4VAC25-150-500, 4VAC25-150-510, 4VAC25-150-520, 4VAC25-150-530, 4VAC25-150-540, 4VAC25-150-550, 4VAC25-150-560, 4VAC25-150-570, 4VAC25-150-580, 4VAC25-150-590, 4VAC25-150-600, 4VAC25-150-610, 4VAC25-150-620, 4VAC25-150-630, 4VAC25-150-640, 4VAC25-150-650, 4VAC25-150-660, 4VAC25-150-670, 4VAC25-150-680, 4VAC25-150-690, 4VAC25-150-700, 4VAC25-150-710, 4VAC25-150-720, 4VAC25-150-730, 4VAC25-150-740, 4VAC25-150-750, 4VAC25-150-760, 4VAC25-150-770, 4VAC25-150-780, 4VAC25-150-790, 4VAC25-150-800, 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- (iv) establish a groundwater sampling, analysis, and monitoring program before and after well construction;
- (v) add language related to the use of centralizers in the water protection string of the casing;
- (vi) strengthen casing and pressure testing requirements for well casings used in conventional and coalbed methane gas wells; and
- (vii) provide protection for trade secrets from public dissemination while allowing this information to be made available to first responders and local officials in the event of an emergency. Since the proposed stage, the following are added:
  - (a) the criteria for DMME's decision that an ingredient qualifies as a trade secret;
  - (b) a provision that adjoining localities shall also be noticed of pre-application meetings; and
  - (c) a provision that DMME shall obtain and maintain data submitted to the Chemical Disclosure Registry.

### **State Review of Oil and Gas Regulations (STRONGER) Report, December 2016**

*In its December 2016 report, STRONGER issued its evaluation of the Division of Gas and Oil's response to recommendations from the 2003 review as well as its management of other issues such as hydraulic fracturing that were not evaluated during the 2003 review. The report can be accessed at <http://www.strongerinc.org/wp-content/uploads/2016/12/2016-Virginia-Follow-Up-State-Review-Report.pdf>*

## **Key Recommendations**

- Recommendation 4.1.2  
The review team recommends that the DGO consider developing a publicly accessible complaint database on the DGO website that allows the public to track both the type and resolution of public complaints.
- Recommendation 4.2.4.b  
If development begins in the Tidewater region, the DGO should evaluate whether additional bond requirements should be implemented for that area above and beyond what is required in the southwest region of the state.
- Recommendation 4.4  
The review team recommends that the DGO consider developing mechanisms and agreements with local governments in order to make communications and understanding more robust and transparent.
- Recommendation 6.4  
The General Assembly should take action to raise the DGO's orphan well permit fee, and allocate additional resources in order to plug the remaining orphaned wells in a more timely fashion before they become environmental hazards or become more difficult and expensive to plug. The DGO should also consider seeking additional funding through the federal Oil Pollution Act of 1990 to remediate any leaking oil wells should that event occur.
- Recommendation 7.2.a  
The Review Team recommends that the DGO verify that there is no need for an oil and gas NORM program. The DGO should collaborate with other State/Federal agencies and industry to develop an initial field monitoring data collection program and scientific study to facilitate the determination of need.

## Status of Bills before the 2017 Virginia General Assembly as of Feb 3, 2017

<b>HB1389</b>	<b>FOIA; record exclusion for trade secrets submitted to DMME;</b> allows names of chemicals used in fracking to be protected as trade secrets	12/01/16 House: Left in General Laws	
<b>SB910</b>	<b>Virginia Oil and Gas Act; sampling and replacing contaminated wells.</b> Increases from 750 feet to 1,320 feet the radius of surface lands around gas wells on which gas well operators (i) have a right to enter and obtain water samples from water wells and (ii) are required to replace contaminated water supplies.	<a href="#">01/18/17 Senate: Read third time and passed Senate (40-Y 0-N)</a>	<a href="#">01/30/17 House: Referred to Committee on Agriculture, Chesapeake and Natural Resources</a>
<b>SB911</b>	<b>Orphaned Well Fund; surcharge.</b> Raises from \$50 to \$200 the surcharge to be paid by a gas or oil operator for a permit to conduct any activity other than geophysical operations.	<a href="#">01/18/17 Senate: Passed Senate (34-Y 6-N)</a>	<a href="#">01/30/17 House: Referred to Committee on Agriculture, Chesapeake and Natural Resources</a>
<b>HB1678</b>	<b>FOIA; trade secrets submitted to the DMME;</b> allows amount or concentration of chemicals or ingredients in fracking to be protected as trade secrets	<a href="#">01/30/17 House: VOTE: PASSAGE (59-Y 37-N)</a>	<a href="#">01/31/17 Senate: Referred to Committee on General Laws and Technology</a>
<b>SB1292</b>	<b>Identical to HB1678</b>	<a href="#">02/02/17 Senate: Failed to report (defeated) in Finance (8-Y 8-N)</a>	
<b>SB 1291</b>	<b>Well permit applications; disclosure of trade secrets;</b> If a fracking chemical is excluded from disclosure by FOIA, DMME may disseminate the chemical names to emergency responders, but all are prohibited from disclosing chemical name to the public.	<a href="#">02/02/17 Senate: Failed to report (defeated) in Finance (8-Y 8-N)</a>	
<b>HB1679</b>	<b>Identical to SB1291</b>	02/03/17 House: Passed by for the day	
<b>HB 1509</b>	<b>Mineral mines reclamation; bonds and liens.</b> Increases, from a range of \$200 to \$1,000 per acre to a fixed amount of \$3,000 per acre, the mandatory bond amount furnished by operators on mining land.	<a href="#">01/30/17 House: VOTE: PASSAGE (88-Y 10-N)</a>	<a href="#">02/02/17 Senate: Reported from Agriculture, Conservation and Natural Resources (15-Y 0-N)</a>

**Errata:**

The *Fracking in Virginia* study incorrectly states that Natural Gas Liquids and Liquefied Natural Gas are the same. They are not.

**Natural gas liquids** or “wet gases” are separated from natural gas and sold on their own; these include ethane, propane, butane, etc.

**Liquefied natural gas (LNG)** is natural gas that has been converted to liquid form for ease of storage or transport.