



MARYLAND GENERAL ASSEMBLY
JOINT COMMITTEE ON ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW

December 29, 2016

Mr. Benjamin H. Grumbles
Secretary, Department of the Environment
1800 Washington Blvd.
Baltimore, Maryland 21230

Re: DLS Control No. 16-232
Department of the Environment:
Oil and Gas Resources: Oil and Gas Exploration and Production:
COMAR 26.19.01.01 through .61

Dear Secretary Grumbles:

The Joint Committee on Administrative, Executive, and Legislative Review (AELR) is currently reviewing the above-referenced proposed regulations, which were published in the November 14, 2016 issue of the *Maryland Register*.

According to the Department of the Environment, the purpose of this action is to update the regulations governing the exploration and production of oil and gas to address technologies that were not typically employed in Maryland when the existing regulations were adopted, including hydraulic fracturing and horizontal drilling. Section 14-107.1 of the Environment Article requires the department to adopt regulations to provide for the hydraulic fracturing of a well for the exploration and production of natural gas in the State. Section 14-105 of the Environment Article requires the department to establish fees on the issuance and renewal of drilling and operating permits. The proposed action fulfills both of these requirements. The proposal will ensure that any exploration and production of oil and gas, including from the Marcellus Shale, is conducted in a manner protective of public health, safety, the environment, and natural resources. Specifically, the proposed action addresses the following:

- protection of drinking water sources through requirements for drilling, well and well pad construction, integrity and pressure testing, storage of chemicals, setbacks and location restrictions, baseline and ongoing water quality monitoring, and replacement of a water supply in the event of contamination due to oil or gas exploration or production activities;

- protection of aquatic habitat through requirements related to stormwater management, well pad design and storage of chemicals, water withdrawals, setbacks from streams and wetlands, and a prohibition on drilling within the watershed of Deep Creek Lake;
- protection of air quality through requirements for the use of best available technology for control of air emissions, leak detection and repair, and the reporting and offset of methane emissions;
- public safety through requirements for emergency response planning, prompt notification and cleanup of spills, releases, fires, or other incidents, site security, provision of chemical information to medical personnel, and blowout prevention;
- public participation opportunities and access to information through comprehensive development planning, the permit review process for each well, and provisions requiring the disclosure of chemical information;
- proper management of wastes through requirements for closed-loop management and recycling of flowback and produced water, proper disposal, tracking and recordkeeping for wastes that cannot be recycled on site, and a prohibition on disposal of flowback of produced water through underground injection;
- well-plugging and site reclamation through technical standards and deadlines for plugging wells and reclaiming the well site, bonding for each well, and insurance requirements for personal injury, property damage, and environmental pollution; and
- consistent department oversight, including by requiring each operator to conduct drilling and hydraulic fracturing of only one well at a time and requiring department approval of an operator's proposed date to start drilling.

For the reasons outlined below, and in accordance with the committee's authority under § 10-111 of the State Government Article, the committee hereby notifies you of its intent to conduct a more detailed study of the regulations, and the committee asks the department to delay final adoption of the regulations.

The purpose of the requested delay is to provide the committee with an opportunity to examine more closely a number of issues relating to whether the statutes under which the regulations were adopted authorize the adoption and whether the regulations conform to the legislative intent of the statutes. The committee wishes to ensure that concerns raised by stakeholders about the regulations are addressed.

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To facilitate its review, the committee would be grateful if the department would submit to the committee copies of any correspondence that the department received concerning the regulations during the public comment period.

The committee appreciates your cooperation in this matter.

Sincerely,

Samuel I. Rosenberg
JIMHR

Delegate Samuel I. Rosenberg
Presiding Chairman

Roger P. Manno
JIMHR

Senator Roger P. Manno
Senate Chair

SIR:RM/MHR/nac

cc: Governor Lawrence J. Hogan, Jr.
President Thomas V. Mike Miller, Jr.
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AELR Committee Members
Victoria L. Gruber, Senate Chief of Staff
Alexandra Hughes, House Chief of Staff
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