Hydraulic Fracturing Legislative and Regulatory Materials

Federal

Alaska  Arkansas  California  Colorado  Idaho

Illinois  Indiana  Kansas  Maryland  Michigan

New York  North Carolina  North Dakota  Ohio  Pennsylvania

Tennessee  Texas  Utah  Vermont  West Virginia

Wyoming

Hydraulic fracturing case chart

Date last updated: October 30, 2013

Information about Arnold & Porter LLP’s environmental practice available here
Federal – Regulations

Proposed

OSHA, Proposed Rule, Occupational Exposure to Respirable Crystalline Silica (Sept. 12, 2013)

BLM, Supplemental Notice of Proposed Rulemaking and Request for Comment, Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands (May 2013); BLM, Proposed Rule, Oil and Gas; Well Stimulation, Including Hydraulic Fracturing, on Federal and Indian Lands (May 2012)

Adopted

EPA, Final Amendments, Oil and Natural Gas Sector: Reconsideration of Certain Provisions of New Source Performance Standards (Sept. 23, 2013)

Federal – Legislation

Proposed

Protecting States' Rights and Preventing Federal Red Tape on American Energy Act (H.R. 2728) (introduced July 18, 2013) (restricting federal authority to impose requirements for hydraulic fracturing on public lands)


Fracturing Regulations are Effective in State Hands Act (S. 1234) (introduced June 26, 2013)

Fracturing Responsibility and Awareness of Chemicals (FRAC) Act (H. R. 1921 (introduced May 9, 2013); S. 1135 (introduced June 11, 2013)) (eliminating exemption for hydraulic fracturing in Safe Drinking Water Act and requiring chemical disclosures)

Enacted
Federal– Other Materials

EPA, Draft Guidance Concerning Hydraulic Fracturing When Diesel Oil is Used (May 2012) (federal notice extending comment period until Aug. 23, 2012) (received by OIRA/OMB on Sept. 21, 2013)

OSHA and NIOSH hazard alert on hydraulic fracturing operations concerning silica exposure

NRC Study finding that hydraulic fracturing poses low risk of earthquakes (June 2012)

April 2012 Executive Order creating interagency working group concerning unconventional natural gas resources

EPA draft report of groundwater contamination near Pavillion, Wyoming (Dec. 2011)

EPA study of hydraulic fracturing and its impact on drinking water (includes background material)

Natural Gas Subcommittee of the Secretary of Energy Advisory Board website (created May 2011)

GAO study concerning information on shale resources, development, and environmental and public health risks (Oct. 2012)

GAO study concerning status of major federal environmental laws and regulations in unconventional oil and gas development (Oct. 2012)

EPA monitoring data on groundwater contamination in a natural gas field in Wyoming (Oct. 2012)
Alaska – Regulations

Proposed

Adopted

Alaska Oil and Gas Conservation Commission,
Proposed Regulations for Hydraulic Fracturing of Oil and Gas Wells (issued Aug. 7, 2013)
Alaska – Legislation
Alaska – Other Materials
Arkansas

- Regulations
- Legislation
- Other Materials
Arkansas – Regulations

Proposed

Adopted
Arkansas – Legislation

Proposed

Enacted
Arkansas – Other Materials

Arkansas Oil and Gas Commission website

Arkansas Dept. of Environmental Quality website

General operator requirements for permit to drill or transfer a well (DEQ)

Arkansas Hydraulic Fracturing State Review (Feb. 2012)

Arkansas DEQ General Air Permit for Natural Gas Compression Stations (Dec. 2010) (background materials)
California – Regulations

- Proposed
- Adopted

return to first page
California – Legislation

S.B. 4 (Sept. 4, 2013) - requires regulations for well stimulation treatments, including hydraulic fracturing and acid well stimulation, by January 2015, as well as a scientific study to evaluate “the hazards and risks and potential hazards and risks that well stimulation treatments pose to natural resources and public, occupational, and environmental health and safety.”
California – Other Materials
Colorado – Regulations

Proposed

Adopted

Hydraulic fracturing disclosure rule
Colorado – Legislation

Proposed

Enacted
Colorado – Other Materials

Colorado Oil and Gas Conservation Commission website (specific information on hydraulic fracturing here)

Colorado Department of Public Health and Environment, Oil and Gas Industry Environmental Requirements

Executive Order creating oil and gas regulatory task force (Feb. 2012)

Notice to Operators, 205.A Hydraulic Fracturing Chemical Disclosure (June 20, 2013) (announcing that COGCC will begin active enforcement on July 1, 2013 of Rule 205.A, which requires that chemical disclosures be completed within 60 days after completion of a hydraulic fracturing treatment, or no later than 120 days after commencement of a hydraulic fracturing treatment)
Idaho

- Regulations
- Legislation
- Other Materials
Idaho – Regulations

Proposed

Adopted
Idaho – Legislation

**Proposed**

**Enacted**

**H.B. 464** preempts local laws from blocking oil and gas development (enacted March 2012)
Idaho – Other Materials
Illinois – Regulations

Proposed

Adopted
Illinois – Legislation

Proposed

Enacted

Hydraulic Fracturing Regulatory Act, Public Act 098-0022 (eff. June 17, 2013)
Illinois – Other Materials
Indiana – Regulations

Proposed

Adopted

fracking chemical disclosure rule
(effective July 1, 2012) (enacts requirements pursuant to H.B. 1107)
Indiana – Legislation

Proposed

Enacted

H.B. 1107 (enacted Feb. 2012)
Indiana – Other Materials
Kansas

Regulations

Legislation

Other Materials
Kansas – Regulations

Proposed

Kansas Corporation Commission, *Hydraulic Fracture Treatment Chemical Disclosure* (proposed Apr. 2013) (public hearing Aug. 15, 2013) (would require that chemicals used in hydraulic fracturing fluid be disclosed in conjunction with the submission of completion reports; would permit submission of the information via FracFocus as an alternative compliance mechanism)

Adopted

Kansas Corporation Commission, *General Rules and Regulations for the Conservation of Crude Oil and Natural Gas*

Kansas – Legislation

Proposed

Enacted
Kansas – Other Materials
Maryland

Regulations

Legislation

Other Materials
Maryland – Legislation

Proposed

Enacted

Ch. 703 (H.B. 1123) (2012) (codified at Md. Code Ann., Envir. § 14–110.1) (establishing presumption that contamination of water supply caused by gas exploration)
Ch. 642 (H.B. 828) (2013) (codified at Md. Code Ann., Bus. Occ. & Prof. §§ 10.5–101 to 10.5–107) (requiring oil or gas land professionals to obtain a registration certificate from the Department of Labor, Licensing, and Regulation)
Maryland – Other Materials

Maryland Department of the Environment & Maryland Department of Natural Resources, Marcellus Shale Safe Drilling Initiative Study, Part II, Best Practices; Draft for Public Comment (Aug. 2013)

Maryland Department of the Environment & Maryland Department of Natural Resources, Marcellus Shale Safe Drilling Initiative Study, Part I (Dec. 2011)

Executive Order 01.01.2011.11, The Marcellus Shale Safe Drilling Initiative

Marcellus Shale Safe Drilling Initiative website
Michigan – Regulations

Proposed

Adopted
Michigan – Legislation

**Proposed**

**HB 4899** – requires notification of applications for drilling permits to local governments and requires the holding of public hearings on permit applications for hydraulic fracturing operations upon the request of the local government or any person who may be adversely affected.

**HB 4900** – requires chemical disclosure, including public notification, prior to issuance of permit for hydraulic fracturing.

**HB 4901** – requires the State to conduct a study (to be funded by a fee on the owners of oil and gas interests) of the environmental, public health, and natural resource impacts of oil and gas drilling from shale formations.

**HB 4902** – creates a rebuttable presumption that person conducting hydraulic fracturing operations is liable where hazardous substances or hydraulic fracturing fluid tracer is discovered in groundwater in the vicinity of a well.

**HB 4903** – eliminates exemption for oil and gas drilling operations from requirements for obtaining water withdrawals.

**HB 4904** – permits local governments to regulate hydraulic fracturing operations.

**HB 4905** – codifies prohibition on use of flowback water for dust suppression on dirt roads.

**HB 4906** – increases setback requirement for residential buildings to 1,000 feet and adds 1,000-foot setback requirement for schools, daycare facilities, hospitals, and public parks.

**Enacted**

**return to first page**
Michigan – Other Materials
New York

- Regulations
- Legislation
- Other Materials
New York – Regulations

Proposed

Dept. of Env. Conservation Proposed Regulations

Final scoping for draft SGEIS (Feb. 2009)

Draft Supplemental Generic EIS on the Oil, Gas, and Solution Mining Regulatory Program (Sept. 2009)

Revised Draft Supplemental Generic EIS on the Oil, Gas, and Solution Mining Regulatory Program (Sept. 2011)

Adopted

SPDES General Permit for Stormwater Discharges from High Volume Hydraulic Fracturing
New York – Legislation

Proposed

Enacted
New York – Other Materials

Executive Order No. 41 – Requiring Further Environmental Review

Statement from DEC Commissioner delaying hydraulic fracturing rules until completion of public health review (Sept. 2012)

DEC Recommendations for Permitting High-Volume Hydraulic Fracturing in New York State (Sept. 2011)

DEC background on Marcellus shale (contains links to numerous documents)
North Carolina

- Regulations
- Legislation
- Other Materials
North Carolina - Regulations

North Carolina Mining and Energy Commission, Draft Regulations. (MEC has been publishing draft rules required by S.L. 2012-143 on its website; MEC indicates that once it has approved all of the required rules, the complete package of fracking regulations will undergo a formal rulemaking process.)
North Carolina – Legislation

**Proposed**

**Enacted**

**S.L. 2013-765** (S.B. 76) (directs Mining and Energy Commission to develop a comprehensive environmental permit for oil and gas development using hydraulic fracturing and horizontal drilling; prohibits issuance of fracking permits until regulations are promulgated and the General Assembly takes further legislative action to authorize issuance of permits)

**S.L. 2012-143** (S.B. 820) (establishes commission to develop regulatory framework)
North Carolina – Other Materials

North Dakota - Regulations

Proposed

Adopted
North Dakota – Legislation

Proposed

Enacted

**H.B. 1134** (eff. July 1, 2013) – amendments relating to tax exemptions and to flaring restrictions to encourage use of gas that might otherwise be flared
North Dakota – Other Materials
Ohio – Regulations

Ohio Admin. Code Chapter 1501:9-1 Oil Well Drilling
## Ohio – Legislation

<table>
<thead>
<tr>
<th>Proposed</th>
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<tr>
<td>Ohio Rev. Code ch. 1509 (Division of Oil and Gas Resources Management – Oil and Gas)</td>
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<tr>
<td>H.B. 59 (contains provisions regarding disposal of radioactive material from shale drilling) (enacted July 1, 2013; eff. Sept. 29, 2013)</td>
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<td>S.B. 315 (updates hydraulic fracturing regulations) (enacted June 2012)</td>
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<td>H.B. 133 (allows hydraulic fracturing on public lands) (enacted Sept. 2011)</td>
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<td>Oil and Gas Reform Bill (S.B. 165) (legislative analysis) (enacted 2010)</td>
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return to first page
Ohio – Other Materials

Ohio EPA, **Fact Sheet** regarding Early Stakeholder Outreach — House Bill 59 – TENORM Acceptance at Solid Waste Landfills and Transfer Facilities (Oct. 2, 2013)

Ohio EPA, **Fact Sheet: Drill Cuttings from Oil and Gas Exploration in the Marcellus and Utica Shale Regions of Ohio** (Oct. 2013)


**Letter** from Ohio State Emergency Response Commission to Oil and Gas Well Owners and Operators regarding Reporting Requirements Under the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (Sept. 11, 2013)

Ohio EPA’s Division of Materials and Waste Management **advisory** concerning how to handle wastes associated with hydraulic fracturing (Sept. 2012)

**Executive Order** prohibiting drilling in Lake Erie (July 2012)

**Executive Order** granting DNR authority to implement new rules for deep injection wells (July 2012)

**Ohio Hydraulic Fracturing State Review** (Jan. 2011)
Pennsylvania – Regulations

Department of Environmental Protection, Oil and Gas Surface Regulations (approved by Environmental Quality Board Aug. 2013)
Pennsylvania – Legislation

**Enacted**

- Oil and Gas Lease Act, **Act 66** (S.B. 259, enacted July 2013) (regarding royalty payments and lease pooling)
- **Act 13** (H.B. 1950, enacted Feb. 2012) ([summary](#)) of law
- **Act 87** (S.B. 1263, enacted 6-year moratorium on gas drilling in SE part of state)

**Proposed**

- Oil and Gas Lease Protection Package [announced](#) by Sen. Yaw (Sept. 27, 2013)
- Natural Gas Drilling Moratorium Act, **S.B. 1100** (proposing statewide moratorium on drilling during pendency of study of drilling’s impacts) (introduced Sept. 23, 2013)
- **H.B. 1650, H.B. 1684, and H.B. 1700** (concerning deduction of post-production costs from royalties and forced pooling) (introduced Sept. 16, 2013)
Pennsylvania – Other Materials

Technical Guidance

PA DEP maintains a web site with links to all Oil and Gas Technical Guidance Documents.

- PA DEP, Air Quality Permit Exemptions (amended Aug. 10, 2013 to require that unconventional wells meet certain criteria in order to be exempt from air permitting requirements; the criteria include performance of a leak detection and repair program, installation of volatile organic compound (VOC) emission controls on storage vessels/storage tanks and other equipment to achieve emissions reduction of 95% or greater; 12-month limits on VOC and HAP emissions from the entire well site that are equal to or more restrictive than federal standards, restrictions on flaring activities and de minimis NO\textsubscript{x} emissions limits)

- PA DEP Guidance on Air Permits for Aggregating Sources of Emissions (Oct. 6, 2012)

- PA DEP Revised General Permit WMGR123 (requiring fracking wastewater to be treated and recycled) (March 2012)
Tennessee

- Regulations
- Legislation
- Other Materials

return to first page
Tennessee – Regulations

Rules of the Oil and Gas Program
Tennessee – Legislation

Proposed

Enacted

Production of Oil and Gas, Tenn. Code §§ 60-1-101 to -705 (accessible via Lexis)
Tennessee – Other Materials
Texas – Regulations

Proposed

Railroad Commission of Texas Proposed Rules [website](#)
Texas Railroad Commission, Draft Rule for Informal Comment on Disposal Wells; Oil, Gas, or Geothermal Resource Operation in Hydrogen Sulfide Areas; and Fluid Injection into Productive Reservoirs (Aug. 12, 2013)

Adopted

Texas Railroad Commission, [Oil and Gas Division Rules](#)
Texas Railroad Commission, [Environmental Protection Rules](#)
Texas Railroad Commission, [Carbon Dioxide Rules](#)

Amendments to Rules on Casing, Cementing, Drilling, Well Control, and Completion Requirements; Cathodic Protection Wells, and Seismic Holes and Core Holes
(adopted May 24, 2013; eff. Jan. 1, 2014)

Amendments to water recycling rules (Mar. 2013)
Texas – Legislation

**Proposed**

**Enacted**

[H B 2767](#) (an act relating to the treatment and recycling for beneficial use of certain waste arising out of or incidental to the drilling for or production of oil or gas) (enacted May 24, 2013; eff. Sept. 1, 2013)
Texas – Other Materials

Railroad Commission of Texas website (regulates oil and gas wells)
Utah – Regulations

Utah Division of Oil, Gas, and Mining rule that requires disclosure of chemicals (Oct. 2012)
Utah – Other Materials
Vermont – Regulations

- Proposed
- Adopted

return to first page
Vermont – Legislation

**Proposed**

**Enacted**

**H. 464** (enacts statewide prohibition on hydraulic fracturing) (enacted May 2012)
Vermont – Other Materials
West Virginia – Regulations

Natural Gas Horizontal Well Control Act (H.B. 401) (eff. Dec. 14, 2011)

S.B. 243 (eff. Apr. 12, 2013) (approved amendments to WVDEP regulations for horizontal well development, with some changes)
West Virginia – Other Materials

West Virginia Department of Environmental Protection website

Natural Gas Production Facility Class II General Permit G70-A (issued Oct. 18, 2013)

General Water Pollution Control Permit, Stormwater Associated with Oil and Gas-Related Construction Activities (eff. June 12, 2013)
Wyoming – Regulations

Proposed


Adopted

Wyoming Oil & Gas Conservation Commission Rules and Regulations

Oil and gas drilling rules
(finalized Sept. 2010)
Wyoming – Legislation

Proposed

Enacted
Wyoming – Other Materials

Wyoming Oil and Gas Conservation Commission website