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## Maryland

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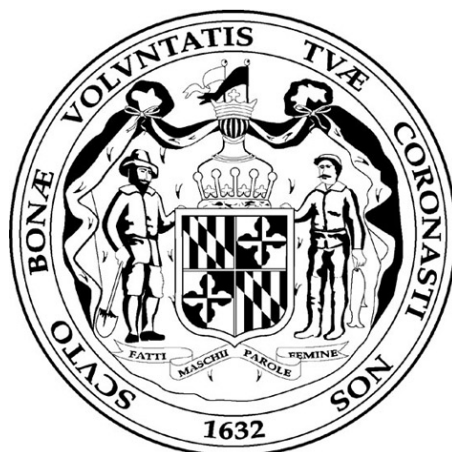
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## MARYLAND



*Davin L. Seamon*<sup>\*1</sup>

Marcellus Shale development in Maryland's Western panhandle continues to move at a terrapin's pace. A moratorium on the issuance of permits "for the hydraulic fracturing of a well for the exploration or production of natural gas" remains in effect until October 1, 2017.<sup>2</sup> The

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1. *See generally* Davin L. Seamon, *Maryland*, 1 Tex. A&M L. Rev. 129 (Surv. on Oil & Gas) (2014).

2. MD. CODE ANN., ENVIR. § 14-107.1(d) (West 2016).

Maryland statute defines Hydraulic Fracturing as “a drilling technique that expands existing fractures or creates new fractures in rock by injecting fluids, often a mixture of water and chemicals, sand, or other substances, and often under pressure, into or underneath the surface of the rock for purposes that include well drilling for the exploration or production of natural gas”,<sup>3</sup> and includes “Fracking, Hydrofracking, and Hydrofracturing.”<sup>4</sup> Thus, the rich reserves situate in the counties of Garrett and Allegany remain untouched – but for how long?

Portions of the aforesaid statute continue to serve State policymakers and regulators in implementing their status-quo preserving stall tactics, delaying what may be inevitable modern oil and gas development –made evident by the fact that other provisions of the same statute open the door for the Maryland Department of the Environment (the “Department”) to promulgate a regulatory framework for production. “On or before October 1, 2016, the Department shall adopt regulations to provide for the hydraulic fracturing of a well for the exploration or production of natural gas”<sup>5</sup>; however, “[r]egulations adopted by the Department in accordance with subsection (b) of this section may not become effective until October 1, 2017.”<sup>6</sup>

To this end, the Department held three (3) public meetings in late June, 2016 “to discuss the development of new regulations for oil and gas exploration and production.”<sup>7</sup> The Department also has “developed several ‘issue papers’ that discuss specific topics that generated extensive interest when the Department proposed regulations in January[,] 2015.”<sup>8</sup> These summaries “describe the Department’s current thinking with respect to key issues from the 2015 proposal.”<sup>9</sup> Each incorporates an “overview of the requirements included in the 2015 proposal and the Department’s tentative suggestions for revising those requirements.”<sup>10</sup>

It is important to note that these issue papers in no way represent the final regulations, and that drafts of said final regulations should come very

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3. *Id.* § 14-107.1(a)(1).

4. *Id.* § 14-107.1(a)(2).

5. *Id.* § 14-107.1(b).

6. *Id.* § 14-107.1(c).

7. *Marcellus Shale Drilling Initiative*, Maryland Department of Environment, <http://mde.maryland.gov/programs/Land/mining/marcellus/Pages/index.aspx> (last visited Sept. 20, 2016).

8. *Id.*

9. *Id.*

10. *Id.*

soon. “Based on continuing review and evaluation of the comments received on the issue papers [on or before July 18, 2016], the Department will propose a revised set of regulations in the Maryland Register in advance of the October 1, 2016 promulgation deadline.”<sup>11</sup> As of this writing, the Department has yet to publish said regulations. Once the Department shares its proposal, it “will provide an additional 30-day written comment period before taking any final action on the regulations.”<sup>12</sup>

Will the prospective events of late 2016 and early 2017 magically transform our cautious and lumbering terrapin into a deft and nimble hare? Will oil and gas producers flock to Maryland’s meager, but newly minted and production-ready portion of the Marcellus Shale in late 2017? Stay tuned to find out!

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11. *Id.*

12. *Id.*