

Fracking—One Step Closer To Reality In North Carolina

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The North Carolina Rules Review Commission ("RRC") recently approved 107 new rules proposed by the state's Mining and Energy Commission, putting North Carolina one step closer to gas drilling by hydraulic fracturing. The controversial procedure, commonly referred to as "fracking," releases oil and natural gas by breaking subsurface rock formations through the high-pressure injection of a mixture of chemicals, sand, and water. Scientists opine that natural gas exists in layers of shale southwest of Raleigh in Chatham, Lee, Moore, and surrounding counties. How much natural gas is recoverable by fracking in North Carolina is unknown, but it is expected to be much less than the amount being recovered from the Marcellus shale layers in the area surrounding western Pennsylvania.

The 2012 Clean Energy and Economic Security Act, the 2013 Domestic Energy Jobs Act, and the 2014 Energy Modernization Act all manifest the North Carolina General Assembly's clear intent to allow fracking activities in North Carolina. With a deadline of January 1, 2015, the General Assembly mandated that the Mining and Energy Commission develop a modern regulatory program for the management of oil and gas exploration. From a practical perspective, the most essential component of this program is the creation of a process for submitting permit applications to receive approval to begin the drilling process. With that element now approved by the RRC and the rules headed to the General Assembly for acceptance when it convenes January 14, 2015, fracking may very soon become a reality in North Carolina.

Although there are 13 remaining rules in the regulatory package that need to be approved by the RRC that did not make the deadline for the last meeting, they are expected to be approved at the RRC's January 15 meeting. Given the politics of fracking over the last two years, it is not expected that a slight delay in the approval of the remaining 13 rules will significantly affect the first applications or exploratory drilling. Approval at the January RRC meeting gives members of the General Assembly plenty of time to consider the rules upon their return to Raleigh.

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