



Virginia  
Regulatory  
Town Hall

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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Department of Mines, Minerals and Energy
<b>Virginia Administrative Code (VAC) citation</b>	4 VAC 25-150
<b>Regulation title</b>	Virginia Gas and Oil Regulation
<b>Action title</b>	Amendments to expand disclosure of ingredients used in well stimulation and completion and to reflect current industry best practices
<b>Date this document prepared</b>	December 4, 2013

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Purpose

*Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.*

The Department of Mines, Minerals and Energy (DMME) is responsible for regulating gas and oil drilling in the Commonwealth. The purpose of this regulatory action is to ensure the gas and oil regulation reflects current industry best practices and to expand disclosure of ingredients used in gas and oil well stimulation and completion on permitted gas and oil operations in the Commonwealth. The existing regulation will also be reviewed to determine if current requirements are sufficient to properly regulate drilling in different geographical areas of the Commonwealth.

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.*

[§ 45.1-161.3](#) of the Code of Virginia grants DMME the authority to promulgate regulations necessary or incidental to the performance of duties or execution of powers conferred under Title 45.1. [§ 45.1-361.4](#) of the Code of Virginia grants the Director of DMME the authority to regulate gas, oil or geophysical operations in the Commonwealth.

**Need**

*Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.*

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Though hydraulic fracturing has been used safely in Virginia since the 1960s, DMME believes expanding disclosure of ingredients used in well stimulation and completion is an appropriate and necessary safeguard for the citizens of the Commonwealth. There is also a need to ensure that the regulation appropriately reflects current industry best practices, as the use of technology such as horizontal drilling has expanded considerably in recent years.

**Substance**

*Please detail any changes that will be proposed. Be sure to define all acronyms. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.*

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DMME will update the Virginia Gas and Oil Regulation to expand the disclosure of the ingredients used in well stimulation and completion. DMME will also review current industry best practices and standards and ensure regulations appropriately protect the environment wherever drilling may take place in the Commonwealth.

**Alternatives**

*Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.*

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One alternative is to maintain existing disclosure requirements. This is not a current best practice. DMME will consider any alternative that both protects the health and safety of the citizens of the Commonwealth and meets the parameters set forth in Executive Order 14.

**Public participation**

*Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the*

*alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.*

*Please also indicate pursuant to your Public Participation Guidelines whether a panel will be appointed to assist in the development of the proposed regulation. Please state one of the following: 1) a panel will be appointed and the agency's contact if you're interested in serving on the panel is \_\_\_\_\_; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.*

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DMME is seeking comments on this regulatory action, including but not limited to 1) ideas to be considered in the development of this proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) the probable effect of the regulation on affected small businesses, and 3) the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to Michael Skiffington, Regulatory Coordinator, Department of Mines, Minerals and Energy, 1100 Bank Street, 8<sup>th</sup> Floor, Richmond VA 23219, 804-692-3212, FAX 804-692-3237, michael.skiffington@dmme.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

Pursuant to DMME's Public Participation Guidelines, a regulatory advisory panel will be appointed and DMME's contact if you are interested in serving on the panel is Michael Skiffington, whose contact information is listed above.

A public hearing will be held following the publication of the proposed stage of this regulatory action and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi>). Both oral and written comments may be submitted at that time.

## Family impact

*Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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This regulation will have no impact on the institution of the family.