

By Dan Screene and Adam Balfour

## UK: Shale Gas Update: On shaky ground: Government sets out draft fracking regulations, but is it enough?

With an unexpected Conservative majority being elected in May 2015, the energy sector and fracking fraternity was looking forward to what it hoped would be, based on the Conservative manifesto, a welcoming embrace and friendly nudge forward from government.

On 16 July 2015, the new government identified areas to be excluded from underground fracking activities through draft regulations that define the protected areas in which fracking will be prohibited.

### **Draft Regulations (16 July 2015)**

The draft regulations, (catchily) titled ‘The Onshore Hydraulic Fracturing (Protected Areas) Regulations 2015’, provide protection for groundwater and National Parks, Areas of Outstanding National Beauty, the Broads and World Heritage Sites, ensuring that the process of hydraulic fracturing can only take place below 1200 metres in these areas (as a general proposition) drinking water is not normally found below 400m).

The Department of Energy and Climate Change also set out its commitment to ensure that fracking cannot be conducted from wells that are drilled in the surface of national parks and other protected areas “in such a way as to not impact on conventional drilling operations.” The Infrastructure Act 2015 requires the UK Government to assess how the development of shale gas could fit with UK carbon targets. The rhetoric of the UK Government in the past has been supportive of the development of the shale gas industry in a hope to tap into its alleged economic potential. The fracking sector has sometimes felt that the actions of government in the past have not always matched this rhetoric. On the basis of the Conservative manifesto and the surprise Conservative majority, the fracking community was hoping for a more overtly positive approach going forward with the new government. Indeed, in its election manifesto the Conservatives said they “will continue to support the safe development of shale gas.”

However, fracking remains a highly-charged political issue in the UK, with high profile and vocal opposition to further development of the industry. Environmental concerns, including water pollution and seismic activity, receive a lot of press attention and there remains a residual but powerful “NIMBY” (“not in my back yard”) sentiment. The geological composition of the UK and its population density (England has the highest population density in Europe and is 12 times more densely populated than the US) are additional factors which the anti-fracking lobby throw into the debate. Anti- fracking activists have expressed their anger with the Government for renegeing on their pledge earlier this year to ban fracking in sites of special scientific interest (SSSIs). There are around 4,000 SSSIs in England which cover 8% of the land. SSSIs form similar proportions of land in Wales and Scotland. The Energy Secretary had previously indicated that SSSIs would be protected from the risk of fracking. Some SSSIs will fall within the border of protected National Parks, Areas of Outstanding Natural Beauty, the Broads and World Heritage Sites, but campaigners are concerned that hundreds of others could potentially be affected.

The draft regulations come at a what may be seen as a seminal moment in the fracking industry's progress in the UK. Last month, Lancashire Council rejected plans for two wells within its remit. In addition, last week there was an announcement from the chief of The Task Force on Shale Gas, Lord Smith of Finsbury, stating that the task force has not yet concluded that fracking is a good idea for the UK. The task force, an independent body (yet one funded by the shale gas industry), published its report titled 'Assessing the Impact of Shale Gas on the Local Environment and Health' on 15 July 2015.

### **Task Force Report and Recommendations (15 July 2015)**

The report found that fracking was safe for both human health and the environment, but only if properly regulated. Their conclusions and recommendations to operators and regulators are set out below:

1. full disclosure of chemical content and agreement that composition will not exceed levels mandated by the Environment Agency;
  
1. baseline monitoring of air, land and water should begin as soon as a site has been identified as an essential measure to reassure local populations;
2. taking lessons learnt from the USA, well integrity must be of the highest standards as failure in this area is responsible for many of the problems associated with shale gas operations. operators must commit to using only the very best materials and techniques, and to allow independent monitoring of the site, with the community involved in an oversight role; and
3. the process of "green completions" – an emissions-reduction process mandatory in the USA, where treatment process separates the gas and hydrocarbons from the remaining flowback fluid, allowing the gas and hydrocarbons to be contained and the rest of the fluid to go on to further processing – should be mandated in the UK for production wells to reduce harmful emissions by 90%.

### **Next Steps**

The draft regulations are due to be further debated in Parliament in September. September will also see the publication of the taskforce's next study, which will deal with fracking's effects on climate change, one of the most controversial and damaging stigmas attached to the industry. Keep following this blog for updates.

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