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CONTACTS:

[Alan Septoff, \(202\) 271-2355](tel:(202)271-2355)

[Nadia Steinzor, 202-887-1872x109](tel:202-887-1872x109)

States undermine EPA's argument for exempting fracking waste

New study details Marcellus/Utica shale states' failures to regulate oil & gas waste, leaving health and environment at risk

Washington, D.C., April 2nd -- A new report shows that states ignore the risks of sometimes hazardous oil and gas waste despite EPA's exemption of such waste from federal oversight based on "adequate" state management. [*Wasting Away: Four states' failure to manage oil and gas waste in the Marcellus and Utica Shale*](#) examines how Pennsylvania, Ohio, West Virginia and New York neither regulate oil and gas development wastes as hazardous, nor can assure the public that they are protected from exposure to hazardous waste.

"Thirty years ago the Environmental Protection Agency exempted oil and gas waste from federal classification as hazardous, not because the waste isn't hazardous, but because EPA determined state oversight was adequate," said report lead author and Earthworks' Eastern Program Coordinator Nadia Steinzor. She continued, "But our analysis shows that states aren't keeping track of this waste or disposing of it properly. States must take realistic, concrete steps to better protect the public."

Focused on the Marcellus and Utica shale region, *Wasting Away* systematically identifies shortcomings in existing and proposed state regulation of oil and gas exploration, development and production wastes. It identifies pivotal challenges facing the states, explains five key factors underlying the inadequacy of state oil and gas waste management, and makes concrete recommendations for states to ensure that the waste is properly handled and drillers are held accountable for the waste they create.

"Drilling waste harms the environment and health, even though states have a mandate to protect both. Their current 'see no evil' approach is part of the reason communities across the country are banning fracking altogether," said Bruce Baizel, co-author of the report and Earthworks' Energy Program Director. "States have a clear path forward: if the waste is dangerous and hazardous, stop pretending it isn't and treat it and track it like the problem it

is.”

FOR MORE INFORMATION

- [Full report](#)
- [Executive Summary & Summary Chart](#)
- [Photos used in *Wasting Away*](#)
- [Earthworks white paper: *The Oil & Gas Industry's Exclusions to Major Environmental Statutes*](#)

QUOTES FROM STATES RE *WASTING AWAY'S* SIGNIFICANCE

Ohio

"Ohio's land and water are at great risk from improper and under-regulated disposal of fracking wastes. As this report details, regulations in Ohio remain woefully inadequate when it comes to protecting human health and the environment from the radiological and chemical risks associated with fracking waste." -- *Melanie Houston, Director of Water Policy and Environmental Health at the [Ohio Environmental Council](#)*

"This report shows what citizens have known for a long time, that is that no one is watching the waste. Years ago we all heard about 'tracking from cradle to grave,' but today, the fact is that there is no tracking of the majority of the oil and gas waste stream. States facing fracking face a huge problem of what to do with the waste. Citizens in Ohio say we have had enough; stop the waste, stop fracking!" -- *Teresa Mills, [Center for Health, Environment, and Justice Ohio Field Office](#)*.

PENNSYLVANIA

"Earthworks' latest report reminds us not only of the danger Marcellus Shale natural gas drilling waste poses to our environment and health, but also that more needs to be done in Pennsylvania as it relates tracking, storage, and oversight. This report comes at great time as Pennsylvania consider revisions to Chapter 78 oil and gas regulations. Hopefully its findings will spur the Commonwealth to ban all open pits for the storage of waste and to develop a cradle-to-grave tracking system." -- *Steve Hvozdovich, Pennsylvania Campaigns Director, [Clean Water Action](#)*

"Whether it is wastewater or solids such as drill cuttings, we know that Marcellus shale waste is the elephant in the room that gas operators and regulators alike ignore. If the cost of treatment of this toxic material to standards protective of clean water was fully borne by the operators that are producing it, fracking for shale gas just wouldn't be economical. The only responsible course is for government to require that frack waste not pollute or degrade the

environment, and apply our environmental laws to the fullest, no matter how it impacts companies' profits." -- Tracy Carluccio, Deputy Director, [Delaware Riverkeeper Network](#)

"Laced with cancer-causing and even radioactive materials, toxic fracking waste has contaminated drinking water sources across the Commonwealth. Earthworks' report shows the current failure of our system to protect communities from the billions of gallons of fracking waste. It's time to put people's health first by establishing real protections." -- Adam Garber, [PennEnvironment](#) Field Director

WEST VIRGINIA

"In just the past two years, over 500,000 tons of drill cuttings and shale gas waste products have been buried in the municipal waste landfill in our county. As this report shows, none of it has been properly characterized nor tested for radioactivity. The State of West Virginia has repeatedly chosen to stay willfully ignorant with regard to the radioactive content of Marcellus shale waste. It really does not want the public to know what all is in it." -- Bill Hughes, Chairman of the Wetzel County Solid Waste Authority

"Drillers in West Virginia have already placed tens of thousands of tons of Radium-bearing wastes into municipal solid waste landfills and are on track to increase this many times over in the coming years. What this actually means is totally unknown since not one single test is conducted to determine the concentration of Radium in a load of drilling waste before it goes to the landfill. Studies done by the WVDEP have missed the mark in evaluating human and environmental risks. The state has not developed, much less implemented, an effective strategy for safely managing drilling waste." -- Marc Glass, Principal in Environmental Monitoring and Remediation at [Downstream Strategies, LLC](#)

"With the advent of horizontal drilling, the scale of drilling operations and the amount of waste being generated has increased exponentially. Although West Virginia has taken some steps to improve regulation, the state's approach of permitting horizontal drilling without carefully considering whether current methods of waste disposal are appropriate or adequate has created a problem for which there are no good solutions. Our only options are bad and less bad. From a surface owner's perspective, disposing of drilling waste in landfills is an improvement over on-site burial, but our municipal landfills were never designed for nor intended to accept this type of waste." -- Julie Archer, Project Manager, [West Virginia Surface Owners' Rights Organization](#)

NEW YORK

"This report illuminates the dirty secret of oil and gas development—what to do with the enormous amount of waste generated each year. In New York, problems with the improper reuse and disposal of oil and gas waste persist despite the ban on high-volume fracking. We have a state that not only allows importation of waste from Pennsylvania into New York's

landfills, but also permits the not-so-beneficial reuse of oil and gas waste on our roads. It's past time for New York to rethink its haphazard approach to oil and gas waste." -- *Misti Duvall, Staff Attorney at [Riverkeeper](#)*

"New York needs to acknowledge and address toxic waste that is being disposed of at our landfills, sent to our sewage treatment facilities, and spread on our roads. Earthworks' timely report highlights that New York needs to manage waste generated from within our state's borders and waste coming across our borders from neighboring states." -- *Sarah Eckel, Legislative Policy Director with [Citizens Campaign for the Environment](#)*

"New Yorkers overwhelmingly support a fracking ban because they know how dangerous it is to our public health and environment. And the public is shocked to learn that despite this ban, New York fails to properly regulate imported fracking waste. Earlier this year, the state Department of Environmental Conservation stated that they conducted aggressive oversight and testing of this waste and New Yorkers have no cause for concern. It's time for the agency to release that data for public review. Environmental Advocates applauds Earthworks on the release of Wasting Away, and we urge the Cuomo Administration to protect New Yorkers from the dangers of fracking by banning the importation of fracking waste." -- *Elizabeth Moran, Water and Natural Resources Associate, [Environmental Advocates of New York](#)*

Earthworks is dedicated to protecting communities and the environment from the adverse impacts of mineral and energy development while seeking sustainable solutions.

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Earthworks · 1612 K St., NW · Suite 808 · Washington, DC 20006 · USA