

116TH CONGRESS
1ST SESSION

H. R. 436

To re-establish certain hydraulic fracturing chemical disclosure rules, standards for well construction, and waste management rules, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 10, 2019

Mr. SOTO (for himself, Mr. PAYNE, Mr. QUIGLEY, Ms. WASSERMAN SCHULTZ, Mr. RASKIN, and Ms. MOORE) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Transportation and Infrastructure, and Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To re-establish certain hydraulic fracturing chemical disclosure rules, standards for well construction, and waste management rules, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fracking Disclosure
5 and Safety Act”.

1 **SEC. 2. FRACKING REGULATION ON FEDERAL LANDS.**

2 (a) IN GENERAL.—Not later than 1 year after the
3 date of the enactment of this Act, the Secretary of the
4 Interior, acting through the Bureau of Land Management,
5 shall issue regulations governing the use of hydraulic frac-
6 turing under oil and gas leases for Federal lands.

7 (b) INCLUDED PROVISIONS.—The regulations issued
8 pursuant to this section shall require the designated oper-
9 ator of an oil and gas lease to—

10 (1) conduct baseline water testing prior to com-
11 mencing hydraulic fracturing operations; and

12 (2) fully disclose to the public the chemicals
13 used for hydraulic fracturing under such lease on an
14 appropriate internet website.

15 (c) INTERIM APPLICATION OF PRIOR RULE.—The
16 final rule entitled “Oil and Gas; Hydraulic Fracturing on
17 Federal and Indian Lands”, as published in the Federal
18 Register on March 26, 2015 (80 Fed. Reg. 16128), and
19 corrected by the rule published on March 30, 2015 (80
20 Fed. Reg. 16577), shall apply until the date of the publi-
21 cation of a final rule under subsection (a).

22 **SEC. 3. CLOSING LOOPHOLES.**

23 (a) SAFE DRINKING WATER ACT.—

24 (1) HYDRAULIC FRACTURING.—Section
25 1421(d)(1) of the Safe Drinking Water Act (42

1 U.S.C. 300h(d)(1)) is amended by striking subpara-
2 graph (B) and inserting the following:

3 “(B)(i) includes the underground injection
4 of fluids or propping agents pursuant to hy-
5 draulic fracturing operations related to oil, gas,
6 or geothermal production activities; but

7 “(ii) excludes the underground injection of
8 natural gas for purposes of storage.”.

9 (2) DISCLOSURE OF HYDRAULIC FRACTURING
10 CHEMICALS; MEDICAL EMERGENCIES; PROPRIETARY
11 CHEMICAL FORMULAS.—Section 1421(b) of the Safe
12 Drinking Water Act (42 U.S.C. 300H(b)) is amend-
13 ed by adding at the end the following:

14 “(4)(A) Regulations included under paragraph
15 (1)(B)(ii) shall include the following requirements:

16 “(i) A person conducting hydraulic frac-
17 turing operations shall disclose to the State (or
18 the Administrator if the Administrator has pri-
19 mary enforcement responsibility in the State)—

20 “(I) prior to the commencement of
21 any hydraulic fracturing operations at any
22 lease area or portion thereof, a list of
23 chemicals intended for use in any under-
24 ground injection during such operations,
25 including identification of the chemical

1 constituents of mixtures, Chemical Ab-
2 stracts Service numbers for each chemical
3 and constituent, material safety data
4 sheets when available, and the anticipated
5 volume of each chemical; and

6 “(II) not later than 30 days after the
7 end of any hydraulic fracturing operations,
8 the list of chemicals used in each under-
9 ground injection during such operations,
10 including identification of the chemical
11 constituents of mixtures, Chemical Ab-
12 stracts Service numbers for each chemical
13 and constituent, material safety data
14 sheets when available, and the volume of
15 each chemical used.

16 “(ii) The State or the Administrator, as
17 applicable, shall make the disclosure of chemical
18 constituents referred to in clause (i) available to
19 the public, including by posting the information
20 on an appropriate internet website.

21 “(iii) Whenever the State or the Adminis-
22 trator, or a treating physician or nurse, deter-
23 mines that a medical emergency exists and the
24 proprietary chemical formula of a chemical used
25 in hydraulic fracturing operations is necessary

1 for medical treatment, the person conducting
2 the hydraulic fracturing operations shall, upon
3 request, immediately disclose the proprietary
4 chemical formulas or the specific chemical iden-
5 tity of a trade secret chemical to the State, the
6 Administrator, or the treating physician or
7 nurse, regardless of whether a written state-
8 ment of need or a confidentiality agreement has
9 been provided. The person conducting the hy-
10 draulic fracturing operations may require a
11 written statement of need and a confidentiality
12 agreement as soon thereafter as circumstances
13 permit.

14 “(B) Subparagraphs (A)(i) and (A)(ii) do not
15 authorize the State (or the Administrator) to require
16 the public disclosure of proprietary chemical for-
17 mulas.”.

18 (b) CLEAN WATER ACT.—

19 (1) LIMITATION ON PERMIT REQUIREMENT.—
20 Section 402(l) of the Federal Water Pollution Con-
21 trol Act (33 U.S.C. 1342) is amended by striking
22 paragraph (2) and redesignating paragraph (3) as
23 paragraph (2).

(2) DEFINITIONS.—Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended—

(A) by striking paragraph (24); and

(B) by redesignating paragraphs (25) and (26) as paragraphs (24) and (25), respectively.

(3) STUDY.—

(A) IN GENERAL.—The Secretary of the Interior shall conduct a study of stormwater impacts with respect to any area that the Secretary determines may be contaminated by stormwater runoff associated with oil or gas operations, which shall include—

(i) an analysis of measurable contamination in such area;

(ii) an analysis of ground water resources in such area; and

(iii) an analysis of the susceptibility of aquifers in such area to contamination from stormwater runoff associated with such operations.

(B) REPORT.—Not later than 1 year after the date of enactment of this section, the Secretary shall submit to Congress a report on the

1 results of studies conducted under subpara-
2 graph (A).

3 (c) CLEAN AIR ACT.—

4 (1) REPEAL OF EXEMPTION FOR AGGREGATION
5 OF EMISSIONS FROM OIL AND GAS SOURCES.—Sec-
6 tion 112(n) of the Clean Air Act (42 U.S.C.
7 7412(n)) is amended by striking paragraph (4).

8 (2) HYDROGEN SULFIDE AS A HAZARDOUS AIR
9 POLLUTANT.—The Administrator of the Environ-
10 mental Protection Agency shall—

11 (A) not later than 180 days after the date
12 of enactment of this Act, issue a final rule add-
13 ing hydrogen sulfide to the list of hazardous air
14 pollutants under section 112(b) of the Clean
15 Air Act (42 U.S.C. 7412(b)); and

16 (B) not later than 365 days after a final
17 rule under subparagraph (A) is issued, revise
18 the list under section 112(c) of such Act (42
19 U.S.C. 7412(c)) to include categories and sub-
20 categories of major sources and area sources of
21 hydrogen sulfide, including oil and gas wells.

22 (d) SOLID WASTE DISPOSAL ACT.—

23 (1) IDENTIFICATION OR LISTING, AND REGULA-
24 TION, UNDER SUBTITLE C.—Paragraph (2) of sec-

tion 3001(b) of the Solid Waste Disposal Act (42 U.S.C. 6921(b)) is amended to read as follows:

“(2) Not later than 1 year after the date of enactment of the Fracking Disclosure and Safety Act, the Administrator shall—

“(A) determine whether drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy meet the criteria promulgated under this section for the identification or listing of hazardous waste;

“(B) identify or list as hazardous waste any drilling fluids, produced waters, or other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy that the Administrator determines, pursuant to subparagraph (A), meet the criteria promulgated under this section for the identification or listing of hazardous waste; and

“(C) promulgate regulations under sections 3002, 3003, and 3004 for wastes identified or listed as hazardous waste pursuant to subparagraph (B), except that the Administrator is au-

1 thorized to modify the requirements of such
2 sections to take into account the special charac-
3 teristics of such wastes so long as such modified
4 requirements protect human health and the en-
5 vironment.”.

6 (2) REGULATION UNDER SUBTITLE D.—Section
7 4010(c) of the Solid Waste Disposal Act (42 U.S.C.
8 6949a(c)) is amended by adding at the end the fol-
9 lowing new paragraph:

10 “(7) DRILLING FLUIDS, PRODUCED WATERS,
11 AND OTHER WASTES ASSOCIATED WITH THE EXPLO-
12 RATION, DEVELOPMENT, OR PRODUCTION OF CRUDE
13 OIL, NATURAL GAS, OR GEOTHERMAL ENERGY.—Not
14 later than 1 year after the date of enactment of the
15 Fracking Disclosure and Safety Act, the Adminis-
16 trator shall promulgate revisions of the criteria pro-
17 mulgated under section 4004(a) and under section
18 1008(a)(3) for facilities that may receive drilling
19 fluids, produced waters, or other wastes associated
20 with the exploration, development, or production of
21 crude oil, natural gas, or geothermal energy, that
22 are not identified or listed as hazardous waste pur-
23 suant to section 3001(b)(2). The criteria shall be
24 those necessary to protect human health and the en-
25 vironment and may take into account the practicable

1 capability of such facilities. At a minimum, such re-
2 visions for facilities potentially receiving such wastes
3 should require ground water monitoring as necessary
4 to detect contamination, establish criteria for the ac-
5 ceptable location of new or existing facilities, and
6 provide for corrective action and financial assurance
7 as appropriate.”.

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