

115TH CONGRESS
2D SESSION

H. R. 6768

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

SEPTEMBER 10, 2018

Mr. SOTO (for himself, Mr. GALLEGO, Mr. QUIGLEY, Mr. PAYNE, Ms. NORTON, Ms. BARRAGÁN, Mr. CARTWRIGHT, 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) includes the underground injection of
4 fluids or propping agents pursuant to hydraulic
5 fracturing operations related to oil, gas, or geo-
6 thermal production activities; but

7 “(C) 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)(C) shall include the following requirements:

16 “(i) A person conducting hydraulic
17 fracturing operations shall disclose to the
18 State (or the Administrator if the Adminis-
19 trator has primary enforcement responsi-
20 bility in the State)—

21 “(I) prior to the commencement
22 of any hydraulic fracturing operations
23 at any lease area or portion thereof, a
24 list of chemicals intended for use in
25 any underground injection during

1 such operations, including identifica-
2 tion of the chemical constituents of
3 mixtures, Chemical Abstracts Service
4 numbers for each chemical and con-
5 stituent, material safety data sheets
6 when available, and the anticipated
7 volume of each chemical; and

8 “(II) not later than 30 days after
9 the end of any hydraulic fracturing
10 operations, the list of chemicals used
11 in each underground injection during
12 such operations, including identifica-
13 tion of the chemical constituents of
14 mixtures, Chemical Abstracts Service
15 numbers for each chemical and con-
16 stituent, material safety data sheets
17 when available, and the volume of
18 each chemical used.

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

1 “(iii) Whenever the State or the Ad-
2 ministrators, or a treating physician or
3 nurse, determines that a medical emer-
4 gency exists and the proprietary chemical
5 formula of a chemical used in hydraulic
6 fracturing operations is necessary for med-
7 ical treatment, the person conducting the
8 hydraulic fracturing operations shall, upon
9 request, immediately disclose the propri-
10 etary chemical formulas or the specific
11 chemical identity of a trade secret chemical
12 to the State, the Administrator, or the
13 treating physician or nurse, regardless of
14 whether a written statement of need or a
15 confidentiality agreement has been pro-
16 vided. The person conducting the hydraulic
17 fracturing operations may require a writ-
18 ten statement of need and a confidentiality
19 agreement as soon thereafter as cir-
20 cumstances permit.

21 “(B) Subparagraphs (A)(i) and (A)(ii) do
22 not authorize the State (or the Administrator)
23 to require the public disclosure of proprietary
24 chemical formulas.”.

25 (b) CLEAN WATER ACT.—

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

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

9 (A) by striking paragraph (24); and

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

12 (3) STUDY.—

13 (A) IN GENERAL.—The Secretary of the
14 Interior shall conduct a study of stormwater
15 impacts with respect to any area that the Sec-
16 retary determines may be contaminated by
17 stormwater runoff associated with oil or gas op-
18 erations, which shall include—

19 (i) an analysis of measurable contami-
20 nation in such area;

21 (ii) an analysis of ground water re-
22 sources in such area; and

23 (iii) an analysis of the susceptibility of
24 aquifers in such area to contamination

1 from stormwater runoff associated with
2 such operations.

3 (B) REPORT.—Not later than 1 year after
4 the date of enactment of this section, the Sec-
5 retary shall submit to Congress a report on the
6 results of studies conducted under subpara-
7 graph (A).

8 (c) CLEAN AIR ACT.—

9 (1) REPEAL OF EXEMPTION FOR AGGREGATION
10 OF EMISSIONS FROM OIL AND GAS SOURCES.—Sec-
11 tion 112(n) of the Clean Air Act (42 U.S.C.
12 7412(n)) is amended by striking paragraph (4).

13 (2) HYDROGEN SULFIDE AS A HAZARDOUS AIR
14 POLLUTANT.—The Administrator of the Environ-
15 mental Protection Agency shall—

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

21 (B) not later than 365 days after a final
22 rule under subparagraph (A) is issued, revise
23 the list under section 112(c) of such Act (42
24 U.S.C. 7412(c)) to include categories and sub-

1 categories of major sources and area sources of
2 hydrogen sulfide, including oil and gas wells.

3 (d) SOLID WASTE DISPOSAL ACT.—

4 (1) IDENTIFICATION OR LISTING, AND REGULA-
5 TION UNDER SUBTITLE C.—Paragraph (2) of section
6 3001(b) of the Solid Waste Disposal Act (42 U.S.C.
7 6921(b)) is amended to read as follows:

8 “(2) Not later than 1 year after the date of en-
9 actment of the Fracking Disclosure and Safety Act,
10 the Administrator shall—

11 “(A) determine whether drilling fluids, pro-
12 duced waters, and other wastes associated with
13 the exploration, development, or production of
14 crude oil, natural gas, or geothermal energy
15 meet the criteria promulgated under this sec-
16 tion for the identification or listing of haz-
17 ardous waste;

18 “(B) identify or list as hazardous waste
19 any drilling fluids, produced waters, or other
20 wastes associated with the exploration, develop-
21 ment, or production of crude oil, natural gas, or
22 geothermal energy that the Administrator de-
23 termines, pursuant to subparagraph (A), meet
24 the criteria promulgated under this section for

1 the identification or listing of hazardous waste;
2 and

3 “(C) promulgate regulations under sections
4 3002, 3003, and 3004 for wastes identified or
5 listed as hazardous waste pursuant to subpara-
6 graph (B), except that the Administrator is au-
7 thorized to modify the requirements of such
8 sections to take into account the special charac-
9 teristics of such wastes so long as such modified
10 requirements protect human health and the en-
11 vironment.”.

12 (2) REGULATION UNDER SUBTITLE D.—Section
13 4010(e) of the Solid Waste Disposal Act (42 U.S.C.
14 6949a(e)) is amended by adding at the end the fol-
15 lowing new paragraph:

16 “(7) DRILLING FLUIDS, PRODUCED WATERS,
17 AND OTHER WASTES ASSOCIATED WITH THE EXPLO-
18 RATION, DEVELOPMENT, OR PRODUCTION OF CRUDE
19 OIL, NATURAL GAS, OR GEOTHERMAL ENERGY.—Not
20 later than 1 year after the date of enactment of the
21 Fracking Disclosure and Safety Act, the Adminis-
22 trator shall promulgate revisions of the criteria pro-
23 mulgated under section 4004(a) and under section
24 1008(a)(3) for facilities that may receive drilling
25 fluids, produced waters, or other wastes associated

1 with the exploration, development, or production of
2 crude oil, natural gas, or geothermal energy, that
3 are not identified or listed as hazardous waste pur-
4 suant to section 3001(b)(2). The criteria shall be
5 those necessary to protect human health and the en-
6 vironment and may take into account the practicable
7 capability of such facilities. At a minimum, such re-
8 visions for facilities potentially receiving such wastes
9 should require ground water monitoring as necessary
10 to detect contamination, establish criteria for the ac-
11 ceptable location of new or existing facilities, and
12 provide for corrective action and financial assurance
13 as appropriate.”.

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