

113TH CONGRESS
1ST SESSION

S. 1482

To recognize the primacy of States, provide for the consideration of the economic impact of additional regulations, and provide for standards and requirements relating to certain guidelines and regulations relating to health and the environment.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2013

Mr. HOEVEN (for himself, Ms. LANDRIEU, Mr. PORTMAN, Ms. HEITKAMP, and Mr. VITTER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To recognize the primacy of States, provide for the consideration of the economic impact of additional regulations, and provide for standards and requirements relating to certain guidelines and regulations relating to health and the environment.

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 “Empower States Act
5 of 2013”.

1 **SEC. 2. REGULATION OF OIL OR NATURAL GAS DEVELOP-**
2 **MENT ON FEDERAL LAND IN STATES.**

3 The Mineral Leasing Act is amended—

4 (1) by redesignating section 44 (30 U.S.C. 181
5 note) as section 45; and

6 (2) by inserting after section 43 (30 U.S.C.
7 226–3) the following:

8 **“SEC. 44. REGULATION OF OIL OR NATURAL GAS DEVELOP-**
9 **MENT ON FEDERAL LAND IN STATES.**

10 “(a) IN GENERAL.—Subject to subsection (b), the
11 Secretary of the Interior shall not issue or promulgate any
12 guideline or regulation relating to oil or gas exploration
13 or production on Federal land in a State if the State has
14 otherwise met the requirements under this Act or any
15 other applicable Federal law.

16 “(b) EXCEPTION.—The Secretary may issue or pro-
17 mulgate guidelines and regulations relating to oil or gas
18 exploration or production on Federal land in a State if
19 the Secretary of the Interior determines that as a result
20 of the oil or gas exploration or production there is an im-
21 minent and substantial danger to the public health or envi-
22 ronment.”.

23 **SEC. 3. REGULATIONS.**

24 Part E of the Safe Drinking Water Act (42 U.S.C.
25 300j et seq.) is amended by adding at the end the fol-
26 lowing:

1 **“SEC. 1459. REGULATIONS.**

2 “(a) COMMENTS RELATING TO OIL AND GAS EXPLO-
3 RATION AND PRODUCTION.—Before issuing or promul-
4 gating any guideline or regulation relating to oil and gas
5 exploration and production on Federal, State, tribal, or
6 fee land pursuant to this Act, the Federal Water Pollution
7 Control Act (33 U.S.C. 1251 et seq.), the Clean Air Act
8 (42 U.S.C. 7401 et seq.), the Act entitled ‘An Act to regu-
9 late the leasing of certain Indian lands for mining pur-
10 poses’, approved May 11, 1938 (commonly known as the
11 ‘Indian Mineral Leasing Act of 1938’) (25 U.S.C. 396a
12 et seq.), the Mineral Leasing Act (30 U.S.C. 181 et seq.),
13 or any other provision of law or Executive order, the head
14 of a Federal department or agency shall seek comments
15 from and consult with the head of each affected State,
16 State agency, and Indian tribe at a location within the
17 jurisdiction of the State or Indian tribe, as applicable.

18 “(b) STATEMENT OF ENERGY AND ECONOMIC IM-
19 PACT.—Each Federal department or agency described in
20 subsection (a) shall develop a Statement of Energy and
21 Economic Impact, which shall consist of a detailed state-
22 ment and analysis supported by credible objective evidence
23 relating to—

24 “(1) any adverse effects on energy supply, dis-
25 tribution, or use, including a shortfall in supply,

1 price increases, and increased use of foreign sup-
2 plies; and

3 “(2) any impact on the domestic economy if the
4 action is taken, including the loss of jobs and de-
5 crease of revenue to each of the general and edu-
6 cational funds of the State or affected Indian tribe.

7 “(c) REGULATIONS.—

8 “(1) IN GENERAL.—A Federal department or
9 agency shall not impose any new or modified regula-
10 tion unless the head of the applicable Federal de-
11 partment or agency determines—

12 “(A) that the rule is necessary to prevent
13 imminent substantial danger to the public
14 health or the environment; and

15 “(B) by clear and convincing evidence, that
16 the State or Indian tribe does not have an ex-
17 isting reasonable alternative to the proposed
18 regulation.

19 “(2) DISCLOSURE.—Any Federal regulation
20 promulgated on or after the date of enactment of
21 this paragraph that requires disclosure of hydraulic
22 fracturing chemicals shall refer to the database man-
23 aged by the Ground Water Protection Council and
24 the Interstate Oil and Gas Compact Commission (as
25 in effect on the date of enactment of this Act).

1 “(d) JUDICIAL REVIEW.—

2 “(1) IN GENERAL.—With respect to any regula-
3 tion described in this section, a State or Indian tribe
4 adversely affected by an action carried out under the
5 regulation shall be entitled to review by a United
6 States district court located in the State or the Dis-
7 trict of Columbia of compliance by the applicable
8 Federal department or agency with the requirements
9 of this section.

10 “(2) ACTION BY COURT.—

11 “(A) IN GENERAL.—A district court pro-
12 viding review under this subsection may enjoin
13 or mandate any action by a relevant Federal
14 department or agency until the district court
15 determines that the department or agency has
16 complied with the requirements of this section.

17 “(B) DAMAGES.—The court shall not order
18 money damages.

19 “(3) SCOPE AND STANDARD OF REVIEW.—In
20 reviewing a regulation under this subsection—

21 “(A) the court shall not consider any evi-
22 dence outside of the record that was before the
23 agency; and

1 “(B) the standard of review shall be de
2 novo.”.

○