

107TH CONGRESS
1ST SESSION

S. 1374

To provide for a study of the effects of hydraulic fracturing on underground drinking water sources.

IN THE SENATE OF THE UNITED STATES

AUGUST 3, 2001

Mr. BINGAMAN (for himself and Mr. REID) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To provide for a study of the effects of hydraulic fracturing on underground drinking water sources.

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 “Hydraulic Fracturing
5 Act”.

6 **SEC 2. HYDRAULIC FRACTURING.**

7 Section 1421 of the Safe Drinking Water Act (42
8 U.S.C. § 300h) is amended by adding at the end the fol-
9 lowing:

1 “(e) HYDRAULIC FRACTURING FOR OIL AND GAS
2 PRODUCTION.—

3 “(1) STUDY OF THE EFFECTS OF HYDRAULIC
4 FRACTURING.—

5 “(A) IN GENERAL.—Not later than 24
6 months after the date of enactment of this sub-
7 section, the Administration shall complete a
8 study of the known and potential effects on un-
9 derground drinking water sources of hydraulic
10 fracturing, including the effects of hydraulic
11 fracturing on underground drinking water
12 sources on a nationwide basis, and within spe-
13 cific regions, States, or portions of States.

14 “(B) CONSULTATION.—In planning and
15 conducting the study, the Administrator shall
16 consult with the Secretary of the Interior, the
17 Secretary of Energy, the Ground Water Protec-
18 tion Council, affected States, and, as appro-
19 priate, representatives of environmental, indus-
20 try, academic, scientific, public health, and
21 other relevant organizations. Such study may be
22 accomplished in conjunction with other ongoing
23 studies related to the effects of oil and gas pro-
24 duction on groundwater resources.

1 “(C) STUDY ELEMENTS.—The study con-
2 ducted under subparagraph (A) shall, at a min-
3 imum, examine and make findings as to
4 whether—

5 “(i) such hydraulic fracturing has, or
6 will, endanger (as defined under subsection
7 (d)(2)) underground drinking water
8 sources, including those sources within spe-
9 cific regions, States or portions of States;

10 “(ii) there are specific methods, prac-
11 tices, or hydrogeologic circumstances in
12 which hydraulic fracturing has, or will, en-
13 danger underground drinking water
14 sources; and

15 “(iii) whether there are any pre-
16 cautionary actions that may reduce or
17 eliminate any such endangerment.

18 “(2) INDEPENDENT SCIENTIFIC REVIEW.—

19 “(A) IN GENERAL.—Not later than 2
20 months after the study under paragraph (1) is
21 completed, the Administrator shall enter into an
22 appropriate agreement with the National Acad-
23 emy of Sciences to have the Academy review the
24 conclusions of the study.

1 “(B) REPORT.—Not later than 9 months
2 after entering into an appropriate agreement
3 with the Administrator, the National Academy
4 of Sciences shall report to the Administrator,
5 and the Committee on Energy and Commerce
6 of the House of Representatives and the Com-
7 mittee on Environment and Public Works of the
8 Senate, on the—

9 “(i) findings related to the study con-
10 ducted by the Administrator under para-
11 graph (1); and

12 “(ii) recommendations, if any, for
13 modifying the findings of the study.

14 “(3) REGULATORY DETERMINATION.—

15 “(A) IN GENERAL.—Not later than 6
16 months after receiving the National Academy of
17 Sciences report under paragraph (2), the Ad-
18 ministrator shall determine, after informal pub-
19 lic hearings and public notice and opportunity
20 for comment, and based on information devel-
21 oped or accumulated in connection with the
22 study required under paragraph (1) and the
23 National Academy of Sciences report under
24 paragraph (2), either:

1 “(i) that regulation of hydraulic frac-
2 turing under this part is necessary to en-
3 sure that underground sources of drinking
4 water will not be endangered on a nation-
5 wide basis, or within a specific region,
6 State or portions of a State; or

7 “(ii) that regulation described under
8 clause (i) is unnecessary.

9 “(B) PUBLICATION OF DETERMINATION.—
10 The Administrator shall publish the determina-
11 tion in the Federal Register, accompanied by an
12 explanation and the reasons for it.

13 “(4) PROMULGATION OF REGULATIONS.—

14 “(A) REGULATION NECESSARY.—If the
15 Administrator determines under paragraph (3)
16 that regulation of hydraulic fracturing under
17 this part is necessary to ensure that hydraulic
18 fracturing does not endanger underground
19 drinking water sources on a nationwide basis,
20 or within a specific region, State or portions of
21 a State, the Administrator shall, within 6
22 months after the issuance of that determina-
23 tion, and after public notice and opportunity for
24 comment, promulgate regulations under section
25 1421 (42 U.S.C. § 300h) to ensure that hydrau-

1 lic fracturing will not endanger such under-
2 ground sources of drinking water.

3 “(B) REGULATION UNNECESSARY.—The
4 Administrator shall not promulgate regulations
5 for hydraulic fracturing under this part unless
6 the Administrator determines under paragraph
7 (3) that such regulations are necessary.

8 “(C) EXISTING REGULATIONS.—A deter-
9 mination by the Administrator under paragraph
10 (3) that regulation is unnecessary will relieve
11 States from any further obligation to regulate
12 hydraulic fracturing as an underground injec-
13 tion under this part.

14 “(5) DEFINITION OF HYDRAULIC FRAC-
15 TURING.—For purposes of this subsection, the term
16 ‘hydraulic fracturing’ means the process of creating
17 a fracture in a reservoir rock, and injecting fluids
18 and propping agents, for the purposes of reservoir
19 stimulation related to oil and gas production activi-
20 ties.

21 “(6) SAVINGS.—Nothing in this subsection shall
22 in any way limit the authorities of the Administrator
23 under section 1431 (42 U.S.C. 300i).”.

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