

111TH CONGRESS
1ST SESSION

S. 1215

To amend the Safe Drinking Water Act to repeal a certain exemption for hydraulic fracturing, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 9, 2009

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

A BILL

To amend the Safe Drinking Water Act to repeal a certain exemption for hydraulic fracturing, 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 “Fracturing Responsi-
5 bility and Awareness of Chemicals (FRAC) Act”.

6 **SEC. 2. REGULATION OF HYDRAULIC FRACTURING.**

7 (a) UNDERGROUND INJECTION.—Section 1421(d) of
8 the Safe Drinking Water Act (42 U.S.C. 300h(d)) is
9 amended by striking paragraph (1) and inserting the fol-
10 lowing:

1 “(1) UNDERGROUND INJECTION.—

2 “(A) IN GENERAL.—The term ‘under-
3 ground injection’ means the subsurface em-
4 placement of fluids by well injection.

5 “(B) INCLUSION.—The term ‘underground
6 injection’ includes the underground injection of
7 fluids or propping agents pursuant to hydraulic
8 fracturing operations relating to oil or gas pro-
9 duction activities.

10 “(C) EXCLUSION.—The term ‘underground
11 injection’ does not include the underground in-
12 jection of natural gas for the purpose of stor-
13 age.”.

14 (b) DISCLOSURE.—Section 1421(b) of the Safe
15 Drinking Water Act (42 U.S.C. 300h(b)) is amended—

16 (1) in paragraph (1)(C), by inserting before the
17 semicolon the following: “, including a requirement
18 that any person using hydraulic fracturing disclose
19 to the State (or to the Administrator in any case in
20 which the Administrator has primary enforcement
21 responsibility in a State) the chemical constituents
22 (but not the proprietary chemical formulas) used in
23 the fracturing process”; and

24 (2) by adding at the end the following:

1 “(4) DISCLOSURES OF CHEMICAL CONSTITU-
2 ENTS.—

3 “(A) IN GENERAL.—The State (or the Ad-
4 ministrator, as applicable) shall make available
5 to the public the information contained in each
6 disclosure of chemical constituents under para-
7 graph (1)(C), including by posting the informa-
8 tion on an appropriate Internet website.

9 “(B) IMMEDIATE DISCLOSURE IN CASE OF
10 EMERGENCY.—

11 “(i) IN GENERAL.—Subject to clause
12 (ii), the regulations promulgated pursuant
13 to subsection (a) shall require that, in any
14 case in which the State (or the Adminis-
15 trator, as applicable) or an appropriate
16 treating physician or nurse determines that
17 a medical emergency exists and the propri-
18 etary chemical formula or specific chemical
19 identity of a trade-secret chemical used in
20 hydraulic fracturing is necessary for emer-
21 gency or first-aid treatment, the applicable
22 person using hydraulic fracturing shall im-
23 mediately disclose to the State (or the Ad-
24 ministrator) or the treating physician or
25 nurse the proprietary chemical formula or

1 specific chemical identity of a trade-secret
2 chemical, regardless of the existence of—
3 “(I) a written statement of need;
4 or
5 “(II) a confidentiality agreement.
6 “(ii) REQUIREMENT.—A person using
7 hydraulic fracturing that makes a dislo-
8 sure required under clause (i) may require
9 the execution of a written statement of
10 need and a confidentiality agreement as
11 soon as practicable after the determination
12 by the State (or the Administrator) or the
13 treating physician or nurse under that
14 clause.”.

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