

114TH CONGRESS
1ST SESSION

S. _____

To clarify that a State has the sole authority to regulate hydraulic fracturing on Federal land within the boundaries of the State.

IN THE SENATE OF THE UNITED STATES

Mr. INHOFE introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To clarify that a State has the sole authority to regulate hydraulic fracturing on Federal land within the boundaries of the State.

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 Regula-
5 tions are Effective in State Hands Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) hydraulic fracturing is a commercially viable
9 practice that has been used in the United States for
10 more than 60 years in more than 1,000,000 wells;

1 (2) the Ground Water Protection Council, a na-
2 tional association of State water regulators that is
3 considered to be a leading groundwater protection
4 organization in the United States, released a report
5 entitled “State Oil and Natural Gas Regulations De-
6 signed to Protect Water Resources” and dated May
7 2009 finding that the “current State regulation of
8 oil and gas activities is environmentally proactive
9 and preventive”;

10 (3) that report also concluded that “[a]ll oil
11 and gas producing States have regulations which are
12 designed to provide protection for water resources”;

13 (4) a 2004 study by the Environmental Protec-
14 tion Agency, entitled “Evaluation of Impacts to Un-
15 derground Sources of Drinking Water by Hydraulic
16 Fracturing of Coalbed Methane Reservoirs”, found
17 no evidence of drinking water wells contaminated by
18 fracture fluid from the fracked formation;

19 (5) a 2009 report by the Ground Water Protec-
20 tion Council, entitled “State Oil and Natural Gas
21 Regulations Designed to Protect Water Resources”,
22 found a “lack of evidence” that hydraulic fracturing
23 conducted in both deep and shallow formations pre-
24 sents a risk of endangerment to ground water;

1 (6) a January 2009 resolution by the Interstate
2 Oil and Gas Compact Commission stated “The
3 states, who regulate production, have comprehensive
4 laws and regulations to ensure operations are safe
5 and to protect drinking water. States have found no
6 verified cases of groundwater contamination associ-
7 ated with hydraulic fracturing.”;

8 (7) on May 24, 2011, before the Oversight and
9 Government Reform Committee of the House of
10 Representatives, Lisa Jackson, the Administrator of
11 the Environmental Protection Agency, testified that
12 she was “not aware of any proven case where the
13 fracking process itself has affected water”;

14 (8) in 2011, Bureau of Land Management Di-
15 rector Bob Abbey stated, “We have not seen evi-
16 dence of any adverse effect as a result of the use of
17 the chemicals that are part of that fracking tech-
18 nology.”;

19 (9)(A) activities relating to hydraulic fracturing
20 (such as surface discharges, wastewater disposal,
21 and air emissions) are already regulated at the Fed-
22 eral level under a variety of environmental statutes,
23 including portions of—

24 (i) the Federal Water Pollution Control
25 Act (33 U.S.C. 1251 et seq.);

1 (ii) the Safe Drinking Water Act (42
2 U.S.C. 300f et seq.); and

3 (iii) the Clean Air Act (42 U.S.C. 7401 et
4 seq.); but

5 (B) Congress has continually elected not to in-
6 clude the hydraulic fracturing process in the under-
7 ground injection control program under the Safe
8 Drinking Water Act (42 U.S.C. 300f et seq.);

9 (10) in 2011, the Secretary of the Interior an-
10 nounced the intention to promulgate new Federal
11 regulations governing hydraulic fracturing on Fed-
12 eral land;

13 (11) a February 2012 study by the Energy In-
14 stitute at the University of Texas at Austin, entitled
15 “Fact-Based Regulation for Environmental Protec-
16 tion in Shale Gas Development”, found that “[n]o
17 evidence of chemicals from hydraulic fracturing fluid
18 has been found in aquifers as a result of fracturing
19 operations”; and

20 (12) on October 1, 2014, the Ground Water
21 Protection Council and State Oil and Gas Regu-
22 latory Exchange released a report entitled “State Oil
23 and Gas Regulations Designed to Protect Water Re-
24 sources” that describes the cutting edge of State-
25 based oil and gas regulations, concluding that “In

1 step with dramatic industry growth over the past
2 five years, states have substantially improved
3 groundwater protection laws and regulations gov-
4 erning oil and natural gas production.”.

5 **SEC. 3. DEFINITION OF FEDERAL LAND.**

6 In this Act, the term “Federal land” means—

- 7 (1) public lands (as defined in section 103 of
8 the Federal Land Policy and Management Act of
9 1976 (43 U.S.C. 1702));
10 (2) National Forest System land;
11 (3) land under the jurisdiction of the Bureau of
12 Reclamation; and
13 (4) land under the jurisdiction of the Corps of
14 Engineers.

15 **SEC. 4. STATE AUTHORITY.**

16 (a) IN GENERAL.—A State shall have the sole au-
17 thority to promulgate or enforce any regulation, guidance,
18 or permit requirement regarding the treatment of a well
19 by the application of fluids under pressure to which prop-
20 ping agents may be added for the expressly designed pur-
21 pose of initiating or propagating fractures in a target geo-
22 logic formation in order to enhance production of oil, nat-
23 ural gas, or geothermal production activities on or under
24 any land within the boundaries of the State.

1 (b) FEDERAL LAND.—The treatment of a well by the
2 application of fluids under pressure to which propping
3 agents may be added for the expressly designed purpose
4 of initiating or propagating fractures in a target geologic
5 formation in order to enhance production of oil, natural
6 gas, or geothermal production activities on Federal land
7 shall be subject to the law of the State in which the land
8 is located.