112TH CONGRESS
2D 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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fracturing Regulations are Effective in State Hands Act''.

SEC. 2. FINDINGS.

Congress finds that—

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

(2) the Ground Water Protection Council, a national association of State water regulators that is considered to be a leading groundwater protection organization in the United States, released a report entitled ''State Oil and Natural Gas Regulations Designed to Protect Water Resources'' and dated May 2009 finding that the ''current State regulation of oil and gas activities is environmentally proactive and preventive'';

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

(4) a 2004 study by the Environmental Protection Agency, entitled ''Evaluation of Impacts to Underground Sources of Drinking Water by Hydraulic Fracturing of Coalbed Methane Reservoirs'', found no evidence of drinking water wells contaminated by fracture fluid from the fracked formation;

(5) a 2009 report by the Ground Water Protection Council, entitled ''State Oil and Natural Gas Regulations Designed to Protect Water Resources'', found a ''lack of evidence'' that hydraulic fracturing conducted in both deep and shallow formations presents a risk of endangerment to ground water;

(6) a January 2009 resolution by the Interstate Oil and Gas Compact Commission stated ''The states, who regulate production, have comprehensive laws and regulations to ensure operations are safe and to protect drinking water. States have found no verified cases of groundwater contamination associated with hydraulic fracturing.'';

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

(8) in 2011, Bureau of Land Management Director Bob Abbey stated, ''We have not seen evidence of any adverse effect as a result of the use of the chemicals that are part of that fracking technology.'';

(9)(A) activities relating to hydraulic fracturing (such as surface discharges, wastewater disposal, and air emissions) are already regulated at the Federal level under a variety of environmental statutes, including portions of—

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

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

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

(B) Congress has continually elected not to include the hydraulic fracturing process in the underground injection control program under the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(10) in 2011, the Secretary of the Interior announced the intention to promulgate new Federal regulations governing hydraulic fracturing on Federal land; and

(11) a February 2012 study by the Energy Institute at the University of Texas at Austin, entitled ''Fact-Based Regulation for Environmental Protection in Shale Gas Development'', found that ''[n]o evidence of chemicals from hydraulic fracturing fluid has been found in aquifers as a result of fracturing operations''.

SEC. 3. DEFINITION OF FEDERAL LAND.

In this Act, the term ''Federal land'' means—

(1) public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702));

(2) National Forest System land;

(3) land under the jurisdiction of the Bureau of Reclamation;

(4) land under the jurisdiction of the Corps of Engineers; and

(5) Indian lands (as defined in section 3 of the Native American Business Development, Trade Promotion, and Tourism Act of 2000 (25 U.S.C. 4302))).

SEC. 4. STATE AUTHORITY.

(a) IN GENERAL.—A State shall have the sole authority to promulgate or enforce any regulation, guidance, or permit requirement regarding the underground injection of fluids or propping agents pursuant to the hydraulic fracturing process, or any component of that process, relating to oil, gas, or geothermal production activities on or under any land within the boundaries of the State.

(b) FEDERAL LAND.—The underground injection of fluids or propping agents pursuant to the hydraulic fracturing process, or any components of that process, relating to oil, gas, or geothermal production activities on Federal land shall be subject to the law of the State in which the land is located.