

13. FRACKING UNDER PRESSURE

Induced hydraulic fracturing, or fracking, for natural gas is becoming an important issue in more and more areas of the U.S. Supporters cite national desires to make the country more energy independent and to motivate efforts to liberate stores of natural gas. Mineral rights holders and communities near gas fields see economic benefits of fracking.

Fracking comes with costs to the environment and societal costs that are unclear and have not been weighed against the potential benefits. Attention to fracking has also raised questions about some features of regulation of the oil and gas industry.

One such feature is the oil and gas industry's specific exemption from certain provisions of a variety of federal and state environmental protection laws, including the following federal regulations: Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), Resource Conservation and Recovery Act (RCRA), Safe Drinking Water Act (SDWA), Clean Water Act (CWA), Clean Air Act (CAA), National Environmental Policy Act (NEPA), and Toxic Release Inventory under the Emergency Planning and Community Right-to-Know Act.

Oil and gas exemptions have become hot topics among those trying to better understand the impact of oil and gas chemicals, wastes, and processes on human and animal health, on the environment, and on communities. The Environmental Protection Agency (EPA) notes that in most cases the statutes exempt waste "uniquely associated with" oil and gas exploration and production operations. In other words, chemicals used and wastes produced during the process of locating and producing crude oil or natural gas are exempt from these regulations. Volumes of rules and clarifications exist to elucidate when these processes end and under what conditions toxic materials are and are not exempt from the oversight of environmental laws. Industry has a strong interest in expanding the scope of these exemptions.

For different reasons, the oil and gas industry, along with Americans interested in becoming more energy-independent, support such exemptions. The cost savings afforded by these exemptions is enormous for oil and gas companies. The EPA points out that the cost of hazardous waste compliance under RCRA alone could make many small traditional oil wells unfeasible and they would be capped and abandoned. Those who advocate national security interests view exemptions as encouragement of the oil and gas industry for domestic exploration and production.

Fracking has brought these exemptions to the public eye as new environmental and health issues arise. Fracking uses enormous amounts of water—a particular problem in drought areas. According to the Sierra Club, the fracking water contains many toxic chemicals that industry officials are exempt from revealing to the public. Fracking water must be disposed of after usage, but it contains many of those original chemicals plus additional substances released from the ground, including radioactive materials—all again protected by exemptions from public disclosure. At various stages the process releases methane that would be measured and controlled in other industries by laws from which the oil and gas industry is exempt. RCRA, which is intended to force tracking of toxic wastes "from

cradle to grave,” does not apply to many fracking wastes—even when they are removed from the original site for disposal elsewhere.

Critics of fracking call for cancellations of the exemptions, pointing out fracking-related examples of air, water, and soil contamination; destruction of human and wildlife habitats; and human illness and death. The industry continues to claim that the chemicals and emissions are not toxic, that fracking companies should not be forced to reveal trade secrets, and that onerous regulations would make natural gas exploration and production by fracking unprofitable and unsustainable.

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