

REGULATION OF HYDRAULIC FRACTURING OPERATIONS



While the current surge in U.S. natural gas and oil production is a new chapter for the natural gas and oil industry, it is built upon decades of experience with hydraulic fracturing, commonly called fracking. Fracking has been used commercially for nearly 70 years and is carefully regulated by both the federal government and state governments. State governments, in particular, play a key role in developing regulations that are tailored to local circumstances and needs.

BACKGROUND:

More than a dozen federal agencies oversee enforcement of statutes that apply to the hydraulic fracturing or “fracking” process dealing with clean water, clean air, the environment, endangered species, occupational safety and more. Fracking is subject to the federal Clean Air Act, Clean Water Act, Emergency Planning and Community Right to Know Act, Occupational Safety and Health Act, and the Resource Conservation and Recovery Act, among others. In addition, federal agencies continue to finalize and propose dozens of new rules related to fracking.

In addition, fracking has been tightly regulated at the state level for decades. As technology has advanced and development has expanded to new areas and states, state lawmakers and regulators have tended to be well ahead of the curve of federal regulation. State regulations are detailed and specific, including such issues as permit review and approval; well design, location and spacing; water, air and wildlife safety; and inspection and enforcement of day to day oil and gas operations.

According to the Ground Water Protection Council (GWPC), from 2009 to 2013, 82 groundwater-related rulemakings affecting exploration and production were finalized across the country at the state level, including hundreds of discrete rule changes, with many more rulemakings currently ongoing and proposed.

In addition to the regulatory response, the State Review of Oil and Natural Gas Environmental Regulations (STRONGER) was formed in 1999, and is a non-profit, multi-stakeholder organization that helps oil and natural gas producing states evaluate their environmental regulations associated with the exploration, development and production of crude oil and natural gas. STRONGER has conducted reviews of 22 state regulatory programs for oil and gas production. In 2009, a Hydraulic Fracturing Workgroup was formed within STRONGER to address regulatory issues specific to fracking.

WHAT THE EXPERTS ARE SAYING:

Despite some public perception that fracking is new, the U.S. Department of Energy (DOE) data shows that fracking has been used on more than two million natural gas and oil wells over the past seven decades. Those many years of experience have enabled thorough study of the process. Expert consensus agrees fracking can be and is done safely.

- » “There’s nothing inherently dangerous in fracking that sound engineering practices can’t accomplish.” – Gina McCarthy, former EPA administrator
- » “In California it has been used for 60 years, and actively used for 40 years, and in California there has been not one record of reported damage directly to the use of hydraulic fracturing.” – Mark Nechodom, former California Department of Conservation Director
- » “[Hydraulic fracturing] is creating an energy revolution in the United States. I would say to everybody that hydraulic fracturing is safe.” – Ken Salazar, former Interior secretary
- » “I think the issues in terms of the environmental footprint of hydraulic fracturing are manageable.” – Ernest Moniz, former Secretary of Energy
- » “We don’t have any demonstrative evidence that increasing the setbacks from oil and gas development would be any more protective of the public’s health than where the current setbacks are, because we don’t have any evidence that there is a public health impact as a result of the current setbacks.” -- Dr. Larry Wolk, Colorado Department of Public Health and Environment -- referencing a 2017 report on health effects of industry in Colorado.