

What's Missing from the FRAC Act

The FRAC Act would remove the hydrofracking exemption to the Safe Drinking Water Act (SDWA), but **the proposed bill will not protect most of the land area of the US because many aquifers, especially in the northeast, do not flow into a PUBLIC water supply of 25 + users**, and whether they would be capable of supplying municipal water in the future is open to interpretation. The required flow rate is not defined anywhere, and needs to be so that there is a uniform standard across the US.

Specifically, the Underground Injection Control (UIC) section of the Safe Drinking Water Act (SDWA) needs to include a definition, or standard, of the following phrase: “sufficient quantity of ground water to supply a public water system”

“Sufficient” needs to be defined in the FRAC Act so that the flow rate of individual homeowner’s water well or spring is covered. It should be a federal standard, not open to different interpretations by Courts in every region of the EPA. The Atlanta or Georgia region of EPA uses a 1 gallon per minute flow rate.

Some people have suggested that one gallon per minute may be a sufficient flow rate for water wells, but I’m not sure if that’s true for springs. As water resources diminish as a result of climate change, a much lower standard might be reasonable. Even a trickle of clean water could keep you alive in the future, and those trickles, when combined, add up to rivers in some places.

I am not proposing that the entire SDWA be amended to include the springs and wells of homeowners. The required change in language should only apply to the UIC section of the SDWA.

- Some background information from the EPA:
“The Safe Drinking Water Act (SDWA) was originally passed by Congress in 1974 to protect public health by regulating the nation’s public drinking water supply. The law was amended in 1986 and 1996 and requires many actions to protect drinking water and its sources: rivers, lakes, reservoirs, springs, and ground water wells. (SDWA does not regulate private wells which serve fewer than 25 individuals.)” <http://www.epa.gov/OGWDW/sdwa/basicinformation.html>
- The UIC (Underground Injection Control) program includes 5 classes of protection: www.epa.gov/safewater/uic
- Here’s more specific information: <http://www.epa.gov/ogwdw/uic/basicinformation.html>
- And this is the specific area that needs adjusting: http://www.epa.gov/ogwdw/uic/basicinformation.html#what_is_a_usdw

Quote from the EPA:

What is a USDW?

An underground source of drinking water (USDW) is an [aquifer](#) or a part of an aquifer that is currently used as a drinking water source or may be needed as a drinking water source in the future. Specifically, a USDW:

- * Supplies any [public water system](#), or
- * Contains a sufficient quantity of ground water to supply a public water system, and
 - ** currently supplies drinking water for human consumption, or
 - ** contains fewer than 10,000 mg/l total dissolved solids (TDS), and
 - ** is not an [exempted aquifer](#)

- Anne Marie Garti

Comments on Shortcomings of The FRAC Act

The FRAC Act does two things to justify its claim to get rid of the Halliburton loophole:

- It restores government authority over which chemicals are used in fracking.
- It requires public disclosure of frack chemicals.

What it doesn't do is far more significant.

From my as yet unpublished article on this subject: "So if I'm poisoned by frack fluid, the FRAC Act allows me to know what poisoned me. But it doesn't protect me from being poisoned in the first place."

1. The FRAC Act champions the Safe Drinking Water Act. The SDWA defines a public water system: "A [public water system \(PWS\)](#) is a system for the provision to the public of water for human consumption . . . if such system has at least fifteen service connections or regularly serves at least twenty-five individuals . . . The public drinking water systems regulated by EPA . . . provide drinking water to 90 percent of Americans."

This leaves over 30 million Americans uncovered by SDWA and thus vulnerable to drilling.

2. The FRAC Act does **not** get rid of the Halliburton loophole in six other pieces of federal legislation that used to be the firewall between industry excess and public safety:

- Clean Air Act
- Clean Water Act
- Resource Conservation and Recovery Act
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) — the Superfund act
- National Environmental Policy Act
- Toxic Release Inventory (TRI) under the Emergency Planning and Community Right-to-Know Act

That's the overview. Details make the FRAC Act's shortcomings even more poignant.

Fundamentally, the FRAC Act needs to be rewritten. It accepts what the industry wants us to think is the inevitability of drilling. A growing number reject that acquiescence to destruction and are mobilizing for a BAN. The first national organization I know of that has called for a national ban on hydrofracking is Food & Water Watch. Eventually there will be more.

- Carl Arnold

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