

Don't Frack Michigan



You Can't Drink Natural Gas! P.O. Box 65, Afton, Michigan 49705 www.DontFrackMichigan.org

Laws and Loopholes

Should we be concerned about our water being contaminated from fracking?

*A 2011 Duke University study proved that drinking water from wells near fracking sites have 17 times more methane than wells not located near fracking. Fracking operations have generated billions of gallons of radiation-laced toxic wastewater that can't be managed properly and forced families to abandon their homes because of dangerous levels of arsenic, benzene and toluene in their blood

*A 2012 Colorado School of Public Health study found that cancer risks were 66% higher for residents living less than a half a mile from oil and gas wells than for those living farther away, with benzene being the major contributor to increased risk.

* An April 2012 U.S. Geological Survey research team has linked oil and gas drilling operations to a series of earthquakes across the country.

Are there laws to protect us from this? YES! And we have to ask that the loopholes in them are closed. Look at these three federal protections of our water and air and the loopholes (exemptions to the oil and gas industry) we need to work to close.

#1 The Safe Drinking Water Act (SDWA) of 1974 was established to protect America's drinking water. It covers waters actually or potentially designated for drinking, whether from above ground or underground sources. (3)

Loophole: Energy Policy Act of 2005 exempted hydraulic fracturing (fracking) from SDWA oversight, leaving drinking water sources in the 34 oil and gas producing states unprotected from the host of toxic chemicals used during fracking. Congress qualified this exemption to regulate diesel fuel additives used during fracking, which requires industry to apply for a SDWA permit if they are using diesel fuel to hydraulically fracture a well.

#2The Clean Air Act (CAA), adopted in 1970, is the comprehensive federal law that regulates air emissions from area, stationary, and mobile pollution sources. The CAA established limits for major pollution sources called the National Emission Standards for Hazardous Air Pollutants (NEHAPS) . NEHAPS must be met by installing the Maximum Achievable Control Technology (MACT) for each source.

Loophole: The CAA exempts oil and gas wells, and in some instances pipeline compressors and pump stations, from aggregation. This exemption allows the oil and gas industry -- which often operates many small facilities in one area -- to pollute while largely unregulated by the CAA.

In addition, in 1991 hydrogen sulfide was removed from the list of Hazardous Air Pollutants under the CAA. This elimination has remained despite a 1993 EPA study, Hydrogen Sulfide Air Emissions Associated with the Extraction of Oil and Natural Gas, which clearly concludes that accidental releases of hydrogen sulfide during oil and gas development are a serious air quality concern and pose a great risk to public health. Common symptoms of exposure to low levels of hydrogen sulfide can include headache, skin complications, respiratory problems and system damage, confusion, verbal impairment, and memory loss.

Remember our Christmas Eve H2S cloud)

#3 The Clean Water Act (CWA), enacted in 1972 establishes the basic structure for regulating discharges of pollutants into the waters of the United States.

Loophole: In 1987, Congress amended the CWA to require EPA to develop a permitting program for stormwater runoff but exempted oil and gas production. The 2005 Energy Policy Act amended the CWA to redefine sediment as a nonpollutant. This redefinition broadened the existing exemption for stormwater discharges to oil and gas construction. These exemptions leave streams and rivers in high oil and gas areas unprotected from sediment run-off caused by the construction and operation of well pads, pipelines, drill rigs, and other infrastructure.

Beyond these three the following legislation is also full of loopholes for the Oil and Gas industry:

#4. Resource Conservation and Recovery Act - RCRA

Adopted in 1976, the Resource Conservation and Recovery Act (RCRA) is the principal federal law that governs the disposal of solid and hazardous wastes.

Loophole: In 1980, Congress exempted oil field wastes (which includes waste from natural gas production) from RCRA until EPA proved they were a danger to human health and the environment. Rather than do so, EPA eventually ceded authority to regulate these wastes to the states.

#5. Comprehensive Environmental Response, Compensation, and Liability Act - CERCLA

Commonly known as the Superfund law, the Comprehensive Environmental Response, Compensation, and Liability Act(CERCLA) of 1980 makes liable those responsible for a spill or release of a hazardous substance into the environment.

Included in the list of hazardous substances under CERCLA are benzene, toluene, ethylbenzene, and xylene (Btex) chemicals found in crude oil and petroleum.

Loophole: Yet CERCLA exempts these substances from liability requirements if they are found in crude oil and petroleum (which are used in natural gas production). Thus, hazardous chemicals that would otherwise be regulated under CERCLA are immune from the statute.

#6. The Toxic Release Inventory (TRI) was created by section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986. It requires most industries to report significant of toxic substances to the EPA, which then aggregates and disseminates the information to the public

Loophole: Despite their use of toxic chemicals throughout production, oil and gas facilities are not required to report to the TRI. This exemption leaves communities in oil and gas producing areas in the dark about what chemicals are being released -- making it difficult to attribute responsibility and seek remedy for resulting health and environmental problems.

1.dontfrackmichigan.org

2.Thanks to Earthworks (earthworksaction.org) Loopholes for Polluters

3.need these

4 (Hess 1998, EPA Final 2004 4-11)

5. <http://water.epa.gov/lawsregs/rulesregs/sdwa/index.cfm>