



EID Fact Check: Center for American Progress Weighs in on Hydraulic Fracturing

Earlier today, the [Center for American Progress](#) (CAP), an influential, left-of-center public policy organization based in Washington, D.C., [posted a memo](#) on its website in support of the [FRAC Act of 2009](#) - legislation that seeks to impede the development of America's abundant shale gas resources by [targeting the critical tools](#) needed to bring those resources to market.

Naturally, the CAP memo chooses not to characterize the purpose or intent of the legislation as such. Instead, CAP senior fellow [Tom Kenworthy](#) describes the bill as an attempt to force the energy industry to "disclose the chemicals it uses and ... make fracking subject once again to the Safe Drinking Water Act."

Of course, hydraulic fracturing [has never been subject](#) to the Safe Drinking Water Act, making it both physically difficult and semantically impossible to "subject" it "once again" to an Act of which it was never the object of regulation in the first place.

Other errors of fact, characterization, omission and commission are identified and corrected below.

CAP: "Re-establishing federal regulation of hydraulic fracturing seems a sensible precaution."

Response: As indicated above, hydraulic fracturing has never been under the direct [jurisdiction of federal law](#), rendering inaccurate the suggestion that "[r]e-establishing" such regulation would be a "sensible precaution."

That's not to suggest, however, that the technology is now, or has ever been, free from regulation. [States have been regulating](#) and overseeing the fracturing process for more than 60 years. And in that time, they've compiled a record of safety that few oversight agencies - be they local, state or federal - can match.

Unfortunately, this error in understanding appears to be [common](#), especially among those who believe that, since fracturing earned an "exemption" from federal regulation in the Energy Policy Act of 2005 ([supported](#) by then-Sen. Barack Obama), it must be the case that fracturing was covered by federal statute previous to that.

But the Energy Policy Act did not exempt hydraulic fracturing from federal regulation. It simply clarified the position of Congress with respect to whether hydraulic fracturing was ever intended to be regulated under the Safe Drinking Water Act (SDWA). It was not -- a judgment supported in full by the history of SDWA.

CAP: "The oil and gas industry has recently begun a multimillion campaign to defend the practice against the new legislation, which would force the industry to disclose the chemicals it uses and would make fracking subject **once again** to the Safe Drinking Water Act."

Response: While appreciative of Mr. Kenworthy's generous characterization of the [Energy In Depth](#) coalition, we must again take issue with his suggestion that the DeGette/Casey legislation "would make fracking subject once again to the Safe Drinking Water Act." That assertion, as we've shown, is mistaken.

So too is the CAP description of the DeGette/Casey bill as an effort to "force industry to disclose the chemicals it uses," a notion premised on the idea that state regulators have no access to information related to the materials used in local fracturing operations. The truth is, states do have access to that information. Some of them [even post it on the Internet](#).

In spirit and in letter, H.R. 2766 is about EPA regulation, not disclosure - with [section 2\(a\) of the bill](#) clearly amending SDWA to include the regulation of hydraulic fracturing under its portfolio. With SDWA regulation comes EPA permit-authority of the process, a prospect that then-EPA administrator [Carol Browner](#) admitted was unnecessary in 1995.

For more information on what the DeGette bill actually does, please visit [here](#).

CAP: "[ProPublica] asserts that more than 1,000 cases of water contamination near areas of oil and gas drilling have been documented by courts and government agencies across several states."

Response: On this, Mr. Kenworthy is right: ProPublica does assert that. Left on the cutting-room floor is the following fact: [Not a single documented case](#) of drinking water contamination has ever been credibly tied to hydraulic fracturing. Not one. In 60 years.

From where does that "1,000 cases" figure arise? Last year, 452,000 wells produced natural gas in the United States. Recognizing the potential in that volume of activity, opponents of hydraulic fracturing have asked state regulators to produce detailed lists of each individual case in which a well was breached or any amount of methane compromised the integrity of the well. [That none of these cases](#) could be proved to have had anything to do with hydraulic fracturing is rarely mentioned.

In 2004, no less an authority [than EPA itself](#) undertook an exhaustive research project aimed at finding out, once and for all, whether hydraulic fracturing posed a legitimate risk to ground and drinking water. It found "no evidence" of any such risk. In his defense, Mr. Kenworthy references this study in his memo.

CAP: "Fracking is used in most U.S. oil and gas wells and involves pumping a combination of water, sand, and chemicals under high pressure deep into rock formations that hold oil and gas."

Response: While this definition of hydraulic fracturing is technically accurate, the author's insistence on lumping together "water, sand, and chemicals" implies that the concentrations of each must be in equal, or at least similar, parts.

The reality of the situation is quite a bit different, as water and sand on average comprise 99.51% of the liquids and materials used in the fracturing process (see graphic on page 62 of [this report](#), issued in April by the Ground Water Protection Council and the U.S. Department of Energy). "[C]hemicals," the vast majority of which you can find in your cupboard or under your sink, [make up less than one-half of one-percent](#) of the total mixture.

CAP: "Deep gas formations are 'thousands of feet below the land surface and are separated from freshwater supplies by layers of steel casing, protected by concrete barriers as well as millions of tons of hard, dense solid rock geologic formations,' said Chesapeake Energy Corporation Vice President Mike John during congressional **testimony on July 4.**"

Response: Not to pile on, but the hearing was held on June 4. Three weeks ago today.

More resources and materials from [Energy In Depth](#):

- **Graphic:** [How Far Down Do We Frac?](#)
- **Fact Sheet:** [New Federal Regulations Will Cost Americans Jobs, Revenue, and Security](#)
- **EPA Study:** [Study to Evaluate the Impacts to USDWs by Hydraulic Fracturing of Coalbed Methane Reservoirs](#)
- **Browner Memo:** [Letter of Support for Hydraulic Fracturing from Carol Browner, Fmr. EPA Administrator](#)
- **Interactive Graphic:** [How Could Efforts to Attack Hydraulic Fracturing Impact Your State?](#)