

REGULATION OF HYDRAULIC FRACTURING IN MICHIGAN: MYTH VS. FACT

MYTH: *Shale development is exempt from water withdrawal rules in Michigan.*

FACT: No, it's not. According to the [Michigan Department of Environmental Quality](#), under Instruction 1-2011, "oil and gas companies are subject to the same requirements as other users of large volumes of water."

MYTH: *Shale development is exempt from the Safe Drinking Water Act.*

FACT: The Safe Drinking Water Act (SDWA), and more specifically under the Underground Injection Control (UIC) program, regulates wastewater disposal from a variety of processes, including hydraulic fracturing. However, SDWA – which has been in effect since 1974 – has never covered the hydraulic fracturing process, because it was not designed to do so. The U.S. EPA completed an [extensive study](#) in 2004 that determined hydraulic fracturing posed little to no threat to underground sources of drinking water. Anecdotally, a 2014 Michigan Court of Appeals case also concluded that, under state law, "underground injection" -- as it's defined for disposal of wastewater -- does not apply to hydraulic fracturing on new wells.

MYTH: *Shale development is exempt from the Clean Air Act.*

FACT: Shale wells cannot be drilled or operated without having to comply with multiple components of the Clean Air Act. Provisions that apply to oil and natural gas production include emissions standards for hazardous air pollutants referred to as National Emission Standards for Hazardous Air Pollutants (NESHAP) and what are known as the New Source Performance Standards (NSPS). In April 2012, new amendments were added to the both NESHAP and NSPS that included limits on volatile organic compounds (VOC) and benzene emissions from hydraulically fractured natural gas wells. In addition, a 2012 review of regulations applying to unconventional oil and gas development, the Government Accountability Office (GAO) confirmed that the U.S. EPA "[retains oversight and enforcement authority](#)" under the Clean Air Act, even where states implement some of the Act's provisions.

MYTH: *Shale development is exempt from the Clean Water Act.*

FACT: Under the Clean Water Act, oil and gas producers are generally prohibited from directly discharging pollutants into receiving bodies of water. Critics allege that the industry is "exempt" from stormwater discharge regulations, but the oil and natural gas production industry is required to obtain a permit for contaminated stormwater discharges. Congress determined that the oil and natural gas production industry had already taken steps to control stormwater runoff through its standard operations, and that little would be gained by requiring the industry to obtain a permit for stormwater that was not contaminated. Anti-fracking groups call this an "exemption," but reality tells us a different story.