

# Hall of the House of Representatives

88th General Assembly - Regular Session, 2011

## Amendment Form

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### Subtitle of House Bill No. 1394

AN ACT TO PROTECT ARKANSAS' WATER IN AREAS AFFECTED BY GAS DRILLING  
OPERATIONS.

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### Amendment No. 1 to House Bill No. 1394

Amend House Bill No. 1394 as originally introduced:

Delete everything after the enacting clause and substitute:

"SECTION 1. Arkansas Code § 15-72-201 is amended to read as follows:  
15-72-201. Definitions.

As used in this act, unless the context otherwise requires:

(1) "Hydraulic fracturing fluid" means the base fluid type used  
in a particular hydraulic fracturing treatment in wells;

(2) "Hydraulic fracturing treatment" means stimulating a well by  
the application of hydraulic fracturing fluids and additives with force in  
order to create artificial fractures in the formation for the purpose of  
improving the capacity of a well to produce hydrocarbons;

~~(1)~~(3) "Operator" means the person who has the right to enter  
upon the lands of another for the purpose of exploring, drilling, and  
developing for the production of brine, oil, gas, and all other petroleum  
hydrocarbons;

~~(2)~~(4) "Person" means any natural person, corporation,  
association, partnership, trustee, guardian, executor, administrator,  
fiduciary, or representative of any kind; and

(5) "Pollution" means contamination or other alteration of the  
physical, chemical, or biological properties of any waters, or discharge of  
any liquid, gaseous, or solid substance in any waters that will, or is likely  
to, render the waters harmful, detrimental, or injurious to:

(A) The public health, safety, or welfare;

(B) Domestic, commercial, industrial, agricultural,  
recreational, or other legitimate beneficial use; or

(C) Livestock, wild animals, birds, fish, or other aquatic  
life.

~~(3)~~(6) "Surface owner" means the owner or owners of record of  
the surface of the property on which the drilling operation is to occur.



SECTION 2. Arkansas Code Title 15, Chapter 72, Subchapter 2 is amended to add additional sections to read as follows:

15-72-220. Fracture drilling -- Water quality.

(a)(1) Except as provided under subdivision (a)(2) of this section, the Arkansas Pollution Control and Ecology Commission shall initiate rulemaking by the effective date of this act to require oil and gas developers using hydraulic fracturing treatment when drilling to use the United States Bureau of Land Management Gold Book Best Management Practices, as in effect on February 1, 2011, and industry-made reasonable and prudent practices for stabilization to provide for safe and efficient operations while minimizing undesirable impacts to the environment, including without limitation pollution.

(2) The Arkansas Pollution Control and Ecology Commission alternatively may develop best management practices that are no less stringent in minimizing undesirable impacts to the environment, including without limitation pollution.

(b) Depending on availability of resources, the Arkansas Department of Environmental Quality shall review the cumulative impact of multiple well sites and associated infrastructure within the same watershed.

(c) If a surface owner or surface tenant provides credible evidence to the Arkansas Department of Environmental Quality or the Arkansas Oil and Gas Commission of pollution of a fresh water supply that is within two thousand five hundred feet (2,500') of an oil or gas well, the well operator shall test all fresh water supplies within two thousand five hundred feet (2,500') of the well within sixty (60) days and make test results available to any surface owners, surface tenants, and the public.

(d) The Arkansas Pollution Control and Ecology Commission shall initiate rulemaking on the effective date of this act to amend Regulation 1 to:

(1) Require synthetic liners, clay liners, or both in all pits with strength and design consistent with the best available state regulatory and industry best practice standard;

(2) Limit the period of time that fluids can be stored consistent with current scientific information and the public interest;

(3) Require signage to warn the public and, when deemed necessary by the Arkansas Oil and Gas Commission, fencing and netting to protect wildlife from the dangers of open pits;

(4) Require pit contents and used pit liners to be disposed offsite in accordance with all applicable laws; and

(5) Require the installation of leak detection systems.

(e)(1) The Arkansas Oil and Gas Commission shall initiate rulemaking on the effective date of this act to update casing requirements to incorporate the American Society for Testing and Materials International cementing and casing standards, as in effect on January 1, 2011, and the American Petroleum Institute cementing and casing standards, as in effect on January 1, 2011, and require intermediate casing in areas where wells pass through fresh water.

(2) The Arkansas Oil and Gas Commission shall:

(A) Conduct and publish a risk assessment of the likelihood of cementing and casing failures;

(B) Identify the potential risks to water supplies if a casing were to fail; and

(C) Require that well operators always use at least two (2) layers of casing, install centralizers, and pressure test all casing consistent with the best regulatory and industry practice.

15-72-221. Powers and duties.

(a) Notwithstanding any independent authority granted to the Arkansas Oil and Gas Commission, the Arkansas Pollution Control and Ecology Commission has the authority and the affirmative duty under the Arkansas Water and Air Pollution Control Act, Arkansas Code § 8-4-101 et seq., to make rules to prevent any person, including the owner, operator, or contractor involved in oil and gas operations, from causing pollution to the waters of the state, as prohibited by Arkansas Code § 8-4-217(a)(1);

(b) The Arkansas Department of Environmental Quality has the authority and the duty to enforce any rule concerning oil and gas operations made by the Arkansas Pollution Control and Ecology Commission; and

(c) The Arkansas Oil and Gas Commission has the independent authority to cooperate with the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission to prevent and remediate pollution of the waters of the state."

The Amendment was read \_\_\_\_\_  
By: Representative Webb  
JSE/JSE - 03/10/11 12:52  
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Chief Clerk