

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

As Engrossed: H3/11/11

# A Bill

HOUSE BILL 1394

5 By: Representative Webb  
6

## For An Act To Be Entitled

8 AN ACT TO PROTECT ARKANSAS' WATER IN AREAS AFFECTED  
9 BY GAS DRILLING OPERATIONS; AND FOR OTHER PURPOSES.  
10

## Subtitle

11 AN ACT TO PROTECT ARKANSAS' WATER IN  
12 AREAS AFFECTED BY GAS DRILLING  
13 OPERATIONS.  
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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20 *SECTION 1. Arkansas Code § 15-72-201 is amended to read as follows:*

21 *15-72-201. Definitions.*

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

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

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

29 ~~*(1)(3)*~~ *"Operator" means the person who has the right to enter*  
30 *upon the lands of another for the purpose of exploring, drilling, and*  
31 *developing for the production of brine, oil, gas, and all other petroleum*  
32 *hydrocarbons;*

33 ~~*(2)(4)*~~ *"Person" means any natural person, corporation,*  
34 *association, partnership, trustee, guardian, executor, administrator,*  
35 *fiduciary, or representative of any kind; and*

36 *(5) "Pollution" means contamination or other alteration of the*



1 physical, chemical, or biological properties of any waters, or discharge of  
2 any liquid, gaseous, or solid substance in any waters that will, or is likely  
3 to, render the waters harmful, detrimental, or injurious to:

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

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

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

9 ~~(3)~~(6) "Surface owner" means the owner or owners of record of  
10 the surface of the property on which the drilling operation is to occur.

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

14 15-72-220. Fracture drilling -- Water quality.

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

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

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

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

1 surface owners, surface tenants, and the public.

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

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

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

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

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

15 (5) Require the installation of leak detection systems.

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

23 (2) The Arkansas Oil and Gas Commission shall:

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

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

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

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32 15-72-221. Powers and duties.

33 (a) Notwithstanding any independent authority granted to the Arkansas  
34 Oil and Gas Commission, the Arkansas Pollution Control and Ecology Commission  
35 has the authority and the affirmative duty under the Arkansas Water and Air  
36 Pollution Control Act, Arkansas Code § 8-4-101 et seq., to make rules to

1 prevent any person, including the owner, operator, or contractor involved in  
2 oil and gas operations, from causing pollution to the waters of the state, as  
3 prohibited by Arkansas Code § 8-4-217(a)(1);

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

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

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12 /s/Webb  
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