

116TH CONGRESS
2D SESSION

S. 3247

To ban the practice of hydraulic fracturing, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 28, 2020

Mr. SANDERS (for himself and Mr. MERKLEY) introduced the following bill;
which was read twice and referred to the Committee on Energy and Nat-
ural Resources

A BILL

To ban the practice of hydraulic fracturing, and for other
purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fracking Ban Act”.

5 **SEC. 2. FINDINGS.**

6 Congress finds that—

7 (1) the chemicals injected into the ground dur-
8 ing the hydraulic fracturing process include acids,
9 detergents, and toxic chemicals that put drinking
10 water at risk;

1 (2) hydraulic fracturing, or fracking, extracts
2 natural gas containing methane, a greenhouse gas
3 that traps more than 86 times the heat of carbon di-
4 oxide in the short term;

5 (3) the process of fracking results in further
6 methane leakages that could increase carbon pollu-
7 tion in the United States by 25 percent by 2050;

8 (4) fracked natural gas is not a bridge fuel, as
9 previously understood;

10 (5) even if every coal plant were replaced by
11 fracked gas electricity by 2030, emissions would re-
12 main on track to grow through 2050 due in part to
13 pervasive methane leaks that make fracked gas as
14 dangerous as coal;

15 (6) similarly, even if methane leaks could be to-
16 tally eliminated, the direct emissions from burning
17 the huge volumes of natural gas the United States
18 plans to produce in the next decade do not fit in safe
19 climate scenarios;

20 (7) the American Petroleum Institute reports
21 that “up to 95% of natural gas wells in the next
22 decade in the United States will be fracked”;

23 (8) renewable energy and storage eliminate any
24 need for fracked gas;

1 (9) all the technologies needed to support a
2 transition to 100 percent renewable electricity exist
3 at commercial scale and equal or cheaper costs com-
4 pared to fossil fuels;

5 (10) significant carbon reductions are impos-
6 sible if even 10 percent of electricity comes from
7 natural gas going forward;

8 (11) in some instances, fracking operations vio-
9 late property rights by taking the land of property
10 owners for drilling and transportation of fracked
11 gas;

12 (12) in Lancaster County, Pennsylvania, the
13 Transcontinental Gas Pipe Line Company, or
14 Transco, seized private land and began construction
15 for a fracked gas pipeline before the landowners
16 could appear in court to protest and once the land-
17 owners did file an official protest, the Federal En-
18 ergy Regulatory Commission allowed Transco to
19 continue construction while the case was decided in
20 court;

21 (13) scientists, along with governmental agen-
22 cies in the United States and Canada, report that
23 fracking and fracking wastewater injections can be
24 linked to earthquakes all across North America, in-
25 cluding in the States of Pennsylvania, Oklahoma,

1 Texas, Kansas, and Arkansas and in British Colum-
2 bia;

3 (14) fracking contaminates ground and surface
4 water with toxic chemicals through waste discharge,
5 underground migration of fracking gas and chemi-
6 cals into drinking water sources, and spills;

7 (15) numerous scientific studies have shown
8 that the chemicals referred to in paragraph (14)
9 cause serious negative health impacts such as cancer
10 and birth defects;

11 (16) in addition to toxic chemicals injected un-
12 derground, fracking fluid traveling back up to the
13 surface contains additional toxic substances such as
14 heavy metals, arsenic, barium, strontium, uranium,
15 radium, and radon;

16 (17) fracking pollutes the air and substantially
17 contributes to ground-level ozone, which can cause
18 serious negative health impacts such as strokes,
19 heart attacks, and asthma;

20 (18) research shows that expectant mothers liv-
21 ing near heavy fracking in the State of Pennsylvania
22 were significantly more likely to experience a high-
23 risk pregnancy or give birth prematurely;

24 (19) studies have linked drilling and fracking to
25 elevated incidences of infant deaths, high-risk preg-

1 nancies, and low birth weight in the States of Colo-
2 rado and Texas;

3 (20) the fracking industry regularly disposes of
4 waste that will remain radioactive for thousands of
5 years by spraying it on roads next to homes and
6 farms;

7 (21) the climate crisis represents a national
8 emergency to the future stability, prosperity, and
9 general welfare of the United States and a growing
10 body of scientific research has demonstrated that
11 leakage, venting, and flaring of methane and other
12 greenhouse gases in the course of oil and gas pro-
13 duction and transmission significantly contributes to
14 increased climate change;

15 (22) a global rise in temperatures of more than
16 1.5 degrees Celsius would result in irreversible and
17 catastrophic changes to public health, livelihoods,
18 quality of life, food security, water supplies, human
19 security, and economic growth;

20 (23) limiting warming to 1.5 degrees Celsius re-
21 quires global carbon pollution emissions to be cut in
22 half by 2030, and completely eliminated by 2050;

23 (24) the United States is on track to account
24 for 60 percent of world growth in oil and gas pro-
25 duction by 2030 and extract enough new oil and gas

1 by 2050 to make it impossible to avoid a rise in tem-
2 peratures of more than 1.5 degrees Celsius;

3 (25) fracking can expose workers to toxic sub-
4 stances like radon, the second-leading cause of lung
5 cancer in the United States, in concentrations hun-
6 dreds of times more radioactive than the legal limit
7 for nuclear power plant discharges, as well as other
8 dangerous substances like silica dust;

9 (26) low-income communities, communities of
10 color, indigenous communities, and other environ-
11 mental justice communities in the United States are
12 disproportionately exposed to pollution from hydrau-
13 lic fracturing;

14 (27) more than 17,000,000 individuals in the
15 United States, including 1,400,000 young children
16 and 1,100,000 elderly people, live within a mile of
17 an oil or natural gas well or an oil or natural gas
18 processing, transmission, and storage facility;

19 (28) the air in many African-American commu-
20 nities violates air quality standards for ozone smog,
21 and more than 1,000,000 African Americans live
22 within a half mile of oil and natural gas wells or
23 processing, transmission, and storage facilities;

24 (29) children in African-American communities
25 experience 138,000 additional asthma attacks and

1 101,000 lost school days each year due to ozone in-
2 creases from natural gas emissions;

3 (30) frontline and vulnerable communities that
4 are currently being exposed to fracking will also be
5 hit hardest by the impacts of climate change;

6 (31) several States, including the States of
7 Vermont, New York, Washington, and Maryland,
8 and cities, counties, and towns across the United
9 States, have banned hydraulic fracturing;

10 (32) the Federal Government should follow the
11 lead of the States, cities, counties, and towns that
12 have banned hydraulic fracturing by banning hy-
13 draulic fracturing on all onshore and offshore land
14 in the United States;

15 (33) the Federal Government should commit to
16 transitioning toward energy efficiency and 100-per-
17 cent-sustainable energy sources, such as wind and
18 solar;

19 (34) exporting liquefied natural gas requires
20 supercooling fracked natural gas, an energy inten-
21 sive process that makes the climate impacts even
22 worse;

23 (35) the process described in paragraph (34)
24 requires major investments in expensive new dirty

1 energy infrastructure that poses risk of disastrous
2 explosions;

3 (36) the Interstate Commerce Clause of section
4 8 of article I of the Constitution of the United
5 States provides Congress the power to regulate or
6 ban fracking due to the substantial role of oil and
7 gas in the stream of interstate commerce and the
8 fact that produced waters generated from the prac-
9 tice of hydraulic fracturing are transported across
10 State lines;

11 (37) under the Foreign Commerce Clause of
12 section 8 of article I of the Constitution of the
13 United States, Congress has the power to regulate
14 commerce with foreign nations, and the practice of
15 hydraulic fracturing has a substantial and growing
16 effect on national and international oil and gas mar-
17 kets;

18 (38) the Federal Government must provide fos-
19 sil fuel workers, and the communities in which they
20 live, with a just and fair transition away from the
21 fossil fuel industry, including by guaranteeing the
22 incomes, training, healthcare, and pensions of af-
23 fected workers, creating new, high-wage, unionized,
24 green jobs, and investing in economic development
25 and infrastructure in fossil fuel communities;

1 (39) the Federal Government must assist front-
2 line and vulnerable communities that have been most
3 polluted by the fossil fuel industry by cleaning up
4 pollution, remediating negative health impacts, and
5 building resilient infrastructure to prepare for the
6 unavoidable impacts of climate change;

7 (40) the Federal Government must hold the
8 fossil fuel industry accountable by requiring the fos-
9 sil fuel industry to pay for the costs of cleaning up
10 pollution and preparing communities for the un-
11 avoidable impacts of climate change;

12 (41) hydraulic fracturing activities and related
13 infrastructure create public nuisances for local com-
14 munities, impact disproportionately affected commu-
15 nities, and create a public nuisance nationwide by
16 exacerbating negative impacts of climate change, in-
17 cluding worse heat waves, floods, droughts, extreme
18 weather, spread of disease, and sea level rise; and

19 (42) hydraulic fracturing is not in the national
20 interest of the United States.

21 **SEC. 3. DEFINITIONS.**

22 In this Act:

23 (1) ACID.—The term “acid” means any fluid
24 injected into crude oil- or natural gas-bearing geo-

1 logical formations to create, dissolve, etch, erode, or
2 increase the permeability of fractures or fissures.

3 (2) COMMITTEE.—The term “Committee”
4 means the Just Transition Committee established
5 under section 4(d)(1).

6 (3) FRACKING; HYDRAULIC FRACTURING.—The
7 terms “fracking” and “hydraulic fracturing” include
8 the practice of injecting acids, chemicals, proppants,
9 solvents, and other fluids underground to create
10 fractures or fissures in oil- or natural gas-bearing
11 geological formations to extract oil or natural gas.

12 (4) FRONTLINE AND VULNERABLE COMMU-
13 NITY.—The term “frontline and vulnerable commu-
14 nity” means a community in which climate change,
15 pollution, or environmental destruction have exacer-
16 bated systemic racial, regional, social, environmental,
17 and economic injustices by disproportionately affect-
18 ing indigenous peoples, communities of color, mi-
19 grant communities, deindustrialized communities,
20 depopulated rural communities, the poor, low-income
21 workers, women, the elderly, the unhoused, people
22 with disabilities, or youth.

23 (5) PRODUCED WATERS.—The term “produced
24 waters” means liquids produced as a byproduct dur-
25 ing the fracking process.

1 (6) PROPPANT.—The term “proppant” means
 2 any material intended to keep a hydraulic fracture
 3 open during or after the extraction of oil or natural
 4 gas.

5 (7) SOLVENT.—The term “solvent” means any
 6 fluid, including steam, injected into oil- or natural
 7 gas-bearing geological formations for the purpose of
 8 liquefying, decreasing the viscosity of, or increasing
 9 the flow of any other injected fluid or oil or natural
 10 gas.

11 **SEC. 4. PROHIBITION ON HYDRAULIC FRACTURING.**

12 (a) IN GENERAL.—No Federal agency may approve
 13 any Federal permit for the expansion of hydraulic frac-
 14 turing or fracked oil and natural gas infrastructure, in-
 15 cluding new hydraulic fracturing operations, new pipe-
 16 lines, new liquefied natural gas or oil export terminals,
 17 new natural gas storage, new ethane cracker plants, new
 18 natural gas power generation plants, or other infrastruc-
 19 ture intended to extract, transport, or burn natural gas
 20 or oil.

21 (b) SURVEY.—

22 (1) IN GENERAL.—Not later than January 31,
 23 2021, the Administrator of the Environmental Pro-
 24 tection Agency shall complete a national survey of
 25 all oil and natural gas wells in the United States to

1 identify all wells where hydraulic fracturing has been
2 used or is in the process of being used.

3 (2) INCLUSIONS.—The survey under paragraph
4 (1) shall include, with respect to each well identified
5 under the survey as a well where hydraulic frac-
6 turing has been used or is in the process of being
7 used, data on—

8 (A) the location of the well;

9 (B) the proximity of the well to homes,
10 schools, and other inhabited structures;

11 (C) the historic, current, and future pro-
12 duction rates of the well; and

13 (D) any known health and safety violations
14 of the well.

15 (c) REVOCATION OF PERMITS.—Effective on Feb-
16 ruary 1, 2021—

17 (1) all Federal operating permits for any well
18 identified under the survey under subsection (b) as
19 a well where hydraulic fracturing has been used or
20 is in the process of being used and found to be oper-
21 ating within 2,500 feet of a home, school, or other
22 inhabited structure shall be immediately revoked;
23 and

24 (2) the well shall immediately cease all produc-
25 tion operations.

1 (d) JUST TRANSITION COMMITTEE.—

2 (1) IN GENERAL.—Not later than 60 days after
3 the date of enactment of this Act, the Secretary of
4 Labor shall establish a multistakeholder, multi-
5 agency committee, to be known as the “Just Transi-
6 tion Committee”, which shall include the Environ-
7 mental Protection Agency, the Department of Edu-
8 cation, the Department of Energy, and the Depart-
9 ment of Commerce.

10 (2) REPORT.—

11 (A) IN GENERAL.—Not later than January
12 1, 2021, the Committee shall submit to Con-
13 gress a report that details the recommendations
14 of the Committee for ensuring the health and
15 safety of individuals residing in, and the pros-
16 perity of, natural gas- and oil-producing regions
17 during the phaseout of the production of nat-
18 ural gas and oil in those regions.

19 (B) CONSULTATION REQUIRED.—In pre-
20 paring the report under subparagraph (A), the
21 Committee shall consult with relevant stake-
22 holders, including representatives of organized
23 labor, frontline and vulnerable communities,
24 and State and local governmental representa-

1 tives of the natural gas- and oil-producing re-
2 gions referred to in subparagraph (A).

3 (e) PROHIBITION.—Beginning on January 1, 2025,
4 the practice of hydraulic fracturing for oil and natural gas
5 is prohibited on all onshore and offshore land in the
6 United States.

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