

117TH CONGRESS
1ST SESSION

H. R. 2164

To amend the Safe Drinking Water Act to require testing of underground sources of drinking water in connection with hydraulic fracturing operations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 2021

Ms. SCHAKOWSKY (for herself, Mrs. NAPOLITANO, Mr. CARTWRIGHT, Ms. DEGETTE, Ms. CLARKE of New York, Ms. MATSUI, Mr. BLUMENAUER, Mr. KHANNA, Ms. NORTON, Mr. MORELLE, Ms. VELÁZQUEZ, Mr. GRIJALVA, Mr. SMITH of Washington, Mr. HASTINGS, Mr. WELCH, Ms. BARRAGÁN, Mr. SHERMAN, Mr. RASKIN, Mr. BEYER, Mr. COHEN, Mrs. HAYES, Mr. LYNCH, Ms. ESHOO, Ms. MCCOLLUM, Mr. SIRES, Mr. NEGUSE, Mr. VARGAS, Mr. CONNOLLY, Ms. BONAMICI, Mr. NADLER, Mr. JONES, Ms. MENG, and Mr. HUFFMAN) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Safe Drinking Water Act to require testing of underground sources of drinking water in connection with hydraulic fracturing operations, 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 “Safe Hydration is an
5 American Right in Energy Development Act of 2021”.

1 **SEC. 2. TESTING OF UNDERGROUND DRINKING WATER**
2 **SOURCES IN CONNECTION WITH HYDRAULIC**
3 **FRACTURING OPERATIONS.**

4 (a) IN GENERAL.—Section 1421(b)(1) of the Safe
5 Drinking Water Act (42 U.S.C. 300h(b)(1)) is amended—

6 (1) in subparagraph (C), by striking “and” at
7 the end;

8 (2) in subparagraph (D), by striking the period
9 at the end and inserting “; and”; and

10 (3) by adding at the end the following:

11 “(E) shall prohibit the underground injection of
12 fluids or propping agents pursuant to hydraulic frac-
13 turing operations related to oil, gas, or geothermal
14 production activities unless the person proposing to
15 conduct the hydraulic fracturing operations agrees
16 to conduct testing and report data in accordance
17 with section 1421A.”.

18 (b) TESTING AND REPORTING REQUIREMENTS.—
19 Part C of the Safe Drinking Water Act is amended by
20 inserting after section 1421 of such Act (42 U.S.C. 300h)
21 the following:

22 **“SEC. 1421A. TESTING OF UNDERGROUND DRINKING**
23 **WATER SOURCES IN CONNECTION WITH HY-**
24 **DRAULIC FRACTURING OPERATIONS.**

25 “(a) REQUIREMENTS.—Regulations under section
26 1421(a) for State underground injection control programs

1 shall, in connection with the underground injection of
2 fluids or propping agents pursuant to hydraulic fracturing
3 operations related to oil, gas, or geothermal production ac-
4 tivities, require any person conducting such operations—

5 “(1) to conduct testing of underground sources
6 of drinking water in accordance with subsections (c)
7 and (d)—

8 “(A) with respect to a site where, as of the
9 date of enactment of this section, underground
10 injection has not commenced for the first
11 time—

12 “(i) prior to commencement of under-
13 ground injection at the site for the first
14 time;

15 “(ii) at least once every 6 months dur-
16 ing the period beginning at the commence-
17 ment of underground injection described in
18 clause (i) and ending at the cessation of
19 such hydraulic fracturing operations; and

20 “(iii) at least once every 12 months
21 during the 5-year period following the end
22 of the period described in clause (ii);

23 “(B) with respect to a site where, as of the
24 date of enactment of this section, there is no

1 active underground injection, but underground
2 injection has previously occurred at the site—

3 “(i) prior to renewing underground in-
4 jection at the site;

5 “(ii) at least once every 6 months dur-
6 ing the period beginning at such renewal of
7 underground injection and ending at the
8 cessation of such hydraulic fracturing oper-
9 ations; and

10 “(iii) at least once every 12 months
11 during the 5-year period following the end
12 of the period described in clause (ii); and

13 “(C) with respect to a site where, as of the
14 date of enactment of this section, such hydrau-
15 lic fracturing operations are occurring—

16 “(i) at least once every 6 months dur-
17 ing the period beginning on the date of en-
18 actment of this section ending at the ces-
19 sation of such hydraulic fracturing oper-
20 ations; and

21 “(ii) at least once every 12 months
22 during the 5-year period following the end
23 of the period described in clause (i); and

24 “(2) to submit reports to the Administrator on
25 the results of testing under subparagraph (A), (B),

1 or (C) of paragraph (1) within 2 weeks of such test-
2 ing.

3 “(b) EXCEPTION.—The testing and reporting re-
4 quirements of subsection (a) do not apply with respect to
5 hydraulic fracturing operations if there is no accessible un-
6 derground source of drinking water within a radius of one
7 mile of the site where the operations occur.

8 “(c) SAMPLING LOCATIONS.—Testing required pur-
9 suant to subsection (a) shall occur—

10 “(1) at all accessible underground sources of
11 drinking water within a radius of one-half mile of
12 the site where the hydraulic fracturing operations
13 occur; and

14 “(2) if there is no accessible underground
15 source of drinking water within such radius, at the
16 nearest accessible underground source of drinking
17 water within a radius of one mile of such site.

18 “(d) TESTING.—Testing required pursuant to sub-
19 section (a) shall—

20 “(1) be conducted by one or more laboratories
21 certified pursuant to the Environmental Protection
22 Agency’s program for certifying laboratories for
23 analysis of drinking water contaminants; and

24 “(2) include testing for any hazardous sub-
25 stance, pollutant, contaminant, or other factor that

1 the Administrator determines would indicate damage
2 associated with hydraulic fracturing operations.

3 “(e) DATABASE; PUBLIC ACCESSIBILITY.—

4 “(1) DATABASE.—The Administrator shall es-
5 tablish and maintain a database of the results re-
6 ported pursuant to subsection (a)(2).

7 “(2) PUBLIC ACCESSIBILITY.—The Adminis-
8 trator shall make such database publicly accessible
9 on the website of the Environmental Protection
10 Agency.

11 “(3) PUBLIC SEARCHABILITY.—The Adminis-
12 trator shall make such database searchable by ZIP
13 Code, allowing members of the public to easily iden-
14 tify all sites for which reports are submitted pursu-
15 ant to subsection (a)(2).

16 “(f) DEFINITION.—In this section, the term ‘acces-
17 sible underground source of drinking water’ means an un-
18 derground source of drinking water to which the person
19 conducting the hydraulic fracturing operations can reason-
20 ably gain access.”.

21 (c) CONFORMING AMENDMENT.—Section
22 1421(d)(1)(B)(ii) of the Safe Drinking Water Act (42
23 U.S.C. 300h(d)(1)(B)(ii)) is amended by inserting “except
24 as provided in subsection (b)(1)(E) of this section and sec-
25 tion 1421A,” before “the underground injection of fluids

- 1 or propping agents (other than diesel fuels) pursuant to
- 2 hydraulic fracturing operations related to oil, gas, or geo-
- 3 thermal production activities”.

