

**AMENDMENT TO COMMITTEE PRINT**  
**OFFERED BY MR. DINGELL**

Strike section 2201 and insert the following:

1 **SEC. 2201. HYDRAULIC FRACTURING.**

2 Section 1421 of the Safe Drinking Water Act (42  
3 U.S.C. Sec. 300h) is amended by adding at the end the  
4 following:

5 “(e) HYDRAULIC FRACTURING FOR OIL AND GAS  
6 PRODUCTION.—

7 “(1) STUDY OF THE EFFECTS OF HYDRAULIC  
8 FRACTURING IN COALBEDS.—

9 “(A) IN GENERAL.— As soon as prac-  
10 ticable, but in no event later than 12 months  
11 after the date of enactment of this subsection,  
12 the Administrator shall complete a study of the  
13 known and potential effects on underground  
14 drinking water sources of hydraulic fracturing  
15 in coalbeds, including the effects of such hy-  
16 draulic fracturing on underground drinking  
17 water sources on a nationwide basis, and within  
18 specific regions, States, or portions of States.

19 “(B) CONSULTATION.—In planning and  
20 conducting the study, the Administrator shall  
21 consult with the Secretary of the Interior, the  
22 Secretary of Energy, the Ground Water Protec-



1           tion Council, affected States, and, as appro-  
2           priate, representatives of environmental, indus-  
3           try, academic, scientific, public health, and  
4           other relevant organizations. Such study may be  
5           accomplished in conjunction with other ongoing  
6           studies related to the effects of oil and gas pro-  
7           duction on groundwater resources.

8           “(C) STUDY ELEMENTS.—The study con-  
9           ducted under subparagraph (A) shall, at a min-  
10          imum, examine and make findings as to  
11          whether—

12               “(i) such hydraulic fracturing in coal-  
13               beds has endangered or will endanger (as  
14               defined under subsection (d)(2)) under-  
15               ground drinking water sources, including  
16               those sources within specific regions,  
17               States or portions of States;

18               “(ii) there are specific methods, prac-  
19               tices, or hydrogeologic circumstances in  
20               which hydraulic fracturing in coalbeds has  
21               endangered or will endanger underground  
22               drinking water sources; and

23               “(iii) there are any precautionary ac-  
24               tions, possibly including actions regarding  
25               the use of diesel fuel in fracturing fluids,



1           that may reduce or eliminate any such  
2           endangerment or the risk to underground  
3           sources of drinking water.

4           In making such findings, the Administrator  
5           shall consider the type and quantities of the  
6           fracturing fluids used; the identity and con-  
7           centration of constituents of concern; whether  
8           environmentally preferable, feasible alternatives  
9           exist; and the geographic location of the wells  
10          receiving fracture treatments and their relation-  
11          ship to underground sources of drinking water.

12           “(D) HYDRAULIC FRACTURING IN COAL-  
13          BEDS NOT ASSOCIATED WITH METHANE PRO-  
14          DUCTION.—For any hydraulic fracturing in  
15          coalbeds not associated with methane produc-  
16          tion, the Administrator need not gather addi-  
17          tional information to the extent that the specific  
18          methods, practices and hydrogeologic cir-  
19          cumstances are the same as hydraulic frac-  
20          turing in coalbeds associated with methane pro-  
21          duction.

22           “(2) INDEPENDENT SCIENTIFIC REVIEW.—

23           “(A) IN GENERAL.—Prior to the time the  
24          study under paragraph (1) is completed, the  
25          Administrator shall enter into an appropriate



1 agreement with the National Academy of  
2 Sciences to have the Academy review the con-  
3 clusions of the study.

4 “(B) REPORT.—Not later than 11 months  
5 after entering into an appropriate agreement  
6 with the Administrator, the National Academy  
7 of Sciences shall report to the Administrator,  
8 the Committee on Energy and Commerce of the  
9 House of Representatives, and the Committee  
10 on Environment and Public Works of the Sen-  
11 ate, on the—

12 “(i) findings related to the study con-  
13 ducted by the Administrator under para-  
14 graph (1);

15 “(ii) the scientific and technical basis  
16 for such findings; and

17 “(iii) recommendations, if any, for  
18 modifying the findings of the study.

19 “(3) REGULATORY DETERMINATION.—

20 “(A) IN GENERAL.—Not later than 18  
21 months after receiving the National Academy of  
22 Sciences report under paragraph (2), the Ad-  
23 ministrator shall determine, after informal pub-  
24 lic hearings and public notice and opportunity  
25 for comment, and based on information devel-



1           oped or accumulated in connection with the  
2           study required under paragraph (1) and the  
3           National Academy of Sciences report under  
4           paragraph (2), either—

5                   “(i) that regulation of hydraulic frac-  
6                   turing in coalbeds under this part is nec-  
7                   essary to ensure that underground sources  
8                   of drinking water will not be endangered  
9                   on a nationwide basis, or within a specific  
10                  region, State or portions of a State; or

11                   “(ii) that regulation described under  
12                  clause (i) is unnecessary.

13                  “(B) PUBLICATION OF DETERMINATION.—  
14                  The Administrator shall publish the determina-  
15                  tion in the Federal Register, accompanied by an  
16                  explanation.

17                  “(4) PROMULGATION OF REGULATIONS.—

18                   “(A) REGULATION NECESSARY.—If the  
19                   Administrator determines under paragraph (3)  
20                   that regulation of hydraulic fracturing in coal-  
21                   beds under this part is necessary to ensure that  
22                   hydraulic fracturing does not endanger under-  
23                   ground drinking water sources on a nationwide  
24                   basis, or within a specific region, State or por-  
25                   tions of a State, the Administrator shall, within



1 18 months after the issuance of that determina-  
2 tion, and after public notice and opportunity for  
3 comment, promulgate regulations under section  
4 1421 (42 U.S.C. 300h) to ensure that hydraulic  
5 fracturing in coalbeds will not endanger such  
6 underground sources of drinking water. How-  
7 ever, for purposes of the Administrator's ap-  
8 proval or disapproval under section 1422 of any  
9 State underground injection control program  
10 for regulating hydraulic fracturing in coalbeds,  
11 a State at any time may make the alternative  
12 demonstration provided for in section 1425 of  
13 this title.

14 “(B) REGULATION UNNECESSARY.—The  
15 Administrator shall not regulate or require  
16 States to regulate hydraulic fracturing in coal-  
17 beds under this part unless—

18 “(i) the Administrator determines  
19 under paragraph (3) that such regulation  
20 is necessary; or

21 “(ii) after making a determination  
22 that regulation is unnecessary under para-  
23 graph (3), the Administrator determines  
24 subsequently, after following the proce-  
25 dures in subsection (a)(2), that regulation



1 under this part of hydraulic fracturing in  
2 coalbeds is necessary to ensure that under-  
3 ground sources of drinking water will not  
4 be endangered on a nationwide basis, or  
5 within a specific region, State or portions  
6 of a State.

7 The prohibition in this subparagraph on requir-  
8 ing a State to regulate hydraulic fracturing in  
9 coalbeds under this part does not apply to any  
10 State that has a program for the regulation of  
11 hydraulic fracturing in coalbeds that was ap-  
12 proved by the Administrator under this part  
13 prior to the effective date of this subsection.  
14 The prohibitions on regulation in this subpara-  
15 graph shall not apply beyond January 31, 2007  
16 if the Administrator has not made the deter-  
17 mination required by paragraph (3).

18 “(C) EXISTING REGULATIONS.—Subject to  
19 a subsequent determination of necessity by the  
20 Administrator under subparagraph (B), a de-  
21 termination by the Administrator under para-  
22 graph (3) that regulation is unnecessary will re-  
23 lieve all States (including those with existing  
24 approved programs for the regulation of hy-  
25 draulic fracturing) from any existing obligation



1 to regulate hydraulic fracturing in coalbeds as  
2 an underground injection under this part.

3 “(D) DIRECT IMPLEMENTATION STATES.—  
4 Notwithstanding subparagraph (B), prior to  
5 making the determination described in para-  
6 graph (3) the Administrator, in her discretion,  
7 may regulate under this part hydraulic frac-  
8 turing in coalbeds within States for which the  
9 Administrator has primary enforcement respon-  
10 sibility for underground sources of drinking  
11 water, if the Administrator follows the proce-  
12 dures in subsection (a)(2).

13 “(5) HYDRAULIC FRACTURING IN OIL AND GAS  
14 RESERVOIRS EXCLUSIVE OF COALBEDS.—The Ad-  
15 ministrator shall neither regulate under this part,  
16 nor require States to regulate under this part, hy-  
17 draulic fracturing in oil and gas reservoirs exclusive  
18 of coalbeds unless the Administrator determines,  
19 after following the procedures in subsection (a)(2),  
20 either of the following—

21 “(A) that regulation of hydraulic frac-  
22 turing in such reservoirs under this part is nec-  
23 essary to ensure that underground sources of  
24 drinking water will not be endangered (as de-  
25 fined under subsection (d)(2)) on a nationwide



1 basis, or within a specific region, State or por-  
2 tions of a State; or

3 “(B) that specific methods or practices re-  
4 garding hydraulic fracturing in such reservoirs  
5 or its use in particular hydrogeologic cir-  
6 cumstances may adversely affect the health of  
7 persons in the judgment of the Administrator,  
8 unless additional precautionary actions are  
9 taken on a nationwide basis, or within a specific  
10 region, State or portions of a State.

11 In the event that the Administrator makes either of  
12 these findings, a State at any time may make the al-  
13 ternative demonstration provided for in section 1425  
14 of this title for purposes of the Administrator’s ap-  
15 proval or disapproval under section 1422 of any  
16 State underground injection control program for  
17 regulating hydraulic fracturing in oil and gas res-  
18 ervoirs exclusive of coalbeds.

19 “(6) DEFINITION OF HYDRAULIC FRAC-  
20 TURING.—For purposes of this subsection, the term  
21 ‘hydraulic fracturing’ means the process of creating  
22 a fracture in a reservoir rock, and injecting fluids  
23 and propping agents, for the purposes of reservoir  
24 stimulation related to oil and gas production activi-  
25 ties.



1           “(7) SAVINGS.—Nothing in this subsection shall  
2           in any way limit the authorities of the Administrator  
3           under section 1431 (42 U.S.C. 300i).”.

4 **SEC. 2202. AUTHORIZATION OF APPROPRIATIONS.**

5           There are authorized to be appropriated to the Ad-  
6           ministrator of the Environmental Protection Agency  
7           \$100,000 for fiscal year 2003, to remain available until  
8           expended, for a grant to the State of Alabama to assist  
9           in the implementation of its regulatory program under sec-  
10          tion 1425 of the Safe Drinking Water Act.

11          And make the necessary conforming changes in the  
12          table of contents.

