

Confusion Over Use Of Diesel In Fracturing

U.S. Reps. **Henry Waxman** (D-California), **Edward Markey** (D-Massachusetts) and **Diana DeGette** (D-Colorado) sent a letter to EPA Administrator **Lisa Jackson** on January 31 stating that injections of diesel in hydraulic fracturing operations in 19 states between 2005 and 2009 may have violated the Safe Drinking Water Act because the companies did not seek permits for the activities.

EPA didn't require permits for using diesel in hydraulic fracturing until June 2010 - after the period in the congressional study.

The EPA and industry agreed in 2003 that diesel wouldn't be used in hydraulic fracturing jobs in coal bed methane formations, because drilling in those formations tends to be closer to drinking water sources. The agreement doesn't apply beyond drilling operations in those formations.

The EPA first said it would require companies to seek permits to use diesel in non-coal bed operations last June, in a posting on the agency's website. This action did not follow the standard administrative processes required in adopting new federal regulatory requirements, and the companies involved had no knowledge this change was being made by the EPA.

The Independent Petroleum Association of America and the U.S. Oil & Gas Association have filed suit against EPA's new requirement. A federal appeals court in Washington recently denied the EPA's motion to dismiss the case, and the court will hear arguments later this year.

The lawmakers are asking the EPA to look at diesel use in its ongoing study into the safety of hydraulic fracturing.

Even though EPA's rule on the use of diesel is in question, the Railroad Commission has notified producers in Texas that if they want to use diesel, they may be subject to regulation under the federal UIC regulations and the operator must submit a written request to the Railroad Commission's Technical Permitting Section of the Oil and Gas Division prior to such use.

If you have any questions concerning this issue, please contact **Gil Bujano**, RRC Technical Permitting Section at Gil.Bujano@rrc.state.tx.us or **Leslie Savage** at Leslie.Savage@rrc.state.tx.us.