

PUBLIC SUBMISSION

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Docket: MSHA-2014-0031

Exposure of Underground Miners to Diesel Exhaust

Comment On: MSHA-2014-0031-0076

Exposure of Underground Miners to Diesel Exhaust: Request for Information; Reopening of Rulemaking Record; Extension of Comment Period

Document: MSHA-2014-0031-0132

Comment from v v, NA

Submitter Information

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General Comment

Nothing in Federal Land Policy and Management Act provides BLM with specific authority to regulate hydraulic fracturing or underground injections of any kind; when Congress enacted the Energy Policy Act of 2005 ("2005 EP Act"), a comprehensive energy bill addressing a wide range of domestic energy resources, with the purpose of ensuring jobs for the future "with secure, affordable, and reliable energy. The 2005 EP Act was intended, at least in part, to expedite oil and gas development within the United States. the 2005 EP Act included an amendment to the SDWA, expressly and unambiguously revising the definition of "underground injection" to exclude "the underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities." There can be no question that Congress intended to remove hydraulic fracturing. Congress has directly spoken to the "topic at hand" in the 2005 EP Act. Brown & Williamson, Congressional intent as expressed in the 2005 EP Act indicates clearly that hydraulic fracturing is not subject to federal regulation. court page 22 agency regulation is prohibited by a statute specifically directed at a particular activity, it cannot be reasonably concluded that Congress intended regulation of the same activity would be authorized under a more general statute administered by a different agency. Court page 23,24 At the time the 2005 EP Act was enacted, the BLM had not asserted authority to regulate the fracking process, page 25 an administrative agency's power to regulate in the public interest must always be grounded in a valid grant of authority from Congress. Having explicitly removed the only source of specific federal agency authority over fracking, it defies common sense for the BLM to argue

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that Congress intended to allow it to regulate the same activity under a general statute that says nothing about hydraulic fracturing. Despite the lack of authority, the BLM persisted in its rulemaking efforts. The BLM has attempted an end-run around the 2005 EP Act; however, regulation of an activity must be by Congressional authority, not administrative fiat. Page 26 of 2016 court papers; Congress has not delegated to the Department of Interior the authority to regulate hydraulic fracturing. The BLM's effort to do so through the Fracking Rule is in excess of its statutory authority and contrary to law. Page 27 of the Court papers said the Fracking Rule is unlawful.

Oil and gas is a benefit to all Americans on these Federal Lands, July 8, 2011, Deputy Chief, National Forest System U.S. Forest Service before the House Committee on Natural Resources Subcommittee on Energy and Mineral Resources report, He said, U.S. Forest has no policy nor do we have any plans to develop any policy to ban horizontal drilling and the associated hydraulic fracturing. The agencies follow Congressionally authorized mandates that allow for the responsible development of domestic energy and mineral resources. The Forest Service manages the surface of National Forest System lands while the BLM manages the subsurface. The BLM issues leases for exploration and development of energy minerals after receiving consent from the Forest Service for leasing those NFS lands. Oil and gas production on NFS lands approx.. 17 million barrels of oil and 194 million cubic feet of natural gas were produced in 2010 from almost 3,200 "federal" wells on NFS lands. Private and federal lands are located on the Allegheny National Forest in Pennsylvania and Ohio's Appalachian foothills , Federally owned minerals make up about 40 percent of the mineral ownership in the Wayne National Forest. In fiscal year 2010, production from "federal wells" generated an estimated \$361 million in bonus and royalty payments to the U.S. Treasury. A large portion of this revenue will be returned to states and counties, specifically 25% of the revenue from Acquired Lands, 25% of the revenue from National Grasslands, and 50% of the revenue from Public Domain Lands will be returned to the states and counties. The Forest Service provides these energy resources and their benefits to the American people in a way that is consistent with our mission to safeguard the health, diversity and productivity of our nation's forests and grasslands. Therefore, All onerous and costly oil and gas and Mining regulations should be rescinded so these mineral gifts to America can be used to help pay the 2018 budget.