

GAO Report Identifies Difficulties in Fracking Enforcement

NOVEMBER 7, 2012

A recent Government Accountability Office (“GAO”) [report](#) requested by a group of Congressional Democrats finds that EPA enforcement actions regarding hydraulic fracturing are beset by two key difficulties: lack of baseline data and limited legal and regulatory authority. The GAO report, entitled “Key Environmental and Public Health Requirements,” notes that baseline data on groundwater quality and other pre-drilling conditions are generally lacking. Since there is no mandatory baseline testing of water quality prior to fracking activities, it is difficult to establish that post-drilling groundwater contamination was caused by fracking. Further, the GAO report found that enforcement is limited because regulators are seeking to address fracking with regulations and statutes that were not crafted with fracking in mind. EPA officials stated that the exclusion of exploration and production waste from hazardous waste regulations under RCRA significantly limits EPA’s ability to regulate fracking operations.

In order to address the difficulties noted in the GAO report, EPA officials stated that they are currently working to refine their analysis of current legal authorities to overcome statutory and other limits that have posed problems for enforcement actions.

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