

RAILROAD COMMISSION OF TEXAS  
Oil and Gas Division

**NOTICE TO OIL AND GAS WELL OPERATORS**

**USE OF DIESEL FUEL IN HYDRAULIC FRACTURE STIMULATION ACTIVITIES**

**REQUIRES UIC PERMIT**

Most operators in Texas do not use diesel fuel in hydraulic fracturing fluids. However, as a result of this federal action, an injection well permit would be required before performing hydraulic fracture stimulation using diesel fuel as defined by the U.S. Environmental protection Agency (EPA) on a well in Texas.

Section 322 of the Energy Policy Act of 2005 amended the Underground Injection Control (UIC) portion of the federal Safe Drinking Water Act (42 USC 300h(d)) to define "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." (italics and underlining added.)

Therefore, hydraulic fracturing may be subject to regulation under the federal UIC regulations *if diesel fuel is injected or used as a propping agent*. Congress did not include a definition for the term "diesel fuels."

On February 5, 2014, EPA issued an interpretive memorandum to state and EPA UIC program directors to clarify EPA's position that all UIC programs -- including those in most oil and gas producing states, such as Texas-- must require permits for hydraulic fracturing of wells using fluids that contain diesel fuels as EPA has defined that term. The memorandum EPA also released technical guidance containing recommendations for EPA permit writers in states (Pennsylvania, New York, Kentucky, and Tennessee) where EPA is the UIC permit writer to consider in implementing the UIC requirements. (see <http://water.epa.gov/type/groundwater/uic/class2/hydraulicfracturing/upload/signedmemohfactivitiesusingdiesel fuels.pdf>.)

In the interpretive memorandum and the guidance document, EPA defined "diesel fuel" using the following five (5) Chemical Abstract Service numbers:

68334-30-5 Primary Name: Fuels, diesel

68476-34-6 Primary Name: Fuels, diesel, No. 2

68476-30-2 Primary Name: Fuel oil No. 2

68476-31-3 Primary Name: Fuel oil, No. 4

8008-20-6 Primary Name: Kerosene

The Commission will include an advisory statement on each drilling permit.

Hydraulic fracture stimulation using diesel fuel as defined by EPA on a well in Texas without an injection well permit could result in enforcement action.

Austin, Texas

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