



Lawmakers, Candidates Propose Nationwide Ban on Hydraulic Fracturing

March 2020 | David Brown, Explorer Correspondent

Proposals to ban hydraulic fracturing in the United States have drawn a wide range of responses from analysts, with projected effects ranging from cataclysmic to trifling.

Legislation to phase out fracturing was introduced in both the U.S. Senate and House of Representatives earlier this year. That turned up the heat on the controversy, as did the emergence of Sen. Bernie Sanders (I-Vt.) as the frontrunner for the Democratic presidential nomination.

Sanders and Sen. Jeff Merkley (D-Ore.) introduced a bill titled the "Ban Fracking Act" in January.

According to Sanders, the legislation is intended to deny federal permits for fracturing activities within 2,500 feet of homes and schools by 2021, then ban all hydraulic fracturing nationally starting in 2025.

In remarks included on his Web site, Sanders stated that fracturing is “a danger to our water supply. It’s a danger to the air we breathe, it has resulted in more earthquakes, and it’s highly explosive. To top it all off, it’s contributing to climate change.”

Rep. Alexandria Ocasio-Cortez (D-N.Y.) introduced a similar bill in the House in February with co-sponsor Rep. Darren Soto (D-Fla.). Those moves followed progressive Democrats’ 2019 push for a Green New Deal program.

Sen. Elizabeth Warren (D-Mass.) also has vowed to ban hydraulic fracturing on public lands and in federal waters by executive order if elected president.

Potential Effects of a Frac’ing Ban

Experts disagree widely in analyzing the effects of fracturing ban proposals, but many have drawn attention to comparisons between public lands and private land, and limitations on the powers of government.

One key consideration is the difference between an all-inclusive ban on fracturing and moves at the federal level to restrict fracturing.



The Global Energy Institute of the U.S. Chamber of Commerce addressed possible effects of a full ban in a paper in its Energy Accountability Series 2020 reports.

“Simply put, a ban on fracking (sic) in the United States would be catastrophic for our economy. Our analysis shows that if such a ban were imposed in 2021, by 2025 it would eliminate 19 million jobs and reduce U.S. Gross Domestic Product (GDP) by \$7.1 trillion,” the GEI stated.

“Job losses in major energy-producing states would be immediate and severe; in Texas alone, more than three million jobs would be lost. Tax revenue at the local, state, and federal levels would decline by nearly a combined \$1.9 trillion,” it added.

Energy research and consulting firm Rystad Energy in Norway concluded that eliminating fracturing activity on federally controlled land would mainly result in a shift of capital investment to private and state-owned land, with minor impact on U.S. production.

A mandated “ban on federal lands is something the industry can absorb harmlessly. Operators in the Delaware in New Mexico have deep, equally commercial inventory on private/state lands – so activity will migrate without meaningful impact on nationwide activity and production,” said Artem Abramov, head of shale research for Rystad.

A fracturing ban on federal lands could have some effect on oil and gas production in New Mexico, Wyoming and Colorado, each of which contain 40,000-50,000 square miles of land controlled by the federal government, according to Rystad.

"New Mexico has the highest relative contribution to activity on federal acreage, where the share of federal lands has been fluctuating at around 60 percent in recent years. Both Wyoming and North Dakota saw the share of federal acreage, relative to total activity, at close to 25 percent in the three-year period from 2017 through 2019, whereas horizontal activity on Colorado's federal land is insignificant," Abramov observed.

Likelihood of a Ban

In regard to a hydraulic fracturing ban coming out of Congress, Abramov thinks that is definitely a no-go.

"Even if the House and Senate both turn blue next time and we get a Democratic president, a fracking (sic) ban at nationwide level will never go through. Most people simply will not be ready to accept such a dramatic, negative, immediate impact on the nationwide economy," he said.

"Volumes lost from the U.S. cannot be replaced by any other source of supply globally in the short-term. This will lead to an immediate supply deficit and a ridiculous spike in all global oil price benchmarks, which will ultimately damage the U.S. economy," Abramov added.

Legal scholars agree, in a broad consensus, that a complete ban on fracturing in the United States would require action by both houses of Congress. If the resulting legislation was not vetoed by the president, it would then face a host of problematic court challenges.

Ed Crooks, vice chair-Americas in New York for international consulting group Wood Mackenzie, addressed the ban proposals and the president's limited power to limit fracturing in his online Energy Pulse report.

"If the proposed fracking (sic) ban did come into effect, it would have a huge impact on the U.S. oil and gas industry," Crooks observed.

"However, this outcome seems unlikely. Industry lawyers argue that trying to impose a ban on hydraulic fracturing by executive order or regulation would exceed the president's powers, even on federal lands," he added.

Crooks noted that a president would have other avenues to address fracturing, including tighter clean-air rules and restrictions on oil exports.

"One potential line of attack is through regulations on leakage of methane and volatile organic compounds (VOCs) from oil and gas facilities," he explained.

"Restoring the Obama administration's rules, or introducing tighter ones, would be a high priority for a future Democratic administration. (Former Vice President Joe) Biden's campaign says he would require 'aggressive methane pollution limits for new and existing oil and gas operations,'" he added.

A president also could halt U.S. oil exports for a limited time.

"The 2015 legislation lifting export restrictions for crude oil allowed for a president to reimpose restrictions for up to a year on national security grounds. Reintroducing the ban, even if only temporarily, would be a dramatic way for a new Democratic president to assert his or her authority," Crooks noted.

But a president acting without congressional backing would have little power to halt fracturing to any degree, and Crooks described the ban pledges as more political than practical.

"The bottom line is that when Sanders and Warren talk about banning fracking (sic), they are best understood as describing their aspirations, rather than predicting the future," Crooks observed.

"That does not mean their statements are meaningless, however. You might compare their pledges to President Donald Trump's promise to 'bring back coal,'" he added.

During his presidential campaign, Trump said repeatedly he would work to halt the decline of the U.S. coal industry. According to the U.S. Energy Information Agency, coal production in the United States has continued to decline since the first quarter of 2017, when Trump took office.

Coal has battled headwinds including reduced demand, mine closings, jobs lost to automation and environmental opposition. Its biggest problem has been competition from low-cost natural gas – an outcome of greatly increased U.S. gas production brought about largely by hydraulic fracturing.

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