



INTERSTATE  
**Oil & Gas**  
COMPACT COMMISSION

# RESOLUTION 99.603 HYDRAULIC FRACTURING CHARACTERIZATION

JUNE 1999

## RESOLUTION 99.603

### **URGING CONGRESS TO ENACT S. 724 TO CORRECTLY CHARACTERIZE HYDRAULIC FRACTURING FOR PURPOSES OF THE SAFE DRINKING WATER ACT**

**WHEREAS**, the United States Congress passed the Safe Drinking Water Act in order to assure the protection of the nation's drinking water sources; and

**WHEREAS**, in 1997 in the case of Legal Environmental Assistance Foundation v. U.S. Environmental Protection Agency, 118F3d 1467 (11th Cir. 1997), the United States Eleventh Circuit Court of Appeals ruled contrary to argument of the U.S. EPA that hydraulic fracturing constitutes "underground injection" under the Safe Drinking Water Act (hereinafter referred to as "SDWA"); and

**WHEREAS**, since the enactment of the SDWA, the U.S. EPA had never interpreted that hydraulic fracturing constituted "underground injection" within the SDWA; and

**WHEREAS**, pursuant to an order of the Eleventh Circuit, the U.S. EPA has initiated proceedings to withdraw from the State of Alabama and the Alabama Oil and Gas Board "primacy" over Class II underground injection activities; and

**WHEREAS**, hydraulic fracturing is a common operation used by the oil and gas exploration and production industry in all the member states of the Interstate Oil and Gas Compact Commission; and

**WHEREAS**, the regulation of oil and gas exploration and production activities has traditionally been within the province of the states; and

**WHEREAS**, the SDWA never was intended to grant to the federal government authority to regulate oil and gas drilling and production operations such as "hydraulic fracturing" under the Underground Injection Control program; and

**WHEREAS**, the member states of the Interstate Oil and Gas Compact Commission have laws and regulations, and personnel to regulate effectively oil and gas exploration and production to provide for safe operations and to protect the nation's drinking water sources; and

**WHEREAS**, the Ground Water Protection Council, a national organization of state and federal ground water regulators, conducted a survey of oil and gas producing states, which found that there have been no documented cases of ground water contamination associated with hydraulic fracturing of coalbed methane wells; and

**WHEREAS**, regulation of hydraulic fracturing as underground injection under the SDWA would impose significant administrative costs on the states and substantially increase the cost of drilling oil and gas wells with no resulting environmental benefit; and

**WHEREAS**, legislation has been introduced in Congress to correct the error of the Eleventh Circuit by clarifying that hydraulic fracturing does not constitute underground injection within the SDWA.

**NOW, THEREFORE, BE IT RESOLVED**, the Interstate Oil and Gas Compact Commission hereby declares its support for S.724 or other legislation providing that hydraulic fracturing does not constitute “underground injection” within the Safe Drinking Water Act.