



Reference: EFBW POSITION PAPER on the exploration and production of hydrocarbons (such as shale gas) using high-volume hydraulic fracturing
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Efficient protection of all underground water resources must be ensured in the context of shale gas exploration and exploitation in the European Union.

Specific binding provisions on the exploration and production of hydrocarbons using high-volume fracturing should be in place to protect underground water resources and specifically natural mineral and spring waters, which – by law – must demonstrate original purity at source.

Potential risks for the quality, safety and reputation of natural mineral waters have been identified during the EFBW conference on ‘Fracking and the Protection of Underground Water Resources’, held on the 16th of June in Spa, Belgium.¹

The European Federation of Bottled Waters (EFBW) welcomes the opportunity to provide comments on the occasion of the ‘*Commission’s review of Recommendation 2014/70/EU on the exploration and production of hydrocarbons (such as shale gas) using high volume hydraulic fracturing*’.

On behalf of its members, EFBW would like to draw attention to the specificities of the European bottled water industry and to the need to protect natural mineral and spring waters from all risks of contamination, alongside other underground water resources.

The European bottled water market is a natural water market.

More than a quarter of the global bottled water production is located in Europe, where consumers purchase and drink more than 52 billion litres of bottled water every year. Within the packaged water market, the European consumer has a preference for naturally sourced waters which have not been disinfected nor chemically processed and which are associated with a specific place of origin. 97% of all bottled water produced in Europe is either natural

¹ EFBW Conference Report, Fracking and the Protection of Underground Water Resources : http://www.efbw.org/fileadmin/user_upload/documents/Publications/EFBW_Conference_Report_Fracking_2015_02.pdf

mineral water (82%), or spring water (15%).² This is unique compared to other continents where the bulk of bottled water sold is processed water (e.g. US, Asia).

Under EU legislation (Directive 2009/54/EC), natural mineral and spring waters must come from a protected source and must be safe to drink at source in their natural state. Both types of water may not be disinfected nor chemically treated. In addition, natural mineral waters must demonstrate 'original purity' at source and stability of composition over time.

Environmental protection is key to protect the quality of natural mineral waters.

Because of the strict quality requirements and of the prohibition of any corrective treatments for natural mineral and spring waters, the protection of the environment around the sources (catchment areas) is absolutely critical. This is why, sometimes as early as a century ago, natural mineral and spring water producers have worked in partnership with local communities, public authorities and farmers to ensure rigorous source protection. In some cases, protected zones may extend over several thousand hectares. Those public private partnerships do not only protect the pristine qualities of each natural mineral or spring water but also help to safeguard biodiversity and are important for local social and economic development.

Shale gas exploitation and production via fracking implies risks for underground water resources, even more so for natural mineral waters.

Natural mineral water sources are extremely vulnerable to human activity. The Commission's Communication *on the exploration and production of hydrocarbons (such as shale gas) using high volume fracturing in the EU*³ acknowledges that fracking entails risks to the environment, and particularly to underground water resources: *"One of the main environmental concerns is the risk of contamination of ground and surface waters. In most Member States, groundwater is an important source of drinking water or other purposes."*

One of the identified risks is the potential water contamination linked to the use of chemicals in the fracking fluid (for example due to leaking wells or insufficient waste water treatment).

Any groundwater contamination will immediately and potentially irreversibly damage consumer confidence in water quality, whether utility water or bottled water. Furthermore, in the case of exploitation of natural mineral waters, contamination would disqualify the source for exploitation without any corrective action being available to the producer.

² Source: Canadean

³ COM (2014) 23 final/2

Legislation aspects: Current EU and MS legislation do not really put producers' mind at rest.

As underlined by the Commission in its above mentioned Communication (p.8), “... *there is a need for robust and clear rules to accompany shale gas development*”.

The Commission's ‘*Recommendation on minimum principles for the exploration and production of hydrocarbons (such as shale gas) using high-volume fracturing*’⁴ covers most aspects of concern to the industry and represents a notable step towards ensuring a level-playing field (f.i. recommendations on scope and publicity of the environmental impact assessment, baseline study, well design, disclosure of the composition of the fracking fluid, environment liability, well closure etc.).

However, by nature, those recommendations have no binding force and most of the binding EU legislation currently in place does not specifically address shale gas exploitation via fracking. There is also uncertainty as to the application of some existing regulations to shale gas exploitation. Furthermore, it seems that so far few member states have adopted specific legislation on fracking or amended their existing legislation so as to fully implement the Commission's minimum principles. As a result, the level playing field which the Commission's Recommendation intended to generate is not a reality today.

In particular, there is currently no indication that shale gas exploitation is or will be systematically banned in the catchment areas of underground water resources, whether the water is used for public distribution, for bottling or as an ingredient in the manufacturing of food products. That is a worrying situation for the industry and for European consumers alike.

More generally, the lack of a level playing field and the absence of transparency surrounding the authorisation, monitoring and decommissioning of shale gas exploitation in many parts of the European Union is generating public concern about the environmental and safety impact of fracking activities.⁵

Wider considerations

EFBW members appreciate the many efforts and initiatives taken by the Commission to assess the risks linked to fracking and the opportunities it is providing for stakeholders to contribute to the debate through public consultation, working groups and stakeholders' meetings.

Up to now, more than two thousand natural mineral waters have been officially recognised by the EU and EEA member states. They are primarily exploited by small and medium sized enterprises in rural and mountainous areas where employment is scarce. In a recent study, it was estimated that the sector accounts for 54.000 direct and 833.000 indirect jobs with a turnover in excess of 12.4 billion euros.

⁴ COM (2014/70/EU

⁵ For more details about the concerns and uncertainties of the bottled water sector, please see the *Annex* at the end of the position paper, p.4-5

The unique quality of European natural mineral and spring waters is recognised all over the world. They have to meet highest safety standards and strict hygiene requirements. Source protection, regular testing and monitoring at the spring and throughout the entire bottling process guarantee the upmost quality of natural mineral and spring waters. Natural mineral and spring water producers have been safeguarding catchment areas through public-private partnerships for over a hundred years to ensure the availability of natural waters for future generations.

Directive 2009/54/EC sets out the rules for the exploration and marketing of natural mineral waters, including that the water must be free from any contamination and may not be chemically treated, meaning no corrective measures could be undertaken if a natural mineral or spring water catchment area was polluted.

Energy supply is undoubtedly a key component of the European economy and it is not EFBW's purpose to advocate against or in favour of shale gas exploitation and production in Europe.

However, it is also of utmost strategic importance to safeguard the quality and availability of Europe's underground water resources and to keep delivering safe and high quality water to European consumers. This goal is reflected in the Commission's '*Blueprint to safeguard Europe's waters*'⁶. The Right2water initiative has also highlighted consumers' concerns around the availability of safe water to all citizens.⁷

For all those reasons, EFBW considers it essential to efficiently protect underground water resources in the context of shale gas exploitation via hydraulic fracturing (fracking). To this aim, EU legislation should expressly provide that fracking is prohibited in the catchment areas of all underground water resources, including natural mineral waters and spring waters.

Annex: Shale gas fracking and natural mineral water: Concerns regarding existing EU regulations and Recommendation

EFBW believes the following principal uncertainties and gaps in existing legislation and recommendations need to be addressed:

EIA (Environmental Impact Assessment) requirements

Under the EIA Directive 2011/92/EU, an EIA is mandatory only for gas wells producing > 500,000 m³/day, more than any fracking well is likely to produce.

Request: Make EIA for all shale oil and gas operations mandatory.

⁶ COM (2012) 673/EU

⁷ <http://www.right2water.eu/>

Definitions

Ambiguity and inconsistency in the definitions of ‘groundwater’ and ‘water protection areas’ may leave some sensitive groundwater unprotected. Protection areas range from undefined to whole river basins or water catchment areas, often with uncertain legal status.

Request:

- Clarify that ‘groundwater to be protected’ includes all underground water that is, or has the potential to be, exploited for high quality uses, including drinking water and natural mineral water (as some natural mineral waters do not fall within the scope of ordinary drinking water).
- Define a consistent approach to recognising ‘water protection areas’ and/or water catchment areas.

Risk assessment

Request: that risk assessments should include:

- planned multiple wells in one locality (multiplying the risk of individual wells)
- transport routes to and from the operational site and goods to be transported

Wastewater

The management and storage of wastewater from shale fracking operations is an important concern, so far insufficiently addressed.

Request: to establish clear requirements for management and storage of wastewater so as to prevent contamination of groundwater.

Closure obligations

If shale fracking operations go ahead in Europe, they will leave a potential legacy for many decades to come.

Request: a requirement that each well (investigation or operational) be decommissioned using best practices to ensure it cannot be a conduit for pollution (from surface or between geological layers), and its location permanently recorded.

About EFBW

The European Federation of Bottled Waters (EFBW) is the voice of the bottled water industry, dedicated to promoting the unique qualities of natural mineral and spring water among EU institutions and international organisations. EFBW is a registered international not for profit trade association with a membership base of national trade associations and direct member companies. In total, EFBW represents almost 600 natural mineral and spring water producers in Europe. EFBW offers expertise in regulatory issues, scientific and technical affairs as well as matters relating to health and the environment.