By the end of this decade, the United States will surpass Saudi Arabia as the world’s largest oil producer, and will be nearly energy independent by 2035. This was the astonishing prediction made by the International Energy Agency in its latest World Energy Outlook report. The forecast is all the more surprising when one recalls that just a decade ago, the U.S. was thought to be running out of domestic natural gas and oil and was looking at becoming a long-term net importer. What a difference a decade makes!

The technology primarily responsible for launching the U.S. into the number one spot—a place it has not occupied, at least with respect to oil, since the 1970s—is a combination of horizontal drilling and hydraulic fracturing. Neither technique is new. The first horizontal well was drilled in the 1920s, and hydraulic fracturing has been in regular use since the 1940s. However, only recently has the combination of these techniques, along with other advances, developed to an extent that it is now economically viable to unlock gas and oil resources from the vast shale lying under large regions of the country—leading to one of the greatest energy booms this country has experienced.

Although generally hailed as positive news in terms of overall domestic energy security, lower energy costs, job creation, regional and national economic development, and so forth, the rapid rise of the drilling industry has also raised significant environmental, health, and safety concerns. Hydraulic fracturing may be the key to long-term, lower-carbon energy sustainability, but it is also an extractive industry heavily dependent on water and associated with spills, chemical constituents, air emissions, and potentially toxic wastes.

Until recently, regulation of drilling activity, including hydraulic fracturing, has been nearly exclusively a state matter, and even now, states are continuing to adopt stronger, more comprehensive regulatory programs to address the issues raised by the growth in drilling. The federal scheme, by contrast, has been slower to develop and generally has not targeted hydraulic fracturing specifically, although recently there has been some movement to change this as well.

As these developments have evolved, the term “fracking” has become one of common usage across the country, although the precise meaning will vary according to the context and from one speaker to another. To date, the public conversation about shale gas has not been led by either the natural gas industry or by science. Industry for the most part has been confined to a defensive role while the dialogue has largely been shaped by popular media and politics. This intense spotlight on the industry has drawn attention to the need for more transparency among industry participants and regulators, but it also has resulted in widespread dissemination of significant misinformation about industry practices, risks, and regulation.

This article, authored by Dallas Energy partner Jason Schumacher and Washington, DC, Energy senior managing associate Jennifer Morrissey, briefly describes the types of regulatory structures being developed for hydraulic fracturing at the state and federal level in the United States to protect public health, safety, and the environment. It also describes the current public dialogue that is driving many of the changes being proposed or made. Finally, we suggest what may lay ahead for the industry in the future.
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