

Architect of Federal Fracking Loophole May Head Trump Environmental Council

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Confidential [sources have told Politico](#) that [Bill Cooper](#) — current congressional staffer and former fossil fuel industry lobbyist and attorney — is under consideration to head [President Donald Trump's White House Council on Environmental Quality \(CEQ\)](#).

CEQ works to coordinate various federal agencies dealing with environmental and energy public policy issues and oversees the National Environmental Policy Act (NEPA) review process for proposed infrastructure projects.

Cooper served as legal counsel for the U.S. House Energy and Commerce Committee on what is today known as the "[Halliburton Loophole](#)," a clause which exempts [hydraulic fracturing \("fracking"\)](#) from U.S. Environmental Protection Agency (EPA) enforcement of the Safe Drinking Water Act. The Halliburton Loophole was slipped into the Energy Policy Act of 2005 and became law under President George W. Bush.

A 2005 newsletter published by the [Interstate Oil and Gas Compact Commission \(IOGCC\)](#) credits Cooper specifically for his work in getting the clause inserted into the bill.

HYDRAULIC FRACTURING: HISTORICAL OVERVIEW

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The IOGCC appointed a committee to study the issue and assist in the legislative effort. Members of the committee were Marvin Rogers, Alabama assistant attorney general, chairman; Cammy Taylor, Alaska Oil and Gas Commission; Kemp Wilson, Montana IOGCC official representative; Hal Fitch, Michigan Geological and Land Division; Michael Linn, Pennsylvania; Kevin Bliss, IOGCC Washington representative; Michelle Evans, IOGCC federal project manager; and Christine Hansen, IOGCC executive director.

The Inhoff-Sessions bill introduced in 1998 included statutory language that had been proposed by the IOGCC.

While the legislation languished, EPA implemented the *LEAF* decision. The Alabama Oil and Gas Board passed a strict program to regulate hydraulic fracturing of coal beds as directed by the EPA. *LEAF* appealed the Alabama program to the 11th Circuit Court of Appeals in the case of *LEAF v. EPA and Alabama Oil & Gas Board*.

Alabama intervened in the case and a number of industry groups filed amicus curiae briefs. The IOGCC participated in the court case, filing an amicus curiae brief in support of Alabama's position. Alabama Assistant Attorney General Rogers and counsel for the Justice Department argued the case before the 11th Circuit in Atlanta. Alabama relied heavily in the testimony of Dr. Don Oltz, Alabama state geologist.

In 2001, the Court ruled in favor of EPA and Alabama holding that the state's program complied with the Safe Drinking Water Act. *LEAF* petitioned the U.S. Supreme Court for certiorari, which was denied.

Even though Alabama won its case, the IOGCC continued to press for a legislative fix. While the legislation was considered by Congress, EPA began what turned out to be a multi-year national study of hydraulic fracturing. In this effort, the IOGCC and its member states provided EPA with information on hydraulic fracturing in the states. Ultimately EPA found no confirmed cases that drinking water wells had been contaminated by hydraulic fracturing fluid injection into coal bed methane wells.

During this period of time, Congress considered various legislative proposals. With support of several industry groups, provisions were included in one version of the energy bill that would have exempted hydraulic fracturing from the Safe Drinking Water Act as long as EPA determined that hydraulic fracturing caused no danger to underground sources of drinking water.

The energy bill failed to pass as did other legislative attempts to solve the *LEAF* problem.

With the support of new allies, the legislative version favored by the IOGCC began to gain support. Bill Cooper, counsel for the House Energy and Commerce Committee became an advocate for the IOGCC's original legislative solution.

Ultimately, the final version of the energy bill recently signed by the President contained the simple fix except that the final language provides that diesel fuel cannot be a component of hydraulic fracturing fluids. The effect of this exception is uncertain.

Image Credit: [Interstate Oil and Gas Compact Commission \(IOGCC\)](#)

"Cooper's concerns about potential EPA regulation of fracking — as championed by Democrats several years earlier — piqued the interest of the Republican chairman of the House Energy and Commerce Committee, Billy Tauzin of Louisiana, as well as Joe Barton of Texas, the chairman of the subcommittee on air quality," industry publication *The Oil Daily* further reported in December 2013. "Their mantra was 'Let's fix it, and let's fix it right.'"

In a [Truth in Testimony form](#) Cooper submitted before testifying at a 2013 House Committee on Energy and Commerce hearing, he also cited the central role he played in negotiating and writing the Energy Policy Acts of [2002](#) and [2003](#), both of which had Halliburton Loophole provisions. On that form, Cooper also listed his experience as an oil and gas industry attorney.

"Practiced law, serving clients in oil and gas exploration, development, production, including natural gas gathering, transmission, and distribution, provided counsel in the development of litigation, acquisition, and divestment strategies, personnel policies, regulatory compliance, and long-range initiatives," reads the form. "Conducted due diligence for oil and gas exploration companies for acquisitions, divestitures, and litigation. Supervised survey crews, independent contractor drilling crews, well stimulation, geophysical, and completion crews for oil and gas wells. Prepared budgets and managed expenditures of all funds for the execution of drilling programs."

Cooper presently serves as staff director for the U.S. House Natural Resources

Committee’s Subcommittee on Energy and Mineral Resources and formerly was a lobbyist for the [Center for Liquefied Natural Gas \(CLNG\)](#), [American Petroleum Institute \(API\)](#), and [Southern Company](#).

CLNG, where Cooper worked for nearly a decade before passing through the reverse revolving door and returning to work for Congress, was [created](#) by the [American Petroleum Institute](#).

Industry-Sponsored Junkets

Cooper’s amicability toward the oil and gas industry was clear during his first stint working as a congressional staffer, before he became a lobbyist for the American Petroleum Institute.



Main image credit: [China Central Television \(CCTV\) YouTube Screenshot](#)

For example, [he attended the Interstate Oil and Gas Compact Commission \(IOGCC\) 2004 meeting](#) in Oklahoma City — on the IOGCC dime — while working for the House Energy and Commerce Committee, according to congressional travel disclosure records reviewed by DeSmog. [Sponsors of that meeting](#) included BP, Chesapeake Energy, Devon Energy, Dominion Energy, Kerr-McGee (now Anadarko Petroleum), Williams Energy, and others.

IOGCC, a congressionally authorized, interstate quasi-government agency whose [members](#) are oil and gas industry state regulators, lobbyists, and executives, [played a central role](#) in advocating for the Halliburton Loophole.

“Thanks to the Halliburton Loophole, the oil and gas industry is the only industry in America that is allowed by EPA to inject known hazardous materials — unchecked — directly into or adjacent to underground drinking water supplies,” Jennifer Krill, [Earthworks](#) executive director, told DeSmog.

As a House Energy and Commerce staffer, Cooper traveled on numerous other industry-funded trips beyond IOGCC’s 2004 meeting, according to congressional travel disclosure

forms reviewed by DeSmog. Among the trips:

-A junket to the Alberta tar sands sponsored by Shell Oil to visit [its Muskeg River site](#).

-A 2003 [trip to discuss](#) the Energy Policy Act of 2003 at a meeting of the Independent Petroleum Association of America (which today sponsors the influential fracking front group, [Energy in Depth](#)).

-An El Paso Corporation-funded 2002 [paid speaking gig](#) at the annual meeting of the Independent Petroleum Association of Mountain States (IPAMS, now the Western Energy Alliance, or WEA).

-A BP-sponsored speaking appearance in 2004 in which Cooper discussed energy policy, according to his disclosure form, but was [listed by BP as an "industry speaker."](#)



BP Insights Forum, Oct 12-13, 2004 Houston, TX

Tuesday, October 12th

12:00 – 1:00pm Lunch Available – *South Shore Harbour
(Harbour Club Room)*

1:00 – 5:00pm Insights Forum - *South Shore Harbour
(Crystal Ballroom ABC)*

- 1:00pm Welcome – Nigel Hill
*BP North America Gas and Power,
VP of the Texas Region*
- 1:15pm Key Note Speech: Tim Bullock
*BP North America Gas and Power,
President*
- 2:00pm Break
- 2:15pm Industry Speaker – Bill Cooper
*Counsel for the U.S. House Energy and Commerce
Committee*
- 3:00pm Break
- 3:15pm Customer Presentations – *Agrium, Texas
Independent Energy, Huntsman Corporation*
- 3:45pm Q&A – *Glenn DaGian*
- 5:00pm Conclusion

Image credit: [Clerk of the U.S. House of Representatives](#)

George W. Bush's CEQ chief of staff [Phillip Cooney](#) also was a former [API lobbyist](#)-turned-CEQ staffer. During his tenure at the council, Cooney doctored scientific reports about climate change written by U.S. government agencies and then [left to become a lobbyist for ExxonMobil](#).

History could repeat itself, in a sense, if Cooper takes the helm at CEQ.

That's because the Trump White House CEQ, according to a [recent story by Bloomberg](#), may ax climate change impacts from consideration in National Environmental Policy Act (NEPA) environmental reviews, a goal of [API](#) and [CLNG](#) for the past several years. [President Barack Obama's CEQ issued the guidance](#) for government agencies to consider climate change in these reviews.

Cooper has publicly supported cutting climate change out of the NEPA process, and according to his bio for a recent speech at a Natural Gas Roundtable, he presently acts as a [NEPA senior policy advisor](#) for his Committee on Natural Resources job.

"Without boxing ourselves in [we plan to] look at the CEQ's guide on [greenhouse gases] as a first step" toward streamlining the NEPA process, [Cooper told Inside EPA in December 2016](#). "We think it's an opportunity for us to correct a lot of wrongs, and that in and of itself should streamline the process."

Some are concerned about such maneuvers espoused by Cooper, however.

The push for climate change's non-inclusion in NEPA appraisals "puts our country, our communities, and our people at great risk," Paul Getsos, national coordinator for the April 29 [People's Climate Movement](#) march, told Bloomberg. "It also sends a dangerous message to the world that the United States does not care about climate change or protecting front-line communities."

Cooper did not respond to a request for comment for this story.

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