

**Substate Federalism and Fracking Policies:
Does State Regulatory Authority Trump Local Land Use Autonomy?**

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Despite growing concerns about environmental impacts linked to natural gas fracking operations, state energy regulators have historically recognized the economic importance of industry jobs. Most (but not all) favor statewide regulatory requirements even if these rules preempt local policymaking authority. Conversely, many local officials seek to preserve land use autonomy to provide a greater measure of protection for public health and environmental quality goals. This paper offers a comparative study of state and local fracking policies in Colorado, Pennsylvania, and Texas. While local officials within Texas have succeeded in developing fracking ordinances with relatively little interference from state regulators, Colorado and Pennsylvania have adopted a much tougher policy stance favoring the retention of preemptive oil and gas statutes with statewide regulatory coverage. Conditions vary but policies in Colorado and Pennsylvania have been bolstered by the efforts of entrepreneurial governors. Other important policy venues for determining whether local governments can retain discretionary authority in shaping fracking policies include state courts and occasionally state regulatory agencies or commissions. Nevertheless, local government officials and political activists will continue to push for more discretionary authority to restrict fracking operations utilizing a variety of policy tools including temporary moratoria on fracking operations within city or county limits and the use of local or state ballot initiatives to ban drilling activities.

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