

FACT SHEET: SB 4

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COMPREHENSIVE REGULATION OF FRACKING AND WELL STIMULATION

UPDATED: JUNE 26, 2013

THE PROBLEM

Hydraulic fracturing or “fracking” of underground oil- and gas-bearing formations is a well stimulation treatment to create or enhance cracks in the formation in order to improve oil and gas production. Recent advances in the practice of fracking have made the development of previously-uneconomic oil and gas reservoirs financially feasible and have contributed to drilling and production booms in many areas. The extensive use of fracking is of increasing public concern due to the potential risks to human and environmental health, public safety, water supply and quality, and other factors. In addition to fracking, other well stimulation technologies, including large-scale acidization, raise similar concerns and may present risks equally worthy of attention. The development of California’s hydrocarbon reserves may depend upon fracking, acidization and other forms of well stimulation, yet they appear to be largely outside the current regulatory framework.

BACKGROUND

In California, the Department of Conservation’s Division of Oil, Gas and Geothermal Resources (DOGGR) is the oil and gas industry regulator. Fracking of some form, as well as acidization, have apparently been in wide-spread use in California for decades – primarily to stimulate oil production. DOGGR has repeatedly stated that it has little-to-no information available on fracking, despite its extensive use here, and it is unclear how much data on acidization is routinely gathered and monitored. DOGGR has also acknowledged that its existing authority is sufficient to regulate fracking. It has not done so to-date, despite three years of legislative approval of budgets that included

additional funding and personnel available for work on fracking. Finally, in response to legislative pressure, in March 2012, DOGGR asked for voluntary disclosure of fracking operations in California and began a series of public workshops across the state to gather input on fracking regulations. In December 2012, DOGGR released a “discussion draft” of proposed fracking regulations, and is again holding public workshops to receive public input.

While the “discussion draft” contains some positive elements (e.g. advance public notification, enhanced well and well-casing integrity testing before and after fracking, among others), overall the proposal is inadequate and fails to address the public’s concern about transparency or provide for regulatory accountability. In February 2013, Senator Pavley co-chaired a legislative informational hearing on fracking which revealed poor coordination between regulators, significant gaps in regulation, and a complete lack of available data related to fracking, including waste disposal.

Studies and reports from other states and by the federal government indicate there are numerous instances where fracking and fracking-related activities pose or have the potential to pose hazards to public, occupational and environmental health and safety. New York is maintaining its fracking moratorium until a public health study is completed and academic efforts are underway to address public health impacts related to fracking in eastern states. Oil and gas wells cost millions of dollars to drill, and can produce millions of dollars of oil and gas. According to estimates by the federal government, the regulatory compliance costs for

fracking are comparatively nominal, particularly in comparison to groundwater clean-up costs.

As fracking was investigated, it became clear that the oil industry was touting large-scale acidization treatments to boost oil and gas production from the unconventional Monterey Shale resource. Like fracking, acidization is a long-standing well stimulation treatment where the chemical action of the acid – often hydrochloric or a mix of hydrochloric and hydrofluoric acids – is used to dissolve minerals in the formation. New approaches to acidization by industry, and limited reporting to regulators have raised public concerns similar to those associated with fracking. Reports indicate that large-scale acid treatments to modify the geologic formation itself may be used, far beyond the traditional periodic acid washing of the wellbore to remove scale. The narrow focus on fracking to the exclusion of other well stimulation techniques, at least in California, is not warranted. In June 2013, Senate Pavley chaired another legislative informational hearing which addressed the risks of acidization. The hearing revealed that, just like with fracking, there is significant cause for concern about acidization.

THE SOLUTION

SB 4 (Pavley) provides a comprehensive statutory framework for fracking and acidization as part of a general well stimulation regulation in California. SB 4 has been endorsed by the Los Angeles Times, San Jose Mercury News, Sacramento Bee, Fresno Bee, Monterey Herald Tribune and the Bakersfield Californian. The San Francisco Chronicle, the Ventura County Star, and the San Gabriel Valley Tribune have also editorialized positively about the issues addressed in the bill. SB 4 also incorporates the majority of the recommendations for effective regulation of fracking in California in a recent UC Berkeley Law study.

SB 4 provides the strongest well stimulation statutory framework in the country.

In its current form, the bill would:

- Require an independent scientific study of well stimulation – specifically including acidization and fracking – addressing occupational, public and environmental health and safety be

conducted by January 1, 2015. The study will address induced seismicity associated with fracking. Regular progress reports on the study will be provided to the Legislature (*Public Resources Code (PRC) §3160a, and §3160e*)

- Require DOGGR to adopt well stimulation regulations by January 1, 2015 that include full disclosure of the composition and disposition of hydraulic fracturing and well stimulation fluids with trade secret protection for chemical formulas extended to industry. (*PRC §3160b*)
- The name and quantity of each chemical species will be publicly-available. For valid trade secret claims, a list of the trade secret chemicals, but not their concentrations or relative amounts, will be publicly-available. (*PRC §3160j*)
- Require that DOGGR evaluate each trade secret claim using specified criteria (*PRC §3160 j*)
- Provide a procedure for trade secret protections to be challenged and for health professionals, public health professionals and other regulators to obtain trade secret information, if needed. (*PRC §3160b, j*)
- Require that DOGGR enter into formal agreements with specified regulators to ensure regulatory accountability and public transparency for all well stimulation operations including disposal by January 1, 2015. (*PRC §3160c*)
- Integrate public reporting and disclosure of fracking, acidization and other well stimulation treatments into existing regulatory processes. (*PRC §3160c, §3213, §3215*)
- Require that well operators obtain a permit for well stimulation. The permit application would include estimates of the amount of water and the composition of the stimulation fluids planned to be used, a waste water disposal plan, and a groundwater monitoring plan. (*PRC §3160d*)
- Require that the groundwater monitoring plan include emergency monitoring procedures in the event of a spill or well failure. (*PRC §3160d*)
- Require DOGGR to provide at least 30 days advance notice to the public, neighbors (including tenants) and the regional water quality control board of the intent to frack or stimulate a well. The well owner would have to

specifically notify DOGGR 72 hours ahead of the scheduled job in order for DOGGR to witness the procedure, if needed. (PRC §3160d)

- Allow the neighbors to have baseline and follow-up water quality testing on water wells and surface water by the regional water board. (PRC §3160d)
- Require that DOGGR develop and maintain its own web-site for fracking information by January 1, 2016, although Fracfocus.org could be used in the interim. (PRC §3160g)
- Keep intact existing exploratory well confidentiality protections. (PRC §3160l)
- Require DOGGR to perform spot checks to ensure fracking, acidization and other well stimulation data provided are accurate. (PRC §3160m)
- Require DOGGR to annually report to the Legislature on fracking, acidization and other well stimulation treatments. Specific data reporting requirements will facilitate public dissemination of information and ease public concerns. (PRC §3215)
- Increase the civil fine provision to at least \$10,000 and up to \$25,000 per day per violation. (PRC §3236.5)
- Amend the existing oil and gas production fee that supports DOGGR to specifically include well stimulation treatment-related activities. (PRC §3401)
- Incorporate additional clarifying and technical provisions to promote regulatory accountability and public transparency.

LEGISLATIVE HISTORY

- Passed Senate Natural Resources and Water Committee (6 – 2)
- Passed Senate Environmental Quality Committee (6 – 2)
- Passed Senate Appropriations Committee to the Appropriations Suspense file (6 – 0)
- Passed from Senate Appropriations Committee Suspense file to the Senate floor (5 – 2)
- Passed from the Senate Floor (28 – 11)

SUPPORT

Alameda County Water District
American Lung Association in California
Association of California Water Agencies

California League of Conservation Voters
California Coastal Protection Network
Clean Coalition
Councilmember-elect Gil Cedillo, City of Los Angeles
Councilmember David Pollock, City of Moorpark
Councilmember Brian Brennan, City of Ventura
Councilmember Carmen Ramirez, City of Oxnard
Citizens for Responsible Oil & Gas
City of Moorpark
Environmental Working Group
Natural Resources Defense Council
Environmental Defense Center
Mayor Lou LaMonte, City of Malibu
Ventura County Board of Supervisors
Santa Cruz County Board of Supervisors
San Fernando Valley Young Democrats
The League of Women Voters
Los Angeles County Board of Supervisors
Los Angeles Community College District
California Association of Professional Scientists
Paw PAC
South Coast Air Quality Management District
The Nature Conservancy
Clean Water Action
Earthworks
San Francisco Baykeeper

OPPOSITION

California Chamber of Commerce
Food and Water Watch
Sierra Club California
California Independent Petroleum Association
American Chemistry Council
California Manufacturers and Technology Association
California Business Properties Association
Citizens Coalition for a Safe Community
Department of Finance
Southwest California Legislative Council
Western States Petroleum Association
Center for Biological Diversity (unless amended)
Physicians for Social Responsibility – Los Angeles (unless amended)