

FREQUENTLY ASKED QUESTIONS AND ANSWERS
About Discussion Draft of Proposed Hydraulic Fracturing Regulations

REGARDING ENVIRONMENTAL PROTECTION

How do the proposed regulations ensure that hydraulic fracturing will not contaminate water?

Many of the states where oil and gas production occurs have responded to public concern about hydraulic fracturing by requiring companies to disclose the details of their hydraulic fracturing operations. These regulations prepared by the Department of Conservation, Division of Oil, Gas, and Geothermal Resources (Division) go well beyond disclosure requirements to require rigorous testing and evaluation before, during, and after hydraulic fracturing operations to ensure that wells and geologic formations remain competent and that drinking water is not contaminated. Some of the testing and evaluation requirements of the proposed regulations have not yet been implemented by any other state.

The proposed regulations would require operators to evaluate and test the casing, tubing, and cement lining of the well borehole to ensure that the well's construction is more than adequate to withstand hydraulic fracturing operations. In addition, where protected water is present operators are required to analyze the faults, natural fracture zones, and other wells in the area to ensure that they will not permit the migration of fluid. If there is any chance that the hydraulically induced fractures would extend beyond the hydrocarbon zone being fractured, the proposed regulations require evaluation of the intervening geological formations to ensure that there is a confining barrier between the hydrocarbon strata and any strata containing protected water, to prevent groundwater contamination. The proposed regulations also require operators to monitor and test the well during and after hydraulic fracturing operations to verify that well failure has not occurred.

Will there be baseline and follow-up testing of water to verify that no contamination is occurring?

The California Department of Public Health maintains a database of quarterly testing results for drinking water wells statewide. Municipal agencies responsible for local water supply also maintain water quality data. The Division is consulting with staff from the State Water Resources Control Board to determine when and how additional water quality testing might be required. The proposed regulations require operators to provide information about planned hydraulic fracturing operations to the appropriate regional water quality control board.

How do the proposed regulations ensure that hydraulic fracturing will not contaminate air?

The various air quality control districts are evaluating the need for regulations to address fugitive air emissions associated with hydraulic fracturing. The Division is in discussions with the Air Resources Board and the local air districts to ensure that the proposed regulations dovetail with their regulatory efforts.

How do the proposed regulations ensure that hydraulic fracturing fluid will be handled in a safe manner?

The Division has promulgated and implemented regulations to ensure that oilfield fluids are safely managed. Effective January 29, 2011, AB 1960 implementation regulations require secondary containment features around fluid containers, regular testing and maintenance of tanks and pipelines, and maintenance of a detailed spill contingency plan. In addition to these existing requirements, the proposed regulations would prohibit the storage of hydraulic fracturing fluid in unlined sumps or pits.

How do the proposed regulations address response to a spill or release of hydraulic fracturing fluid?

Various state and federal laws already require remediation and reporting of spills or releases of hazardous substances. A matrix of reporting requirements can be found on the CalEMA website here: [http://www.calema.ca.gov/HazardousMaterials/Documents/Release%20Reporting%20Matrix%20\(6-4-12\).pdf](http://www.calema.ca.gov/HazardousMaterials/Documents/Release%20Reporting%20Matrix%20(6-4-12).pdf). The proposed regulations would require cleanup of spills in accordance with all applicable requirements. In addition, the proposed regulations would require operators who spill hydraulic fracturing fluid to develop a corrective action plan to prevent future releases.

How do the proposed regulations address concerns that hydraulic fracturing can induce seismic activity?

Since 1947 in the United States, more than one million oil and gas wells have been hydraulically fractured with no recorded incidences of triggered earthquakes. Induced seismicity through injection can be caused by exceeding a formation's natural fracture pressure as a result of sustained injection operations. The reports of induced seismicity associated with hydraulic fracturing are actually related to long-duration, high-volume injection of waste fluids in disposal wells. Hydraulic fracturing is a short-duration production well stimulation treatment. In California, existing Underground Injection Control regulations already address sustained injection pressures in waste fluid disposal wells that would exceed the natural fracture limit of the formation. Therefore, induced seismicity has not been an issue in California.

What happens to the hydraulic fracturing fluids after the hydraulic fracturing occurs?

After the hydraulic fracturing operations are complete, much of the hydraulic fracturing fluid is produced back out of the well along with the produced oil, gas, and brackish water. In California, 80-90% of the water produced from oil wells is brackish water associated with the oil and gas in the geologic formation. The hydraulic fracturing fluid flowback is commingled with the fluids produced and is treated with those produced fluids. Most produced fluids in California are re-injected into oil and gas bearing zones to increase production. The remainder are injected into deep waste fluid disposal wells or processed. Wells used for sustained injection of oil and gas waste fluids for increased production or disposal already are regulated by the Division, including permitting, inspection, mechanical integrity testing, and plugging and abandonment oversight.

REGARDING PUBLIC DISCLOSURES

How will I know if a well near me will be used for hydraulic fracturing?

The proposed regulations require that operators submit information to the Division at least ten days in advance of commencing hydraulic fracturing operations. The Division will post this information, including the location of the well, on its public website within seven days of receipt of the Form DOGGR HF1, which is at least three days prior to commencement of hydraulic fracturing operations.

Will operators be required to obtain a permit to conduct hydraulic fracturing operations?

Operators are required to secure a permit to drill or rework wells, called a Notice of Intent to Drill/Rework (NOI). When they do seek an NOI, the proposed regulations require that, if the operator knows they intend to engage in hydraulic fracturing through that well, they indicate that intent in their NOI. Current regulations also prohibit an operator from using a well in a manner that could allow transmission of water, oil, or other fluids from one ground water or hydrocarbon zone into another. This means that if a well is damaged such that fluids are not isolated in their respective zones as a result of oilfield operations, the operator must fix the problem. The proposed regulations require operators to perform specific testing, evaluation, and analysis prior to commencing hydraulic fracturing operations to ensure that the operations will not result in contamination of protected water. Operators are required to have the data from the testing, evaluation, and analysis on file with the Division at least ten days in advance of commencing hydraulic fracturing operations. The proposed regulations place requirements on how this production stimulation activity takes place but – as with other production stimulation activities – the regulations do not create a second permitting event for hydraulic fracturing.

Are companies required to disclose the chemical composition of the hydraulic fracturing fluid?

The proposed regulations require operators to publicly disclose detailed information about hydraulic fracturing operations, including a complete list of chemicals used and their concentrations. Operators are required to employ the FracFocus.org website to make the information available to the public. If the information is subject to a claim of trade secret, the operator is required to post the chemical family or similar descriptor for a chemical. Operators are not required to disclose information found in well records that have been identified as confidential under Public Resources Code section 3234.

Why are companies allowed to withhold information about what is in the hydraulic fracturing fluid based a claim of trade secret?

In California, companies and individuals have a statutory right to protect trade secret information from public disclosure. The Division does not have the authority to promulgate regulations that would infringe upon that right. The proposed regulations require disclosure of trade secret information if it is necessary for spill response or medical treatment, provided that the recipient agrees to maintain the confidentiality of the trade secret information. The Division will support legislation, with appropriate safeguards, that will allow the public to directly challenge an assertion of trade secrecy.

What is a “confidential” well and what information must be disclosed for a confidential well that will be fracked?

Operators may request that information about a well that the operator is required to provide the Division be maintained as confidential. The purpose for confidential status is to provide operators an opportunity to utilize information obtained from a well without having to publicly disclose the information to a competitor. If the well is an exploratory well (i.e., one that seeks to access new, previously-untapped oil or gas resources), Public Resources Code section 3234 requires that the Division maintain the confidentiality of those well records for two years. Such wells represent approximately 3% of all wells that are drilled in the State annually, and of this 3%, only approximately half of those are completed to a point that fracture stimulation would be possible. These records typically include well depth and bottom-hole location, types of production stimulation engaged, and volumes of oil or natural gas produced. Operators may also request confidential status for up to two years for wells drilled into existing, known formations or resources, but in such instances, the Division determines whether the request for confidential status meets the statutory criteria. For wells subject to treatment as confidential wells, the Division is prohibited from disclosing anything more than the location of a well and the name of the operator.

REGARDING THE RULEMAKING PROCESS

Will the public have an opportunity to comment on these regulations?

Prior to commencing the formal rulemaking process, the Division is circulating the proposed regulations to solicit stakeholder input on an informal basis. To this end, the Division will hold stakeholder workshops. Currently, three workshops are planned, in Los Angeles, Bakersfield, and Sacramento. It is possible that additional workshops will be scheduled. Information about the workshops and the discussion draft of regulations is available at www.conservation.ca.gov. Written comments about these draft proposed regulations can be submitted at any time to comments@conservation.ca.gov. In addition, once the formal rulemaking process begins, there will be a minimum 45-day public comment period that will include at least one public comment hearing.

When will the regulations go into effect?

The Division hopes to commence the formal rulemaking process in April 2013. The duration of the rulemaking process depends on the extent of public participation and the number of revisions the Division makes to the regulations during the process. The Division estimates that this rulemaking process will take eight to ten months to complete.