

FACT SHEET: SB 4

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COMPREHENSIVE REGULATION OF FRACKING

UPDATED: MARCH 8, 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. The development of California’s hydrocarbon reserves may depend upon fracking, yet it is 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 has apparently been in widespread use in California for decades – primarily to stimulate oil production. DOGGR has repeatedly stated that it has little-to-no information available on the practice, despite its extensive use here. 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.

THE SOLUTION

SB 4 (Pavley) provides a comprehensive statutory framework for fracking regulation in California. As introduced, the bill would:

- Require an independent scientific study on fracking addressing occupational, public and environmental health and safety be conducted by January 1, 2015. The study

will address induced seismicity associated with fracking. (*Public Resources Code (PRC) §3160a*)

- Require DOGGR to adopt fracking regulations by January 1, 2015 that include full disclosure of the composition and disposition of hydraulic fracturing fluids with trade secret protection for chemical formulas extended to industry. (*PRC §3160b*)
- Require that DOGGR enter into formal agreements with specified regulators to ensure regulatory accountability and public transparency for fracking operations including disposal by January 1, 2015. (*PRC §3160c*)
- Integrate public reporting and disclosure of fracking into existing regulatory processes. (*PRC §3160c, §3213, §3215*)
- Require that well operators obtain a permit for fracking. The permit application would include estimates of the amount of water and the composition of the fracking fluids planned to be used. (*PRC §3160d*)
- Require the well operator to provide at least 30 days advance notice to the public, DOGGR and the regional water quality control board of the intent to frack a well. The well owner would also 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 no fracking permits will be issued after January 1, 2015 until the independent scientific study is completed. (*PRC §3160e*)
- 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*)
- Provide a procedure for trade secret protections to be challenged and for health professionals and other regulators to obtain

trade secret information, if needed. (*PRC §3160b, j*)

- Keep intact existing exploratory well confidentiality protections. (*PRC §3160l*)
- Require DOGGR to perform spot checks to ensure fracking data provided are accurate. (*PRC §3160m*)
- Require DOGGR to annually report to the Legislature on fracking. Specific data reporting requirements will facilitate public dissemination 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 fracking-related activities. (*PRC §3401*)
- Incorporate additional clarifying and technical provisions to promote regulatory accountability and public transparency.

SUPPORT

California Association of Professional Scientists
Paw PAC
South Coast Air Quality Management District
(w/amendments)