

Client Alert

December 2013

California Proposed Hydraulic Fracturing Regulations

California has taken another significant step in its journey toward increased regulation of hydraulic fracturing (HF). In a [previous alert](#) we announced the enactment of Senate Bill 4, which was signed into law on September 20, 2013. The new law, among other things, imposed on operators who engage in HF a permitting system that includes significant disclosure and notice requirements before HF can commence. The Division of Oil, Gas, and Geothermal Resources (Division) was instructed to promulgate rules and regulations to implement the permitting system, including its disclosure requirements, and to revise the rules and regulations governing construction of wells and well casings. The Division has now issued its proposed regulations doing so.

The proposed regulations detail the information that will be required in the application for a permit to perform well stimulation treatments. As set forth in the authorizing statute, incomplete applications will not be approved. The required information includes the following:

- A well stimulation treatment radius analysis, including identification of all water within the area of the well stimulation treatment radius analysis, and the names and API numbers of all wells within the area of the well stimulation treatment radius analysis;
- A water management plan that includes an estimate of the amount of water to be used in the treatment, an estimate of water to be recycled following the well stimulation treatment, the anticipated sources of the water to be used in the treatment, and the anticipated disposal method that will be used for the recovered water in the flowback fluid from the treatment that is not produced water that would be reported pursuant to Public Resources Code Section 3227;
- The estimated amount of treatment-generated waste materials that are not addressed by the water management plan, and the anticipated disposal method for the waste materials;
- Certification from the Regional Water Board that the well subject to the well stimulation treatment is covered by a well-specific, field-wide, or regional ground water monitoring plan developed in accordance with Water Code Section 10783; and
- A complete list of the name, Chemical Abstract Service numbers, and estimated concentrations, in percent by mass, of each and every chemical constituent of the well stimulation fluids anticipated to be used in the treatment. If a Chemical Abstract Service number does not exist for a chemical constituent, another unique identifier may be used if available.

The proposed regulations further require the operator to provide a copy of the permit and notice of the availability of water sampling and testing to surface property owners and tenants of land within a 1500-foot radius of the wellhead or within 500 feet of the horizontal projection of the subsurface parts of the well. The permit and notice must be provided by an independent person or entity at the expense of the operator.

SB 4 instructs the Division to make revisions “to the rules and regulations governing construction of wells and well casings to ensure integrity of wells, well casings, and the geologic and hydrologic isolation of the oil and gas formation during and following well stimulation treatments.” The proposed regulations require

the use of good engineering practices and best industry standards in performing well stimulation treatments, as well as certain specific methods, including the following:

- Geologic and hydrologic isolation of the oil and gas formation during and following the well stimulation treatment;
- All potentially productive zones, zones capable of over-pressurizing the surface casing annulus, or corrosive zones to be isolated and sealed off to the extent necessary to prevent vertical migration of fluids or gases behind the casing; and
- Well stimulation treatment fluid must not be of a concentration level that will damage the well casing, tubing, cement, or other well equipment, or would otherwise cause degradation of the well's mechanical integrity during the treatment process.

Before commencing or recommencing well stimulation treatments, the operator would also be required to run a radial cement evaluation log or other cement evaluation method at least 48 hours after cement placement to demonstrate adequate cementing and to conduct a well stimulation treatment radius analysis to ensure geologic and hydrologic isolation of the oil and gas formation during and after well stimulation treatment. The operator also would be required to pressure test all cemented casing strings and tubing strings for at least 30 minutes at 125 percent of the anticipated maximum surface pressure no more than 24 hours prior to commencing or recommencing well stimulation treatment.

Once well stimulation treatments have commenced, the proposed regulations require continuous monitoring of surface injection pressure, slurry rate, proppant concentration, fluid rate, and all annuli pressures. The regulations require termination of well stimulation treatment and notice to the Division and Regional Water Board in the event of data indicating breach or potential breach of casing, casing cement, or isolated sources of protected water. There are additional requirements for continued monitoring of well pressures and other data after well stimulation treatment is concluded. The regulations also provide for the statutorily required public disclosures within 60 days of cessation of well stimulation treatments.

Promulgation of the proposed regulations on November 15 commenced a 60-day comment period during which the Division will hold five public meetings and additional scoping meetings around the state. The Division is expected to issue revised regulations following the comment period, and then there will be an additional 45-day comment period and scoping workshops before the final regulations are issued. The Division has warned that it will issue emergency regulations to be in place before January 1, 2014, "to ensure that the major requirements of SB 4 are addressed in the interim." We will provide an alert and analysis of these emergency regulations when they are issued, which is expected to occur on or around December 13, 2013.

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