

California Enacts Hydraulic Fracturing Legislation

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Last Friday, September 20, 2013, California Governor Jerry Brown (D) signed into law S.B. 4, a bill that regulates hydraulic fracturing and other well stimulation techniques such as well acidization. In his signing statement, Governor Brown noted that the bill needed some clarifying amendments and that he will work with the author to make those changes next year. The letter does not identify the nature of those changes.

Prior to the passage of S.B. 4, oil and gas wells in California were already subject to well construction standards. However, the existing regulations did not require notification to the State prior to conducting hydraulic fracturing, or disclosure of the chemicals used in fracturing fluids. S.B. 4 requires the Division of Oil, Gas, and Geothermal Resources (Division), which is within the Department of Conservation, to adopt rules and regulations governing well stimulation treatments, including, rules requiring the full disclosure of the composition and use of well stimulation fluids, and any necessary revisions to the well construction standards, by January 1, 2015. S.B. 4 also requires the Natural Resources Agency to complete an independent scientific study on well stimulation techniques including hydraulic fracturing and acid well stimulation by January 1, 2015.

Under the new law, well operators will be required to apply for a permit prior to performing a well stimulation treatment. Information regarding the composition and use of well stimulation fluids, except for information withheld under a trade secret claim, must be publicly disclosed on the internet within 60 days after cessation of a well stimulation treatment. Well operators will also be required to notify adjacent landowners before drilling, and to monitor groundwater and air quality during the hydraulic fracturing process.

Until the Division adopts regulations to implement the new law, hydraulic fracturing and other well stimulation techniques are allowed only upon written notification by an operator that it has complied with specified requirements, submittal by the operator of a complete well history, and the Division's completion of an Environmental Impact Report (EIR) under the California Environmental Quality Act (CEQA).

Several environmental groups have criticized the bill because it does not include a moratorium on fracking, and also because of the late addition of provisions removing CEQA requirements from new wells permitted by the Division. The President of the Western States Petroleum Association, Catherine Reheis-Boyd, stated that while the requirements of the new law "went significantly farther than the petroleum industry felt was necessary," the law presents "an environmental platform ... to responsibly develop the enormous potential energy resource contained in

the Monterey Shale formation.” State officials hope that the law will facilitate oil development of the Monterey Shale, which is estimated to hold a staggering 15.4 billion barrels of oil, and according to a recent [study](#) by the University of Southern California, could add between 512,000 to 2.8 million jobs and generate between \$4.5 billion to \$24.6 billion in tax revenues.

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