

Calif. revises proposed fracking rules

Debra Kahn, Environment & Energy Publishing, 10-10-14

California officials yesterday released a new version of proposed regulations covering hydraulic fracturing and other well stimulation activities that may be the final language when it takes effect next year.

The California Department of Conservation's Division of Oil, Gas and Geothermal Resources (DOGGR) is proposing to require oil companies to notify neighbors of fracking operations and pressure-test wells in advance and disclose to state officials the chemicals that are used.

The regulations are the third version to come out since last year's passage of S.B. 4, a bill that required the state to create guidelines for "well stimulation" operations, including hydraulic fracturing, or fracking.

"We've been at this since 2012," said agency spokesman Don Drysdale. "We think that people have said pretty much what they're going to say at this point, but you never know."

The first draft received more than 100,000 comments; the second one received slightly less than 100,000 comments, agency staff said. The rules are due to take effect July 1, 2015, but must be completed by January 2015; the proposal is now open for a 15-day public comment period.

Changes from previous versions include raising the threshold for reportable seismic activity near wells to a magnitude of 2.7 or greater, up from a magnitude of 2.0 (EnergyWire, June 16). The looser standard is needed, officials said, because California's network of earthquake sensors isn't precise enough to tie an earthquake to a specific well.

"We just wanted to make sure we weren't asking operators to cease their activity based on an erroneous location of an earthquake," said DOGGR Supervisor Steve Bohlen. Once a magnitude-2.7 earthquake happens, the state will still be able to examine past, lesser quakes to see if there is a pattern associated with well operations, he said.

The new version also allows well operators to apply for fracking and water permits simultaneously, rather than requiring the water permit to be issued before applying for one from DOGGR. Both permits would still be required before well stimulation can begin.

It also extends the previous 20-day deadline for neighbors to request water quality testing before well stimulation begins. If a neighbor requests testing more than 20 days after being notified of stimulation activities, the neighbor can arrange his or her own testing but will not be reimbursed by the well operator. Within the 20-day period, property owners can schedule a third-party company to do the water testing or can choose to have the well operator select a company. If the property owner arranges the testing, the operator must notify him or her when stimulation is complete in order to collect follow-up measurements.

Environmentalists objected to some aspects of the regulations but emphasized that their ultimate objective is to persuade Gov. Jerry Brown (D) to enact a moratorium on fracking, a goal that eluded them in the Legislature last year.

"They're totally going into this blind and using the public as guinea pigs in a very grand experiment," said Hollin Kretzmann

Kretzmann highlighted an aspect of the previous version, still in place, that allows "single-project authorization," or the grouping of multiple well stimulation treatments under one permit. He also objected to the addition of language that would allow operators to submit aggregated information on their use of acid in well maintenance activities. "That's a huge loophole for this very ubiquitous and frequently used activity," he said.

Oil industry representatives also objected to some aspects of the rule -- without specifying which ones in particular -- but praised the overall direction.

"While we are still in the process of reviewing the revised proposal, we continue to be concerned with aspects that are beyond the scope of the authorizing legislation and have the potential to overly burden operators or at worst constrain energy development," Catherine Reheis-Boyd, president of the Western States Petroleum Association, said in a statement. "That being said, once final, these rules will allow hydraulic fracturing in California -- under a strict regulatory paradigm -- and that is excellent news for California consumers."

Since interim fracking rules went into place in January, DOGGR has received 991 stimulation notices and 391 post-well stimulation reports, officials said. They said they have not received many requests for groundwater monitoring so far, likely because most of the stimulated wells are on the west side of Kern County, which is sparsely populated.

"We haven't seen a lot of it, but we're not terribly surprised, given geographically where it's happening," said Jason Marshall, chief deputy director of California's Department of Conservation.