

Fracking in California: Expected Increase in State Fracking Operations Prompts Legislative Action

Hydraulic Fracturing News Flash

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The national debate over the use and regulation of hydraulic fracturing (fracking) in the extraction of hydrocarbons has finally reached the floor of the California Senate. The push for legislative action arises from expected increases in fracking operations within the state and environmental concerns regarding potential impacts on groundwater from the chemicals used during the extraction process. Currently, California has no regulations that deal directly with the energy industry's use of fracking.

California Assembly [Bill 591](#), however, is attempting to change all of this. If enacted, the bill would impose regulations on fracking operations in California. The bill would require oil and gas companies to disclose to the California Department of Conservation's Division of Oil, Gas, and Geothermal Resources ([DOGGR](#)) the identity of chemicals used in the fracking process, the source and amount of water used, and whether any radiological components were injected into the wells. DOGGR would then publish the chemical lists and locations of specific wells where the chemicals were used in an online database. Energy companies would also be required to notify DOGGR about their drilling processes and the history of the work performed at a well site.

The California Senate held a hearing on the bill August 15, 2011 and is expected to decide on the matter by the end of next week. The California State Assembly passed the bill along party lines on June 1, 2011. California's legislative efforts reflect [heightened federal scrutiny](#) of the increasingly common-place practice used in drilling operations across the nation.

[Fracking](#), which began in the 1940s, involves the injection of water, sand and small concentrations of chemicals into oil and gas wells at high pressure to fracture and release hydrocarbons trapped in formations with low permeability and porosity. While the energy industry heralds the practice as one of the main reasons behind the natural gas boom in the United States, environmental groups cite concerns over groundwater contamination and [increased seismic activity](#) in areas using the practice. These claims have consistently been denied as unsubstantiated.

Energy companies within California are working with the legislature to ensure that the state's fracking regulations are appropriately drafted. The principal concerns of the industry is to ensure the bill's language properly defines fracking and that the mandated chemical disclosures do not include the exact formulas of the fracking fluids used in the process, as most energy companies consider such information to be [trade secret](#).

The proposed legislation emerges from a history of non-regulation by the state government. Under California law, DOGGR has exclusive jurisdiction over the drilling, operation, maintenance and abandonment of all oil and gas wells in the state. This includes regulation of well casing and cementing to prevent oil, gas and drilling fluids from entering ground water reservoirs. DOGGR is also required to collect information and prepare maps regarding the location of oil and gas wells and the extent in which groundwater sources might be affected by drilling operations.

Despite having statutory authority to regulate fracking under [Section 3106 of the Public Resources Code](#), the state agency has yet to establish any regulations to address the activity. To date, there are no permitting, siting, reporting or disclosure requirements associated with fracking operations within California. Because of this, DOGGR lacks any specific information on where and how often fracking occurs within the state.

The agency's lack of regulations was set forth in a [letter](#) from State Oil and Gas Supervisor Elena Miller, to State Senator Fran Pavley. The letter indicated California's history of limited oil and gas production from shale formations and budget constraints as the reasons behind the agency's inaction. Although California is the [fourth largest oil and gas producing state in the nation](#), the majority of its oil and gas production has come from [conventional crude oil sources](#), and not from gas bearing shale fields. As a result, fracking in California has been rather limited, and regulation of the practice has never been a pressing matter in the past.

Budget constraints have also complicated DOGGR's efforts in implementing fracking regulations. In 2010, the state passed a budget change proposal (BCP) to correct deficiencies in its Underground Injection Control (UIC) program, which addresses enhanced oil recovery, water disposal and gas storage within the state. The objective of the BCP was to place engineers in the field to properly assess current well sites within California as well as determine appropriate regulations for fracking operations. However, the late passage of the budget, the subsequent hiring freeze and administrative setbacks delayed this program.

While the legislature is addressing the lack of fracking regulations in California, the energy industry is moving forward. Energy companies are taking a second look at recovering additional oil and gas, through the use of fracking, from existing fields in California. These plans have elicited strong protests from environmental groups and citizens within the region.

In October of last year, the Monterey County zoning administrator approved a use permit for an energy company to drill and frack up to nine exploratory wells in the Hames Valley. An appeal contesting the permit was filed by a Southern California conservation group and drilling operations are currently awaiting final approval. In addition, the Federal Bureau of Land Management (BLM) has proposed [leasing out 2,600 acres of the federal mineral estate for competitive oil and gas production in Monterey County](#) to energy companies that are likely to use fracking. BLM plans to put the land out for bid in September 2011, at which time energy companies have the chance to bid for the rights to explore on the federally held land.

Again, environmental groups were quick to file a [formal protest](#) to challenge BLM's competitive oil and gas lease sale. The protest notes that BLM's environmental assessment failed to look at the environmental consequences of fracking, in particular its potential connection to water contamination. The protest claims that the environmental assessment conducted by BLM is outdated, as the agency allegedly used methods and information that are more than 20 years old.

In an attempt to regulate fracking on a local level, Santa Barbara County is studying the feasibility of a [moratorium](#) on the oil recovery process. The Central Coast Regional Water Quality Control Board is working with its state counterpart to determine its ability to regulate fracking operations within the county. Cities and counties around the state have turned to local land use restrictions and the California Environmental Quality Act as a means to forestall exploration. The completed study and report is expected to be finished in late September 2011.

California is no longer an outsider to the national debate over the use and regulation of fracking. With pending legislation set to establish stringent regulations and the energy industry's plans to increase fracking operations within the state, California finds itself in the middle of one of the nation's most contentious debates.

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