

LEGAL ALERTS | APR 07, 2015

New Federal Fracking Rules

Local Government Agencies with Authority Over Fracking Sites May Be Impacted



The U.S. Department of the Interior's Bureau of Land Management recently released a final rule to provide new oversight over hydraulic fracturing (commonly referred to as "fracking") on federal and tribal lands. Existing federal regulations, which include a permit requirement for fracking activities, will remain in place.

The final rule (found at 43 CFR Part 3160) will supplement existing regulations by focusing on:

- **Well Safety:** Requires the design and implementation of a casing and cementing program that meets performance standards for all wells, monitoring of cementing operations during well construction, remedial action in response to indications of inadequate cementing and performance of successful integrity test prior to fracking operation.
- **Disclosure of Chemicals:** Requires public disclosure of chemicals used in hydraulic fracturing fluids (with limited exceptions for trade secrets) to the BLM within 30 days of completing fracturing operations.
- **Variance for State/Local Tribes:** Allows states and tribes to request variances from provisions for which they have an equal or more protective regulation in place.
- **Wastewater Disposal:** Requires storage of recovered fluids used in hydraulic fracturing operations in enclosed above-ground tanks with limited exception for lined pits.

Opposition to the final rule has already surfaced. Industry groups and the State of Wyoming filed separate lawsuits challenging the final rule arguing, among other claims, that the rulemaking is procedurally deficient and the rule exceeds the statutory jurisdiction of the DOI. Legislation was also introduced in the U.S. Senate seeking to remove federal oversight over hydraulic fracturing practices.

Cities and counties with land use authority over fracking sites may view the BLM regulations imposed on federal lands as a benchmark for activities within their own jurisdictions. Use of the BLM regulations as a benchmark may have implications for compliance with the National Environmental Policy Act and other similar environmental statutes.

People



Gene Tanaka

PARTNER

(925) 977-3301

Related Practices

[Environmental Law & Natural Resources](#)

[Municipal Law](#)

[Special Districts](#)

Related Industries

[Municipal](#)

[Special Districts](#)

For more information on the DOI Fracking Rule and how it may affect your agency or business, please contact one of the attorney authors listed at right in the [Environmental Law & Natural Resources](#) group, or your [BB&K attorney](#).

Please feel free to share this Legal Alert or subscribe by [clicking here](#). Follow us on Twitter [@bbklaw](#).

Disclaimer: BB&K legal alerts are not intended as legal advice. Additional facts or future developments may affect subjects contained herein. Seek the advice of an attorney before acting or relying upon any information in this communiqué.