



Indian Oil and Gas Canada

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July 18, 2013

CANADIAN ASSOCIATION OF PETROLEUM LANDMEN
350 500 5 AVE SW
CALGARY AB T2P 3L5

Dear Sir/Madam:

Re: **Indian Oil and Gas Canada 2013-14 1st Quarter Newsletter –
Modernization of the Act, Regulations, and Systems (MARS) &
Statement on Hydraulic Fracking**

Enclosed please find a copy of our 1st Quarter MARS Newsletter for the 2013-14 fiscal year reporting period, April 1 – June 30, 2013, along with a bulletin on hydraulic fracking.

We encourage you to write to us if you have any questions regarding the information enclosed:

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You are also welcome to visit our website at www.iogc-pgic.gc.ca for more information regarding Indian Oil and Gas Canada.

We look forward to continue working with Industry to support First Nations in the development of oil and gas activities on reserve lands.

Sincerely,

Strater Crowfoot
CEO and Executive Director

Enclosure



Update on the Modernization of the Act, Regulations, and Systems (MARS)

Reporting Period – April 1st to June 30th, 2013

As reported in the last newsletter, IOGC was pleased to announce the completion of all the Regulatory Drafting Instructions by the end of March, 2013. This involved the preparation of more than 6,600 pages of material for regulatory drafters to review and consider. Most of this material has already been made available for review by First Nations through their representatives on the Joint Technical Committee (JTC-1). The material is highly complex and technical, due to the nature of the oil and gas industry, and this has made the development of a complete set of new regulations by 2014 a considerable challenge.

Therefore, the department has proposed a phased approach and updated its timelines for completion of the new regulations and is now looking to bring the entire *IOGA, 2009* into force, along with a core set of amended and new regulations, towards the end of calendar year 2014. This would provide both the regulatory drafters and First Nations more time to review and consider the large volume of regulatory drafting material.

The new phased approach would include amendments to the *Indian Oil and Gas Regulations, 1995* to make them compatible with the *IOGA, 2009* plus new regulations in the areas of: 1) Drainage and Compensatory Royalty; 2) Sub-surface Tenure; 3) First Nations' Audit (considered a component of Royalty Management); and, 4) reporting requirements to facilitate royalty verification.

There would be immediate benefits to First Nations of bringing the entire *IOGA, 2009* into force. These include providing clear authorities for IOGC: 1) to audit companies operating on First Nation lands; 2) to establish limitation periods for industry to maintain records for auditing purposes; 3) to protect First Nation sites of cultural importance; 4) to order companies to take remedial action under certain circumstances; and, 5) to issue fines and penalties for offences under the Act or regulations.

After the first phase is completed, the expected sequence for the remaining regulatory modules are currently planned to be: 1) the remainder of Royalty Management; 2) Moneys Management; 3) Surface Tenure; 4) Exploration; 5) Environment; 6) Enforcement; and, 7) Conservation. How these modules are packaged and the timeframes for their coming into force will be announced soon.

IOGC is preparing to hold two symposiums with First Nations in the fall of 2013 – one in Alberta and one in Saskatchewan – to explain this new approach as well as the content of this initial set of new and amended regulations. IOGC continues to meet with Chiefs and Councils from individual First Nations when requested.

The Joint Technical Committee (JTC-1) and the Indian Resource Council (IRC)'s continued support and leadership will be important in getting a more modern regime in place to optimize benefits to First Nations. Consultation with the oil and gas producing provinces and with industry will continue.

The informatics enhancements to support changes as result of MARS activities continue. Currently, IOGC is preparing a business case for membership and data exchange with PETRINEX, the provincial and industry-recognized authoritative source on hydrocarbon volume and pricing data. Present PETRINEX members include industry, Alberta, and Saskatchewan, with Manitoba and Statistics Canada both in the process of joining.

As reported in the last newsletter, IOGC re-organized effective April 1, 2013 and, because of the amount of change happening at IOGC with the re-organization and the regulatory changes, IOGC recognizes the importance of effectively dealing with the "human" side of change. To that end, IOGC has hired an organizational change management advisor and is preparing to contract additional change management expertise.

IOGC is committed to working with our First Nation partners to modernize the oil and gas regime on First Nation lands and to continue development of new regulations until they are all completed and the *Indian Oil and Gas Regulations, 1995* have been entirely replaced.

For further information, please contact IOGC at:

Indian Oil and Gas Canada / Pétrole et gaz des Indiens du Canada

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A Statement on Hydraulic Fracturing from Indian Oil and Gas Canada

What is hydraulic fracturing?

Hydraulic fracturing technology – commonly referred to as fracking or fracing – is a process, used since 1947, to enhance oil and gas production. It involves injecting fluid and sand at high pressure into rock formations to create and prop open cracks (“fractures” or “fracs”) in petroleum bearing rock. The fluid can contain additives used to perform specific functions. For example, one ingredient ensures that operating equipment remains sterile and free of unwanted bacterial growth that could clog up sensitive equipment and instruments. After a fracking operation is completed and the sand has been placed in the formation, about 40% of the carrying fluids flow back through the well where it is collected, and either reused or processed for safe disposal.

How is hydraulic fracturing regulated on First Nations reserve lands?

- The division of powers between federal and provincial governments in the Canadian Constitution results in cooperation between both levels of government to ensure First Nations reserve lands are regulated in a manner consistent with off-reserve jurisdictions, but within the boundaries of federal law.
- Section 3 of the existing *Indian Oil and Gas Act* specifies that Canada’s Governor in Council “...may make regulations ... for carrying out the purposes of (the Indian Oil and Gas) Act and for the exploitation of oil and gas in Indian lands.”
- Section 4 of the *Indian Oil and Gas Regulations, 1995*, established according to the *Indian Oil and Gas Act*, further specify that “It is a condition of every contract that the operator will comply with ... all provincial laws applicable to non-Indian lands that relate to the environment or to the exploration for, or development, treatment, conservation or equitable production of, oil and gas that are not in conflict with the Act or (the) Regulations.”
- Technical operations of oil and gas companies are primarily regulated under provincial law and provincial regimes are primarily designed to protect both people and the environment.

Though research and data collection are on-going, to date none of the major oil and gas producing provinces (Alberta, Saskatchewan, and BC) have placed a moratorium or ban on hydraulic fracturing based on evidence currently available.

The Federal Government and Environmental Protection on First Nation Lands

The federal government is ultimately responsible for environmental protection on reserve lands as well as the health of First Nations citizens living on reserve. Thus, IOGC is responsible for safeguarding both the environment on reserve, as well as protecting First Nations citizens from adverse effects of oil and gas activities on reserve lands. To effectively fulfill federal government responsibilities, IOGC ensures that:

Prior to oil and gas activities taking place:

1. an environmental review is conducted;
2. when hydraulic fracturing is proposed IOGC ensures companies conduct baseline water testing for water wells located within 500 meters of any oil or gas well prior to drilling; and,
3. all applications, regardless of whether hydraulic fracturing is proposed, demonstrate that the environment will be protected.

During oil and gas activities on reserve, IOGC monitors:

1. environmental performance through auditing and inspections; and,
2. all aspects of oil and gas production.

New *Indian Oil and Gas Regulations* currently under development will provide IOGC with the necessary tools to require, at any time, operators to correct any impacts of an oil and gas activity.