

Frequently Asked Questions

Regarding Interim Well Stimulation Regulations under Senate Bill 4 (Pavley, Chapter 313, Statutes of 2013)

THE REGULATION PROCESS

Why are interim regulations necessary?

Although SB 4 becomes law in January 2014, the bill does not require that the permanent regulations take effect until January 2015. Because of this gap, SB 4 lays out interim procedures that go into effect January 2014. Until the permanent regulations go into effect, SB 4's interim procedures allow operators to proceed with well stimulation treatments without a permit if they comply with specified provisions of SB 4. The Division will use emergency regulatory authority to set up rules for this 2014 interim process. The interim regulations will be publicly noticed no later than December 13, 2013, so that they may be filed with the Office of Administrative (OAL) Law in time to go into effect on January 1, 2014.

Will the public have an opportunity to comment on the interim regulations?

Yes. However, the process to submit comments regarding an emergency regulation is different from the comment process for a normal rulemaking package.

Upon submission of proposed emergency regulations to OAL by a State agency, the regulation text and the finding of emergency will be posted on OAL's web site. The public may submit comments to OAL regarding the proposed emergency regulations for five calendar days after OAL posts the notice of the pending emergency action on the OAL web site. (Government Code section 11349.6(b).) Comments may be submitted to the OAL by mail to:

OAL Reference Attorney
300 Capitol Mall, Suite 1250
Sacramento, California 95814

Comments may also be sent to OAL by fax to (916) 323-6826, or by e-mail to staff@oal.ca.gov.

When submitting a comment to OAL, you must also submit a copy of the comment to the rulemaking agency's contact person. For the Department of Conservation, comments should be sent to:

Tim Shular
801 K Street, MS 24-02
Sacramento CA, 95814
ATTN: Well Stimulation Interim Regulations.

OAL will confirm that the Department has received the comment before considering it. The comment must state that it is about an emergency regulation currently under OAL review and include the topic of the emergency. The Department is not required to respond to comments submitted. If the Department chooses to respond, however, it must submit its response to OAL within eight calendar days after the date of submission of the proposed emergency regulation to OAL (1 CCR 55), unless specific exceptions apply.

PUBLIC DISCLOSURES

Will operators be required to obtain a permit to conduct well stimulation treatments?

No. SB 4's interim procedures allow operators to proceed with well stimulation if they have provided the Division with written notice and certification of compliance with specified requirements of SB 4. The interim regulations require that at least 10 days in advance of commencing a well stimulation treatment, the operator shall submit an Interim Well Stimulation Treatment Notice to the Division. Well stimulation treatments shall not commence unless the Division has reviewed the Interim Well Stimulation Treatment Notice form and approved the form as complete. Also, the operator shall notify the Division at least 72 hours prior to commencing well stimulation so that Division staff may witness the well stimulation treatment.

Operators are required to include in the Interim Well Stimulation Treatment Notice operator contact information; well location information; directionally drilled well information, if applicable; the time period during which the well stimulation treatment is planned to occur; and the planned location of the well stimulation treatment on the well bore, the estimated length, height, and direction of the induced fractures or other planned modification, if any. Additionally, operators must include with the Interim Well Stimulation Treatment Notice specified chemical information; a Water Management Plan; a list of locations of existing wells, including plugged and abandoned wells, that may be impacted by the fractures; a Groundwater Monitoring Plan; neighbor notification information; cement casing information; production zone information; mechanical integrity testing and pressure testing information; well stimulation fluid concentration information; information regarding the operator's Spill Contingency Plan; and, if necessary, a claim of trade secret protection.

How will I know if a well near me will be getting a stimulation treatment?

At least 30 days in advance of commencing well stimulation treatment, the operator must provide notice to property owners and tenants within a 1500 foot radius of the wellhead, or within 500 feet of the path of the well. Therefore, for an operator to be able to perform a well stimulation treatment on January 1, 2014, neighbor notification regarding the well stimulation treatment must have been completed by December 2, 2013.

Are companies required to disclose the chemical composition of the well stimulation treatment?

Yes. The interim regulations require operators to publicly disclose detailed information about well stimulation treatments, including a complete list of chemicals used and their concentrations. SB 4 requires the Department to develop a website to provide chemical information to the public. Until this website is developed, operators are required to employ the FracFocus.org website to make the information available to the public. In addition, the Department will be collecting information from FracFocus.org, and directly from operators, and making all of the information available on the Department's website in an aggregated spreadsheet that can be sorted and searched. If the information is subject to a claim of trade secret, the operator is required to post the chemical family or similar descriptor for a chemical.

Can companies withhold information about what is in the well stimulation treatment fluid based upon a claim of trade secret?

Yes, but to a limited extent only, subject to Division review and court challenge. If information is withheld as a trade secret, government agencies and health professionals can have access to the information.

In California, companies and individuals have a statutory right to protect trade secret information from public disclosure, but SB 4 put limitations on trade secret protection for well stimulation fluids. SB 4 provides a process for determining if a trade secret claim is valid and for public disclosure if it is determined the information is not a trade secret. The public has the right to challenge in court a trade secret claim. SB 4 also provides that even if the information is a protected trade secret, it must be disclosed to specified government entities, or for a health professional who reasonably believes that the information may be necessary in the diagnosis or treatment of a patient.

What is a "confidential" well and what information must be disclosed for a confidential well that will be treated?

A very small subset of wells, less than 2 percent, may be exempt from disclosure because by statute they are "confidential" wells. Operators may request that certain information about a well be maintained as confidential. Confidential status allows operators an opportunity to utilize information obtained from a well without having to publicly disclose the information to a competitor. Confidential status applies to onshore wells for two years, subject to six month extensions; in no case may such status apply for longer than a total of 4 years. SB 4 includes a provision that requires disclosure of a proposed or completed stimulation treatment on a well, but not the chemical constituents used.

ENVIRONMENTAL PROTECTION

How do the interim regulations ensure that well stimulation will not contaminate water?

The interim regulations require rigorous testing and evaluation before stimulation operations to ensure that wells and geologic formations remain competent and that drinking water is not contaminated.

The interim regulations require operators to evaluate the casing, tubing, and cement lining of the well borehole to ensure that the well's construction is more than adequate to withstand operations that are intended to increase the permeability of the hydrocarbon producing formation. Also, the interim regulations require that surface equipment utilized for well stimulation treatment be rigged up as designed, and the pump, and all equipment downstream from the pump, be pressure tested. In addition, operators are required to analyze other wells in the area to ensure that they will not permit the migration of fluid to other zones.

Can neighbors request that their water be tested?

Yes, the interim regulations enable neighbors to request water quality sampling and testing on any water well located on the parcel that is suitable for drinking or irrigation purposes and on any surface water located on the parcel that is suitable for drinking or irrigation purposes, provided that the request is made within 20 days of receipt of the notification. Upon receipt of a timely request for water quality sampling and testing, the operator shall pay for testing and sampling by one or more qualified independent third-party contractor or contractors designated by the State Water Resources Control Board.

Will groundwater quality, and the water used in well stimulation, be monitored?

SB 4 requires a groundwater monitoring plan for any well subject to well stimulation treatment. The interim regulations will establish and requirements and guidance for the development and implementation of the groundwater monitoring plans. In addition to having a groundwater monitoring plan, operators are required to publicly disclose the composition and disposition of all water associated with a well stimulation treatment.

How will other regulatory agencies, such as the Air Resources Board, approach well stimulation treatments?

Other agencies will have a significant role in implementation of the statute. SB 4 provides for a study to be conducted to assess aspects of well stimulation treatments such as air quality, and for the Department to meet with the State's other regulatory entities to determine appropriate approaches to protecting air and water quality and safe handling of chemicals used in well stimulation, and to commit those approaches to agreements between such agencies.

How do the interim regulations ensure that well stimulation fluids will be handled in a safe manner?

In 2011, the Division promulgated and implemented regulations to ensure that oilfield fluids are safely managed. These regulations require secondary containment features around fluid containers, regular testing and maintenance of tanks and pipelines, and maintenance of a detailed spill contingency plan. In addition to these existing requirements, the interim regulations require operators to address the handling of well stimulation fluid and additives in their Spill Contingency Plan.

How do the interim regulations address response to a spill or release of well stimulation fluids?

Various state and federal laws already require remediation and reporting of spills or releases of hazardous substances. A matrix of reporting requirements can be found on the CalEMA website here: <http://www.calema.ca.gov/HazardousMaterials/Pages/Spill-Release-Reporting.aspx>. Operators are required to maintain a Spill Contingency Plan, and that plan must address the fluids on site for well stimulation treatment.

What happens to the well stimulation fluids after the treatment occurs?

After the well stimulation operations are complete, much of the fluid comes back out of the well along with the oil, gas, and brackish water produced in the operation. In California, 80-90 percent of the water produced from oil wells is brackish water associated with the oil and gas in the geologic formation. The well stimulation fluid flowback is commingled with the fluids produced and is treated with those produced fluids. Most produced fluids in California are re-injected into oil and gas bearing zones to increase production. The remainder are injected into deep waste fluid disposal wells or processed. Wells used for sustained injection of oil and gas waste fluids for increased production or disposal already are regulated by the Division, including permitting, inspection, mechanical integrity testing, and plugging and abandonment oversight.

ENVIRONMENTAL REVIEW

Will there be an environmental impact report (EIR) prepared about well stimulation in California?

Yes. SB 4 requires the Division to prepare an EIR to evaluate and inform decision-makers and the public of potential environmental impacts of well stimulation in the state. A Notice of Preparation (NOP) for the EIR was released on November 15, 2013.

Will there be an independent study prepared about well stimulation in California?

Yes. In addition to requiring an EIR, SB 4 requires the California Natural Resources Agency to prepare an independent study of well stimulation treatments, including hydraulic fracturing and acid well stimulation treatments, by January 1, 2015. The Natural Resources Agency is currently developing the scope of the study and will begin the analysis in December 2013 in anticipation of meeting the statutory deadline of January 2015.

WELL STIMULATION ACTIVITIES TAKING PLACE CURRENTLY

Where is well stimulation reported to be happening?

From June 1, 2012 through June 1, 2013, hydraulic fracturing voluntarily reported to the Division occurred primarily in established fields in Kern County. Of the 967 hydraulic fracturing procedures reported in that time, the majority (788) occurred in the Belridge and Lost Hills fields in western Kern County. The remainder occurred primarily in established oil production areas in Kern, Kings, Los Angeles and Ventura Counties.

The number of wells reported to have been hydraulically fractured, by oil field and county, are as follows:

Field	County	Number of Wells reported to be hydraulically fractured
Asphalto	Kern	2
Bardsdale	Ventura	2
Belridge, North	Kern	56
Belridge, South	Kern	647
Buena Vista	Kern	7
Elk Hills	Kern	71
Kettleman North Dome	Kings	1
Lost Hills	Kern	106
McKittrick	Kern	1
Midway-Sunset	Kern	4
Monument Junction	Kern	5
Paloma	Kern	1
Rose	Kern	13
Semitropic	Kern	1
Sespe	Ventura	11
Shafter, North	Kern	7
Shiells Canyon	Ventura	1
South Mountain	Ventura	1
Torrey Canyon	Ventura	1
Ventura	Ventura	4
Wilmington	Los Angeles	12

Thirteen hydraulically fractured wells were not within an identified field.

Acid matrix stimulation, another form of well stimulation covered in SB 4, has not been uniformly reported. This will change with SB 4 and the implementing regulations, which will make uniform reporting of all qualifying forms of well stimulation mandatory.