

AMENDED IN ASSEMBLY APRIL 8, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 7**

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**Introduced by Assembly Member Wieckowski**

December 3, 2012

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An act to amend ~~Section~~ *Sections 3213 and 3215* of, ~~and to add Section 3215.5 to,~~ to add Article 3 (commencing with Section 3150) to Chapter 1 of Division 3 of, *and to repeal Section 3157 of,* the Public Resources Code, relating to oil and gas.

LEGISLATIVE COUNSEL'S DIGEST

AB 7, as amended, Wieckowski. Oil and gas: hydraulic fracturing. Under existing law, the Division of Oil, Gas, and Geothermal Resources, (~~DOGGR~~) in the Department of Conservation regulates the drilling, operation, maintenance, and abandonment of oil and gas wells in the state. The State Oil and Gas Supervisor supervises the drilling, operation, maintenance, and abandonment of wells and the operation, maintenance, and removal or abandonment of tanks and facilities related to oil and gas production within an oil and gas field regarding safety and environmental damage. Existing law requires an operator of a well, before commencing the work of drilling the well, to obtain approval from the State Oil and Gas Supervisor or a district deputy. Existing law requires the operator of a well to keep, or cause to be kept, a careful and accurate log, core record, and history of the drilling of the well. Within 60 days after the date of cessation of drilling, rework, or abandonment operations, the owner or operator is required to file with the district deputy certain information, including the history of work performed.

This bill would define, among other things, hydraulic fracturing and hydraulic fracturing fluid. The bill would require ~~an the owner or operator of a well to record and include all data on~~ *provide to the supervisor, or to arrange with the supplier to provide to the supervisor, specific information relating to hydraulic fracturing treatment, including the risk posed by potential seismicity,* as a part of the history of the drilling of the well. The bill would require ~~DOGGR, in consultation with the Department of Toxic Substances Control, the State Air Resources Board, and the State Water Resources Control Board, on or before January 1, 2014, to adopt rules and regulations specific to hydraulic fracturing, including governing the construction of wells and well casings and full disclosure of the composition and disposition of hydraulic fracturing.~~ The bill would require an operator to file with the supervisor or a district deputy, at least 30 days prior to the commencement of a hydraulic fracturing treatment, a notice of intention to commence hydraulic fracturing treatment containing specified information. The bill would require the hydraulic fracturing to be completed within one year of the filing of the notice of intention. The bill would require DOGGR, within 10 days of the receipt of the notice of intention, to make the notice publicly available, to post it on the division's Internet Web site, and to notify the appropriate regional water quality control board. The bill would require the supplier, as defined, of the hydraulic fracturing treatment to provide to the operator, within 30 days following the conclusion of the hydraulic fracturing, ~~certain information regarding the hydraulic fracturing fluid.~~ *provide that the owner or operator of a well may request in writing that the information required relating to hydraulic fracturing be considered confidential information under specific provisions. The bill would also provide that the owner, operator, or supplier who provides information to the supervisor relating to hydraulic fracturing may, at the time of submission, submit to the supervisor a claim in writing that some or all of the information is protected trade secret information, as specified. The bill would permit the supervisor, upon his or her own initiative, to make an initial determination as to whether the information claimed as trade secret has been properly claimed as trade secret information. The bill would require the supervisor to make an initial determination upon receipt of a request for public information, as specified. The bill would require the supervisor, within 45 days, to provide written notification of the initial determination to the person who provided the information and claims trade secret protection. The bill would provide*

*specific processes for the person claiming trade secret protection to challenge the supervisor's initial determination within 30 days from the date of receipt of the initial determination by providing the supervisor with additional written justification for the trade secret claim. The bill would further require the supervisor, after making a final determination within 45 days of the date of receipt of the additional written justification that the information is not a trade secret, to make the information available to the public not sooner than 30 days from the date of the mailing of a copy of the final determination to the person who provided the additional written justification. The bill would also require the supervisor to send a notice of the final determination to the person who provided the additional written justification, if the information is determined to be a trade secret. The bill would provide that a person claiming trade secret protection is deemed to have waived his or her claim for trade secret if, on the date when the final determination requires that the information be made available to the public, he or she has not filed an action in a court of competent jurisdiction for a declaratory judgment or injunction prohibiting disclosure of the information by the supervisor. The bill would permit the supervisor to disclose information claimed to be a trade secret to specific government employees with a clear need for the information for an enforcement action or emergency response, as specified. The bill would require the operator, within 60 days of the cessation of hydraulic fracturing treatment, to post or cause to have posted on an Internet Web site accessible to the public specified information on the fracturing and fluid hydraulic fracturing, as specified. The bill would require a supplier claiming trade secret protection for the chemical composition of additives used in the hydraulic treatment to disclose the composition to DOGGR, but would, except as specified, further prohibit those with access to the trade secret to disclose from disclosing it, and would make a person who violates this prohibition would be guilty of a misdemeanor. Because this bill would create a new crime, it would impose a state-mandated local program.*

This bill would require the supervisor, on or before January 1, 2016 2014, and annually thereafter, to transmit to the Legislature and make available publicly a comprehensive report on hydraulic fracturing in the exploration and production of oil and gas resources in the state, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. *The Legislature finds and declares all of the*  
2 *following:*

3 (a) *Hydraulic fracturing has been used in California for several*  
4 *decades to extract oil and gas and is likely to be used more*  
5 *extensively as the industry seeks to develop additional oil-bearing*  
6 *and gas-bearing formations.*

7 (b) *The Division of Oil, Gas, and Geothermal Resources in the*  
8 *Department of Conservation, which has the obligation to protect*  
9 *public health and the natural resources of the state, including*  
10 *groundwater resources, has the authority to regulate all oil and*  
11 *natural gas drilling in the state, but currently does not require the*  
12 *disclosure of pertinent information regarding hydraulic fracturing*  
13 *or ascertain all specific types of production and exploration taking*  
14 *place at permitted wells.*

15 (c) *Given California’s geologic, seismic complexity, and its*  
16 *finite and significantly compromised water resources, it is*  
17 *important to collect basic information about natural resource*  
18 *production processes. The state and the public should know when*  
19 *and where hydraulic fracturing is occurring and what chemicals*  
20 *are being used in the process.*

21 ~~SECTION 1. Article 3 (commencing with Section 3150) is~~  
22 ~~added to Chapter 1 of Division 3 of the Public Resources Code,~~  
23 ~~to read:~~

24

~~Article 3. Hydraulic Fracturing~~

26

27 3150. ~~“Additive” means a substance or combination of~~  
28 ~~substances added to a base fluid for purposes of preparing a~~  
29 ~~hydraulic fracturing fluid. An additive may, but is not required to,~~  
30 ~~serve additional purposes beyond the transmission of hydraulic~~

1 pressure to the geologic formation. An additive may be of any  
2 phase and includes proppants.

3 3151. “Base fluid” means the continuous phase fluid used in  
4 the makeup of a hydraulic fracturing fluid. The continuous phase  
5 fluid may include, but is not limited to, water, and may be a liquid  
6 or a gas.

7 3152. “Carrier fluid” means a base fluid into which additives  
8 are mixed to form a hydraulic fracturing fluid.

9 3153. “Hydraulic fracturing” means a treatment used in  
10 stimulating a well that involves the pressurized injection of  
11 hydraulic fracturing fluid and proppants into an underground  
12 geologic formation in order to fracture the formation, thereby  
13 causing or enhancing, for the purposes of this division, the  
14 production of oil or gas from a well.

15 3154. “Hydraulic fracturing fluid” means a carrier fluid mixed  
16 with physical and chemical additives for the purpose of hydraulic  
17 fracturing. A hydraulic fracturing treatment may include more than  
18 one hydraulic fracturing fluid.

19 3155. “Proppants” means materials inserted or injected into  
20 the underground geologic formation that are intended to prevent  
21 fractures from closing.

22 3156. “Supplier” means an entity performing hydraulic  
23 fracturing or an entity supplying an additive or proppant directly  
24 to the operator for use in hydraulic fracturing.

25 3157. (a) The Legislature finds and declares that hydraulic  
26 fracturing of oil and gas wells in combination with technological  
27 advances in oil and gas well drilling are spurring oil and gas  
28 extraction, as well as oil and gas exploration, in California.

29 (b) (1) On or before January 1, 2014, the division, in  
30 consultation with the Department of Toxic Substances Control,  
31 the State Air Resources Board, and the State Water Resources  
32 Control Board, shall adopt rules and regulations specific to  
33 hydraulic fracturing. The rules and regulations shall include, but  
34 are not limited to, revisions, as needed, to the rules and regulations  
35 governing construction of wells and well casings to ensure integrity  
36 of wells, well casings, and the geologic and hydrologic isolation  
37 of the oil and gas formation during and following hydraulic  
38 fracturing, and full disclosure of the composition and disposition  
39 of hydraulic fracturing fluids.

- 1     ~~(2) Full disclosure of the composition and disposition of~~  
2 ~~hydraulic fracturing fluids shall, at a minimum, include:~~
- 3     ~~(A) The date of the hydraulic fracturing.~~
- 4     ~~(B) A complete list of the names, Chemical Abstract Service~~  
5 ~~(CAS) numbers, and maximum concentration, in percent by mass,~~  
6 ~~of each and every chemical constituent of the hydraulic fracturing~~  
7 ~~fluids used. If a CAS number does not exist for a chemical~~  
8 ~~constituent, the well owner or operator may provide another unique~~  
9 ~~identifier, if available. Chemical information claimed as a trade~~  
10 ~~secret, pursuant to subdivision (h), shall be identified as such and~~  
11 ~~reported as described in subdivision (h).~~
- 12     ~~(C) The trade name, the supplier, and a brief description of the~~  
13 ~~intended purpose of each additive contained in the hydraulic~~  
14 ~~fracturing fluid.~~
- 15     ~~(D) The total volume of carrier fluid used during hydraulic~~  
16 ~~fracturing, and the identification of whether the carrier fluid is~~  
17 ~~water suitable for irrigation or domestic purposes, water not~~  
18 ~~suitable for irrigation or domestic purposes, or a fluid other than~~  
19 ~~water.~~
- 20     ~~(E) The total volume of base fluid, if not reported as a carrier~~  
21 ~~fluid, used during hydraulic fracturing, and the identification of~~  
22 ~~whether the base fluid is water suitable for irrigation or domestic~~  
23 ~~purposes, water not suitable for irrigation or domestic purposes,~~  
24 ~~or a fluid other than water.~~
- 25     ~~(F) The source, volume, and disposition of all water, including,~~  
26 ~~but not limited to, all water used as base and carrier fluids, used~~  
27 ~~during hydraulic fracturing and recovered from the well following~~  
28 ~~hydraulic fracturing that is not otherwise reported as produced~~  
29 ~~water pursuant to Section 3227.~~
- 30     ~~(G) The disposition of all hydraulic fracturing fluids other than~~  
31 ~~water.~~
- 32     ~~(H) Any radiological components or tracers injected into the~~  
33 ~~well as part of the hydraulic fracturing process, a description of~~  
34 ~~the recovery method, if any, for those components or tracers, the~~  
35 ~~amount recovered, if any, and the disposal method for recovered~~  
36 ~~components or tracers.~~
- 37     ~~(I) The radioactivity of the recovered hydraulic fracturing fluids.~~
- 38     ~~(J) The location of the portion of the well subject to the hydraulic~~  
39 ~~fracturing treatment and the extent of the fracturing surrounding~~

1 the well induced by the treatment using the methodology  
2 determined by the division.

3 (e) (1) Notwithstanding any other law or regulation, at least 30  
4 days prior to commencing a hydraulic fracturing treatment on a  
5 well, the operator shall file a written notice of intention to  
6 commence the hydraulic fracturing treatment with the supervisor  
7 or district deputy. The notice shall contain the pertinent data the  
8 supervisor requires on printed forms supplied by the division or  
9 on other forms acceptable to the supervisor. The hydraulic  
10 fracturing treatment shall be completed within one year of filing  
11 the notice of intention. The information provided in the notice  
12 shall include, but is not limited to, the following:

13 (A) The well identification number and location.

14 (B) The time period during which the hydraulic fracturing  
15 treatment is planned to occur.

16 (2) Within 10 days of receipt of the notice of intention, the  
17 division shall make the notice of intention publicly available, post  
18 it on the publicly accessible portion of the division's Internet Web  
19 site, and notify the appropriate regional water quality control board  
20 or boards as determined by where the well, including its subsurface  
21 portion, is located.

22 (3) The operator shall provide notice to the division 72 hours  
23 prior to the actual start of the hydraulic fracturing treatment in  
24 order for the division to witness the treatment.

25 (d) If hydraulic fracturing is performed on a well, a supplier  
26 that performs any part of hydraulic fracturing or provides additives  
27 directly to the operator for hydraulic fracturing shall furnish the  
28 operator with information needed for the operator to comply with  
29 subdivision (e). If a supplier claims trade secret protection pursuant  
30 to subdivision (h), the supplier shall notify the operator and provide  
31 to the operator substitute information, as described in subdivision  
32 (h), suitable for public disclosure. This information shall be  
33 accurate and shall be provided as soon as possible but no later than  
34 30 days following the conclusion of the hydraulic fracturing.

35 (e) (1) Within 60 days following cessation of hydraulic  
36 fracturing on a well, the operator shall post or cause to have posted  
37 to an Internet Web site designated or maintained by the division  
38 and accessible to the public, all of the hydraulic fracturing fluid  
39 composition and disposition information required to be collected

1 pursuant to rules and regulations adopted under subdivision (b);  
2 including well identification number and location.

3 (2) The division may designate a publicly accessible Internet  
4 Web site, developed by the Ground Water Protection Council and  
5 the Interstate Oil and Gas Compact Commission for the posting  
6 of the data pursuant to paragraph (1), if all of the following  
7 requirements are met by January 1, 2015:

8 (A) The information is organized on that Internet Web site in a  
9 format such as a spreadsheet that allows the public to easily search  
10 and aggregate, to the extent practicable, each type of information  
11 required to be collected pursuant to subdivision (b) using search  
12 functions on that Internet Web site.

13 (B) The Internet Web site permits any person to export, copy,  
14 or otherwise obtain in electronic format the data submitted pursuant  
15 to subdivision (b) from that Internet Web site. Once obtained, there  
16 shall be no restrictions on the possession or further distribution,  
17 modification, transmission, or reproduction of any information  
18 submitted pursuant to this section in any form and by any means  
19 and no prior authorization shall be required.

20 (3) If an Internet Web site is not designated by the division  
21 pursuant to paragraph (2), the division shall maintain a publicly  
22 accessible Internet Web site, in compliance with subparagraphs  
23 (A) and (B) of paragraph (2), for the posting of the data required  
24 pursuant to paragraph (1).

25 (f) The operator is responsible for compliance with this section.

26 (g) In developing regulations for hydraulic fracturing pursuant  
27 to subdivision (b), the supervisor shall take into consideration and  
28 document the risk posed by potential seismicity.

29 (h) (1) The supplier may claim trade secret protection for the  
30 chemical composition of additives pursuant to Section 1060 of the  
31 Evidence Code, or the Uniform Trade Secrets Act (Title 5  
32 (commencing with Section 3426) of Part 1 of Division 4 of the  
33 Civil Code).

34 (2) If a supplier believes that information regarding a chemical  
35 constituent of a hydraulic fracturing fluid is a trade secret, the  
36 supplier shall nevertheless disclose the information to the division  
37 within 30 days following cessation of hydraulic fracturing on a  
38 well, and shall notify the division in writing of that belief.

39 (3) The supplier is not required to disclose trade secret  
40 information to the operator.

1 ~~(4) This subdivision does not permit a supplier to refuse to~~  
2 ~~disclose the information required pursuant to this section to the~~  
3 ~~division.~~

4 ~~(5) To comply with the public disclosure requirements of this~~  
5 ~~section, the supplier shall indicate where trade secret information~~  
6 ~~has been withheld and the specific name of a chemical constituent~~  
7 ~~shall be replaced with the chemical family name or similar~~  
8 ~~descriptor associated with the trade secret chemical information.~~

9 ~~(6) (A) Except as provided in subparagraph (B) of paragraph~~  
10 ~~(8), the division shall protect from disclosure any trade secret~~  
11 ~~designated as such by the supplier, if that trade secret is not a public~~  
12 ~~record.~~

13 ~~(B) Except as provided in subparagraph (B) of paragraph (8),~~  
14 ~~information claimed as trade secret is not a public record for~~  
15 ~~purposes of Chapter 9.6 (commencing with Section 3250) of~~  
16 ~~Division 4 of Title 1 of the Government Code.~~

17 ~~(7) The supplier shall notify the division in writing within 30~~  
18 ~~days of any changes to information provided to the division to~~  
19 ~~support a trade secret claim.~~

20 ~~(8) Upon receipt of a request for the release of information to~~  
21 ~~the public, which includes information the supplier has notified~~  
22 ~~the division is a trade secret and is not a public record, the~~  
23 ~~following procedure applies:~~

24 ~~(A) The division shall notify the supplier of the request in~~  
25 ~~writing by certified mail, return receipt requested.~~

26 ~~(B) The division shall release the information to the public, but~~  
27 ~~not earlier than 60 days after the date of mailing the notice of the~~  
28 ~~request for information, unless, prior to the expiration of the 60-day~~  
29 ~~period, the supplier obtains an action in an appropriate court for a~~  
30 ~~declaratory judgment that the information is subject to protection~~  
31 ~~or for a preliminary injunction prohibiting disclosure of the~~  
32 ~~information to the public and provides notice to the division of~~  
33 ~~that action.~~

34 ~~(9) Except as provided in subparagraph (B) of paragraph (8),~~  
35 ~~trade secret information is not a public record and shall not be~~  
36 ~~disclosed to anyone except to an officer or employee of the~~  
37 ~~division, the state, or the United States, in connection with the~~  
38 ~~official duties of that officer or employee, to a health professional,~~  
39 ~~under any law for the protection of health, or to contractors with~~  
40 ~~the division or the state and its employees if, in the opinion of the~~

1 division, disclosure is necessary and required for the satisfactory  
2 performance of a contract, for performance of work, or to protect  
3 health and safety.

4 (10) Except as provided in subparagraph (B) of paragraph (8),  
5 an officer or employee of the division or former officer or employee  
6 who, by virtue of that employment or official position, has  
7 possession of, or has access to, any trade secret subject to this  
8 section, and who, knowing that disclosure of the information to  
9 the general public is prohibited by this section, knowingly and  
10 willfully discloses the information in any manner to any person  
11 not entitled to receive it, is guilty of a misdemeanor. A contractor  
12 of the division and any employee of the contractor who has been  
13 furnished information as authorized by this section shall be  
14 considered an employee of the division for purposes of this section.

15 (11) In the event of exposure to hydraulic fracturing fluids  
16 necessitating medical care, the person receiving the care shall have  
17 the right to petition the division to disclose relevant trade secret  
18 information in order to receive appropriate medical care.

19 (i) This section does not apply to routine tests to monitor the  
20 integrity of wells and well casings.

21 (j) A well granted confidential status pursuant to Section 3234  
22 shall not be required to comply with the public disclosure of  
23 hydraulic fracturing fluids pursuant to subdivision (e) until the  
24 confidential status of the well ceases.

25 (k) (1) Whenever it appears that any person is violating or  
26 threatening to violate any provision of this section, the supervisor  
27 may bring suit against the person in the superior court of any  
28 county where the violation occurs or is threatened, to restrain the  
29 person from continuing the violation or from carrying out the threat  
30 of violation. Upon the filing of the suit, summons issued to the  
31 person may be directed to the sheriff or his or her deputies. In the  
32 suit, the court has jurisdiction to grant to the supervisor any final  
33 prohibitory and mandatory injunctions that the facts warrant.

34 (2) If the supervisor fails to bring suit to enjoin a violation or  
35 threatened violation of any provision of this section, or any rule,  
36 regulation, or order of the supervisor within 30 days after receipt  
37 of written request to do so by any person who is or will be  
38 adversely affected by the violation, the person making the request  
39 may bring suit in the person's own behalf to restrain the violation  
40 or threatened violation in any court in which the supervisor might

1 have brought suit. If in the suit, the court holds that injunctive  
2 relief should be granted, the supervisor shall be made a party and  
3 shall be substituted for the person who brought the suit, and the  
4 injunction shall be issued as if the supervisor had at all times been  
5 the plaintiff.

6 ~~(3) A civil action for damages shall not lie against any person~~  
7 ~~for the violation of this section or any rule, regulation, or order of~~  
8 ~~the supervisor issued to implement or enforce this section. If the~~  
9 ~~supervisor brings a suit or action pursuant to paragraph (1), a~~  
10 ~~defendant or intervenor shall not cross-complain or otherwise bring~~  
11 ~~an action in the same proceeding against any other person for~~  
12 ~~damages or for any other purpose.~~

13 ~~3158. (a) Within 60 days after the date of cessation of~~  
14 ~~hydraulic fracturing, the owner or operator shall file with the~~  
15 ~~district deputy, in a form approved by the supervisor, true copies~~  
16 ~~of the log, core record, and history of work performed, and, if~~  
17 ~~made, true and reproducible copies of all electrical, physical, or~~  
18 ~~chemical logs, tests, or surveys. Upon a showing of hardship, the~~  
19 ~~supervisor may extend the time within which to comply with this~~  
20 ~~section for a period not to exceed 60 additional days.~~

21 ~~(b) The supervisor shall include information provided pursuant~~  
22 ~~to subdivision (e) of Section 3157 on existing publicly accessible~~  
23 ~~maps on the division's Internet Web site, and make the information~~  
24 ~~available such that hydraulic fracturing and related information~~  
25 ~~are associated with each specific well. If data are reported on an~~  
26 ~~Internet Web site not maintained by the division pursuant to~~  
27 ~~paragraph (2) of subdivision (e) of Section 3157, the division shall~~  
28 ~~provide electronic links to that Internet Web site. The public shall~~  
29 ~~be able to search and sort the hydraulic fracturing and related~~  
30 ~~information by at least the following criteria:~~

31 ~~(1) Geographic area.~~

32 ~~(2) Additive.~~

33 ~~(3) Chemical constituent.~~

34 ~~(4) Chemical Abstract Service number.~~

35 ~~(5) Time period.~~

36 ~~(6) Operator.~~

37 ~~(c) On or before January 1, 2016, and annually thereafter, the~~  
38 ~~supervisor shall prepare and transmit to the Legislature a~~  
39 ~~comprehensive report on hydraulic fracturing in the exploration~~  
40 ~~and production of oil and gas resources in California. The report~~

1 shall include aggregated data of all of the information required to  
2 be reported pursuant to Section 3157 reported by district, county,  
3 and operator. The report also shall include relevant additional  
4 information, as necessary, including, but not limited to, all the  
5 following:

6 (1) Aggregated data detailing the disposition of any produced  
7 water from wells that have undergone hydraulic fracturing.

8 (2) Aggregated data detailing the names and locations of seismic  
9 faults within a distance from the well bore in any direction equal  
10 to five times the fracture zone length and the names and locations  
11 of seismic faults whose movement is reasonably anticipated to  
12 impact the integrity of the well, well casing, and oil and gas  
13 formation.

14 (3) The number of emergency responses to a spill or release.

15 (4) Aggregated data detailing the number of times trade secret  
16 information was not provided to the public, by county and by each  
17 company, in the preceding year.

18 (5) Data detailing the loss of well and well casing integrity in  
19 the preceding year for wells that have undergone hydraulic  
20 fracturing treatment. For comparative purposes, data detailing the  
21 loss of well and well casing integrity in the preceding year for all  
22 wells shall also be provided. The cause of each well and well casing  
23 failure, if known, shall also be provided.

24 (d) The report shall be made publicly available and an electronic  
25 version shall be available on the division's Internet Web site.

26 (e) (1) The requirement for submitting a report imposed under  
27 subdivision (e) is inoperative on January 1, 2020, pursuant to  
28 Section 10231.5 of the Government Code.

29 (2) A report to be submitted pursuant to subdivision (e) shall  
30 be submitted in compliance with Section 9795 of the Government  
31 Code.

32 SEC. 2. Section 3213 of the Public Resources Code is amended  
33 to read:

34 3213. The history shall show the location and amount of  
35 sidetracked casings, tools, or other material, the depth and quantity  
36 of cement in cement plugs, the shots of dynamite or other  
37 explosives, and the results of production and other tests during  
38 drilling operations. All data on hydraulic fracturing treatments  
39 pursuant to Section 3157 shall be recorded in the history.  
40 *operations, and the information required pursuant to Section 3156.*

1 SEC. 3. Article 3 (commencing with Section 3150) is added to  
2 Chapter 1 of Division 3 of the Public Resources Code, to read:

3  
4 Article 3. Hydraulic Fracturing

5  
6 3150. "Chemical Abstracts Service" means the division of the  
7 American Chemical Society that is the globally recognized  
8 authority for information on chemical substances.

9 3151. "Chemical Abstracts Service (CAS) number" means the  
10 unique identification number assigned to a chemical by the  
11 Chemical Abstracts Service.

12 3152. "Hydraulic fracturing" is a well stimulation treatment  
13 that may include the application of hydraulic fracturing fluids into  
14 an underground geologic formation in order to create fractures  
15 in the formation, thereby causing or improving the production of  
16 oil or gas from a well.

17 3153. "Hydraulic fracturing fluid" includes water or other  
18 carrier fluids that may be mixed with physical and chemical  
19 additives for the purpose of hydraulic fracturing. The additives  
20 may, but are not required to, serve additional purposes beyond  
21 the transmission of hydraulic pressure to the geologic formation.  
22 Additives may be of any phase and may include proppants.

23 3154. "Proppants" are materials inserted or injected into  
24 the formation that are intended to prevent newly created or  
25 enhanced fractures from closing.

26 3155. "Supplier" means an entity performing hydraulic  
27 fracturing or a person supplying an additive or proppant directly  
28 to the operator for use in hydraulic fracturing a well.

29 3156. If hydraulic fracturing is performed on a well, the owner  
30 or operator of the well shall provide to the supervisor, or shall  
31 arrange with the supplier to provide to the supervisor, and shall  
32 include in the well history maintained pursuant to Section 3213,  
33 all of the following information, except for information claimed  
34 as a trade secret pursuant to Section 3158:

35 (a) A complete list of the chemical constituents formulated for  
36 use in the hydraulic fracturing fluid that is injected into the well  
37 and each chemical's associated CAS numbers. Where the CAS  
38 number does not exist, the operator or supplier may provide  
39 another unique identifier where available.

1 (b) The purpose of each additive contained in the hydraulic  
2 fracturing fluid.

3 (c) The estimated total amount of the additives in the hydraulic  
4 fracturing fluid.

5 (d) The estimated maximum concentration of each chemical  
6 constituent in the additive as disclosed on a material safety data  
7 sheet in the hydraulic fracturing fluid expressed as a percentage  
8 by mass.

9 (e) The estimated maximum concentration of each chemical  
10 constituent disclosed on a material safety data sheet in the  
11 hydraulic fracturing fluid, expressed as a percentage by mass.

12 (f) The amount and source of any water suitable for irrigation  
13 or domestic purposes used to conduct the hydraulic fracturing  
14 treatment of the well.

15 (g) The amount and disposition of water and hydraulic  
16 fracturing fluid recovered from each well where hydraulic  
17 fracturing occurred prior to the reporting of the water produced  
18 pursuant to Section 3227.

19 (h) Any radiological components or tracers injected into the  
20 well as part of the hydraulic fracturing process and a description  
21 of the recovery method, if any, for those components or tracers,  
22 the recovery rate, and the disposal method for recovered  
23 components or tracers.

24 3157. (a) The owner or operator of a well may request in  
25 writing that the information required by Section 3156 be  
26 considered confidential information pursuant to Section 3234.

27 (b) For nonexploratory wells where hydraulic fracturing is used  
28 to complete or rework a well, the owner or operator may request  
29 in writing that the information required by Section 3156 be  
30 considered confidential information pursuant to Section 3234.

31 (c) This section shall become inoperative on January 1, 2017,  
32 and, as of that date, is repealed, unless a later enacted statute,  
33 that becomes operative on or before January 1, 2017, deletes or  
34 extends the date on which it becomes inoperative and is repealed.

35 3157.5. (a) The owner or operator, of a well may request in  
36 writing that the information required by Section 3156 be  
37 considered confidential information pursuant to Section 3234.

38 (b) This section shall become operative on January 1, 2017.

39 3158. (a) The owner, operator, or supplier who provides  
40 information to the supervisor in accordance with Section 3156

1 *may, at the time of submission, submit to the supervisor a claim*  
2 *in writing that some or all of the information is protected trade*  
3 *secret information as defined in the Uniform Trade Secrets Act*  
4 *(Title 5 (commencing with Section 3426) of Part 1 of Division 4*  
5 *of the Civil Code).*

6 *(b) The written claim submitted to the supervisor under*  
7 *paragraph (a) shall state the reasons for the trade secret*  
8 *information and provide specific supporting documentation.*

9 3159. *(a) The owner, operator, or supplier who provides*  
10 *information to the supervisor and who claims trade secret*  
11 *protection shall submit two versions of the information required*  
12 *under Section 3156 as follows:*

13 *(1) The first version shall be labeled “Confidential Information*  
14 *- Do Not Disclose” and shall include all the information required*  
15 *under Section 3156.*

16 *(2) (A) The second version shall be labeled “Public Information*  
17 *- This Information shall be Disclosed to the Public,” provide an*  
18 *explanation of the basis for the claim of trade secrecy, and include*  
19 *all of the information required under Section 3156, except that the*  
20 *specific name of any constituent that is claimed as trade secret*  
21 *information shall be replaced with the chemical family associated*  
22 *with the trade secret constituent, the corresponding CAS number*  
23 *shall be replaced with the phrase “Trade Secret Information,”*  
24 *and all other trade secret information shall be redacted.*

25 *(B) The information contained in the version pursuant to*  
26 *paragraph (2) shall be made available to the public in accordance*  
27 *with Section 3215 or upon request by a member of the public*  
28 *pursuant to Chapter 3.5 (commencing with Section 6250) of*  
29 *Division 7 of Title 1 of the Government Code.*

30 *(b) The supervisor shall keep the version under paragraph (1)*  
31 *of subdivision (a) confidential until the person claiming trade*  
32 *secret protection waives its claim pursuant to subdivision (d) of*  
33 *Section 3161 or the claim of trade secret protection is determined*  
34 *to be invalid by a court of competent jurisdiction.*

35 3160. *If the person claiming trade secret protection pursuant*  
36 *to Section 3158 is a supplier, the supplier shall only provide the*  
37 *well owner or operator with the version pursuant to paragraph*  
38 *(2) of subdivision (a) of Section 3159 so the owner or operator*  
39 *may include the information required in the history of the drilling*  
40 *of the well pursuant to Section 3213.*

1     3161. (a) (1) *The supervisor, upon his or her own initiative,*  
2 *may determine whether any or all of the information claimed as*  
3 *a trade secret pursuant to Section 3158 has been properly claimed*  
4 *as trade secret information. If the supervisor determines that the*  
5 *information is not trade secret, the supervisor shall provide written*  
6 *notification of the determination to the person who furnished the*  
7 *information within 45 days. The written notification shall be sent*  
8 *by certified mail.*

9     (2) *Upon receipt of a request for public information pursuant*  
10 *to Chapter 3.5 (commencing with Section 6250) of Division 7 of*  
11 *Title 1 of the Government Code, the supervisor shall determine*  
12 *whether any or all of the information claimed as a trade secret*  
13 *pursuant Section 3158 has been properly claimed as trade secret*  
14 *information. If the supervisor determines that the information is*  
15 *not trade secret, the supervisor shall provide written notification*  
16 *of the determination to the person who furnished the information*  
17 *within 45 days. The written notification shall be sent by certified*  
18 *mail.*

19     (b) (1) *The person who provided the trade secret information*  
20 *under Section 3159 shall have 30 days from the date of receipt of*  
21 *a written notification of the determination under subdivision (a)*  
22 *to provide the supervisor with additional written justification of*  
23 *the grounds on which trade secret protection is claimed. The*  
24 *additional written justification shall be submitted by certified mail.*

25     (2) *The additional written justification is not a public record*  
26 *under subdivision (e) of Section 6252 of the Government Code,*  
27 *and shall be disclosed by the supervisor only to state employees*  
28 *with a clear need to know the information to reassess the trade*  
29 *secrecy determination.*

30     (c) (1) *The supervisor shall make a final determination on*  
31 *whether the additional written justification under subdivision (b)*  
32 *satisfies a claim for trade secret protection, within 45 days of the*  
33 *date of receipt of the additional written justification.*

34     (A) *If the supervisor makes a final determination that the*  
35 *information is not protected as a trade secret, the supervisor,*  
36 *within 45 days, shall send a copy of the final determination to the*  
37 *person who provided the additional written justification, specifying*  
38 *a date, not sooner than 30 days from the date of the mailing of the*  
39 *final determination, when the information claimed to be trade*

1 *secret information shall be made available to the public. The notice*  
2 *of the final determination shall be sent by certified mail.*

3 *(2) If the supervisor makes a final determination that the*  
4 *information is protected as a trade secret, the supervisor, within*  
5 *45 days, shall send a copy of the final determination, including*  
6 *information stating that the determination may be challenged in*  
7 *court, to the person who provided the additional written*  
8 *justification and to any person who requested the information*  
9 *pursuant to Chapter 3.5 (commencing with Section 6250) of*  
10 *Division 7 of Title 1 of the Government Code. The notice of the*  
11 *final determination shall be sent by certified mail.*

12 *(d) (1) A person claiming trade secret protection shall be*  
13 *deemed to have waived his or her claim for trade secret protection*  
14 *if, on the date when the final notice states that the information*  
15 *shall be made available to the public pursuant to subparagraph*  
16 *(A) of paragraph (1) of subdivision (c), he or she has not filed an*  
17 *action in a court of competent jurisdiction for a declaratory*  
18 *judgment or injunction prohibiting disclosure of the information*  
19 *by the supervisor after a final determination under subdivision*  
20 *(c).*

21 *(2) A person claiming trade secret protection may, at any time,*  
22 *waive a claim of trade secret protection by submitting a voluntary*  
23 *waiver of the claim to the supervisor in writing.*

24 *3162. (a) The supervisor may disclose information claimed*  
25 *as trade secret information to an officer or employee of the county,*  
26 *city, state, or federal government who has a clear need for the*  
27 *trade secret information for an enforcement action or emergency*  
28 *response.*

29 *(b) The information provided under subdivision (a) shall be*  
30 *clearly labeled as "Confidential trade secret information."*

31 *(c) An officer or employee who receive information under*  
32 *subdivision (a) shall maintain the confidentiality of the information*  
33 *and shall destroy all copies received once the need for the*  
34 *information has ended.*

35 *3163. Nothing in this article is intended to change or supersede*  
36 *the disclosure of information pursuant to the California*  
37 *Occupational Safety and Health Act of 1973 (Part 1 (commencing*  
38 *with Section 6300), Division 5, Labor Code), the requirements of*  
39 *Article 1 (commencing with Section 25500) of Chapter 6.95*  
40 *concerning hazardous material release response plans and*

1 inventories, the Porter-Cologne Water Quality Control Act  
2 (Division 7 (commencing with Section 13000), Water Code), or  
3 any other state or federal act allowing the disclosure of chemical  
4 information.

5 SEC. 4. Section 3215 of the Public Resources Code is amended  
6 to read:

7 3215. (a) Within 60 days after the date of cessation of drilling,  
8 rework, hydraulic fracturing, or abandonment operations, or the  
9 date of suspension of operations, the owner or operator shall file  
10 with the district deputy, in a form approved by the supervisor, true  
11 copies of the log, core record, and history of work performed, and,  
12 if made, true and reproducible copies of all electrical, physical, or  
13 chemical logs, tests, or surveys in such form as the supervisor may  
14 approve shall be filed with the district deputy. Upon a showing of  
15 hardship, the supervisor may extend the time within which to  
16 comply with the provisions of this section for a period not to exceed  
17 60 additional days.

18 (b) (1) The supervisor shall post the information provided  
19 pursuant to Section 3156 and that is not claimed as a trade secret  
20 pursuant to Section 3158 to existing Internet maps on the division's  
21 Internet Web site, and shall make that information available to  
22 the public in a way that the information is associated with each  
23 specific well where chemicals are injected for purposes of  
24 hydraulic fracturing.

25 (2) For purposes of complying with the posting requirements  
26 of paragraph (1), the supervisor may use an existing public Internet  
27 Web site administered by the Ground Water Protection Council  
28 or the Interstate Oil and Gas Compact Commission if both of the  
29 following are met:

30 (A) The information is transmitted and posted to the public  
31 Internet Web site in a form and manner approved by the supervisor  
32 and includes the information provided to the supervisor pursuant  
33 to Section 3156, except for trade secret information pursuant to  
34 Section 3158.

35 (B) There is an electronic link from the wells represented on  
36 the division's existing internet maps that allows members of the  
37 public to view the information about specific wells based on their  
38 location.

39 SEC. 5. Section 3215.5 is added to the Public Resources Code,  
40 to read:

1 3215.5. (a) On or before January 1, 2014, and annually  
2 thereafter, the supervisor shall prepare and transmit to the  
3 Legislature a comprehensive report regarding hydraulic fracturing  
4 in oil and gas exploration and production in California, using the  
5 information provided pursuant to Section 3156. Where the  
6 information involves trade secret protection, the supervisor shall  
7 only use information provided pursuant paragraph (2) of  
8 subdivision (a) of Section 3159 to complete the report. The report  
9 shall additionally include, but is not limited to, the following  
10 relevant information:

11 (1) The disposition of water used in the treatments.  
12 (2) Aggregated data detailing the volumes of each chemical  
13 used in hydraulic fracturing treatments in the state, in each county,  
14 and by each company, during the preceding year.

15 (b) A report to the Legislature pursuant to subdivision (a) shall  
16 be submitted in compliance with Section 9795 of the Government  
17 Code.

18 (c) The requirement for submitting the report pursuant to  
19 subdivision (a) is inoperative seven years after the date the first  
20 report is due, pursuant to Section 10231.5 of the Government  
21 Code.

22 ~~SEC. 3.~~

23 SEC. 6. No reimbursement is required by this act pursuant to  
24 Section 6 of Article XIII B of the California Constitution because  
25 the only costs that may be incurred by a local agency or school  
26 district will be incurred because this act creates a new crime or  
27 infraction, eliminates a crime or infraction, or changes the penalty  
28 for a crime or infraction, within the meaning of Section 17556 of  
29 the Government Code, or changes the definition of a crime within  
30 the meaning of Section 6 of Article XIII B of the California  
31 Constitution.