

AMENDED IN ASSEMBLY APRIL 8, 2013

CALIFORNIA LEGISLATURE—2013—14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 288**

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**Introduced by Assembly Member Levine**

February 11, 2013

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An act to amend Sections 3106 and 3203 of, and to add Section 3203.5 to, the Public Resources Code, relating to oil and gas.

LEGISLATIVE COUNSEL'S DIGEST

AB 288, as amended, Levine. Oil and gas: ~~hydraulic fracturing; well stimulation.~~

(1) 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 (~~supervisor~~) ~~supervises~~ *is required to supervise* 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 possible damage to life, health, property, and natural resources; damage to underground oil and gas deposits from infiltrating water and other causes; loss of oil, gas, or reservoir energy, and damage to~~ *so as to prevent, as far as possible, damage to, among other things,* underground and surface waters suitable for irrigation or domestic purposes by the infiltration of, or the addition of, detrimental substances. *Under existing law, a person who violates any prohibition specific to the regulation of oil or gas operations is guilty of a misdemeanor.*

*This bill also would require the supervisor to supervise the stimulation, well completion techniques, and rework of wells, and, with*

*regard to the manner in which well activities are to be supervised to prevent damage to underground and surface waters by the infiltration of, or the addition of, detrimental substances, the bill would delete the limitation to waters suitable for irrigation or domestic purposes. This bill would define “~~hydraulic fracturing~~” “well stimulation” to include hydraulic fracturing and acid stimulation, as specified, and would require the operator of a well, at least 30 working days prior to any ~~hydraulic fracturing~~ well stimulation operations, to file with the supervisor or the district deputy a written notice of intention, as specified, to commence ~~hydraulic fracturing~~ well stimulation. The bill would also prohibit any ~~hydraulic fracturing~~ well stimulation operations until written approval is given by the supervisor or district deputy and would require the supervisor or district deputy to notify the operator in writing of the approval or denial of the notice within ~~10~~ 30 working days after the notice is submitted. The bill would require the supervisor, upon approval of the notice, to immediately notify the appropriate regional water quality control board. The bill would provide that if ~~hydraulic fracturing~~ well stimulation has not commenced within one year of receipt of the notice, that the notice shall be deemed canceled. Because a violation of these provisions would create a new crime, this bill would impose a state-mandated local program.*

(2) Under existing law, the supervisor is required to supervise the drilling, operation, maintenance, and abandonment of wells so as to permit the owners or operators of these wells to utilize all methods and practices known to the oil industry for the purpose of increasing the recovery of underground hydrocarbons. Existing law provides that the grant in an oil and gas lease or contract to a lessee or operator of the right or power to explore for and remove all hydrocarbons from any lands in the state, absent a contrary provision, is deemed to allow the lessee or contractor, or the lessee’s or contractor’s successors or assigns, to do what a prudent operator using reasonable diligence would do, having in mind the best interests of the lessor, lessee, and the state in producing and removing hydrocarbons, including, but not limited to, the injection of air, gas, water, or other fluids into the productive strata, the application of pressure heat or other means for the reduction of viscosity of the hydrocarbons, the supplying of additional motive force, or the creating of enlarged or new channels for the underground movement of hydrocarbons into production wells, when these methods or processes employed have been approved by the supervisor. Existing law ~~also~~ provides that there is no legal duty upon the lessee or contractor,

or the lessee's or contractor's successors or assigns, to conduct these operations.

This bill would ~~repeal these provisions~~; *instead require the supervisor to supervise the drilling, stimulation, well completion techniques, rework, operation, maintenance, and abandonment of wells so as to permit the owners or operators of the wells to utilize all safe methods and practices, as specified, and would authorize the supervisor to allow these owners and operators to utilize all methods and practices to increase the ultimate recovery of underground hydrocarbons if the supervisor makes certain determinations.*

(3) Existing law requires the operator, before commencing the work of drilling an oil and gas well, to file a written notice of intention to commence drilling with the ~~State Oil and Gas Supervisor~~ *supervisor* or district deputy. Existing law prohibits any drilling until *either* approval is given by the supervisor or district deputy ~~and provides that~~ *or the notice is deemed approved if the supervisor or the district deputy fails to give a written response to the notice within 10 working days from the date of receipt. Existing law also provides that if operations have not commenced within one year of approval of the notice, the notice is deemed canceled.*

This bill would delete the provision stating that the failure *by the supervisor or district deputy* to provide a written response to the notice within 10 working days is considered an approval of the notice, and *instead would* require the supervisor or district deputy to notify the operator in writing of the approval or denial of the notice within ~~10~~ *30* working days after the notice is received *and deem the notice canceled if operations have not commenced within one year of approval of the notice.*

(4) Existing law imposes various fees on operators of oil and gas wells.

This bill would ~~authorize DOGGR~~ *require the division* to establish a reasonable fee, *as specified*, to be paid by the owner or operator for the costs incurred by the department for the regulation of hydraulic fracturing operations.

*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: ~~no~~-yes.

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

1 SECTION 1. Section 3106 of the Public Resources Code is  
 2 amended to read:  
 3 3106. (a) The supervisor shall so supervise the drilling,  
 4 *stimulation, well completion techniques, rework,* operation,  
 5 maintenance, and abandonment of wells and the operation,  
 6 maintenance, and removal or abandonment of tanks and facilities  
 7 attendant to oil and gas production, including pipelines not subject  
 8 to regulation pursuant to Chapter 5.5 (commencing with Section  
 9 51010) of Part 1 of Division 1 of Title 5 of the Government Code  
 10 that are within an oil and gas ~~field,~~ *field. This shall be done in a*  
 11 *manner* so as to prevent, as far as possible, damage to life, health,  
 12 property, and natural resources; damage to underground oil and  
 13 gas deposits from infiltrating water and other causes; loss of oil,  
 14 gas, or reservoir energy; and damage to underground and surface  
 15 waters ~~suitable for irrigation or domestic purposes~~ by the  
 16 infiltration of, or the addition of, detrimental substances.  
 17 (b) *The supervisor shall also supervise the drilling, stimulation,*  
 18 *well completion techniques, rework, operation, maintenance, and*  
 19 *abandonment of wells so as to permit the owners or operators of*  
 20 *the wells to utilize all safe methods and practices. The supervisor*  
 21 *may allow owners or operators of the wells to utilize all methods*  
 22 *and practices to increase the ultimate recovery of underground*  
 23 *hydrocarbons if the supervisor determines that those methods and*  
 24 *practices are consistent with this division and used in a safe*  
 25 *manner.*  
 26 ~~(b)~~  
 27 (c) The supervisor may require an operator to implement a  
 28 monitoring program, designed to detect releases to the soil and  
 29 water, including both groundwater and surface water, for  
 30 aboveground oil production tanks and facilities.  
 31 ~~(e) To best meet oil and gas needs in this state, the supervisor~~  
 32 ~~shall administer this division so as to encourage the wise~~  
 33 ~~development of oil and gas resources.~~  
 34 SEC. 2. Section 3203 of the Public Resources Code is amended  
 35 to read:

1 3203. (a) The operator of any well, before commencing the  
2 work of drilling the well, shall file with the supervisor or the district  
3 deputy a written notice of intention to commence drilling. Drilling  
4 shall not commence until written approval is given by the  
5 supervisor or the district deputy. The supervisor or district deputy  
6 shall notify the operator of the approval or denial of the notice  
7 within ~~10~~ 30 working days after the notice is received. If operations  
8 have not commenced within one year of ~~receipt~~ approval of the  
9 notice, the notice shall be deemed canceled. The notice shall  
10 contain the pertinent data the supervisor requires on printed forms  
11 supplied by the division or on other forms acceptable to the  
12 supervisor. The supervisor may require other pertinent information  
13 to supplement the notice.

14 (b) After the completion of any well, this section also applies,  
15 as far as may be, to the deepening or redrilling of the well, any  
16 operation involving the plugging of the well, or any operations  
17 permanently altering in any manner the casing of the well. The  
18 number or designation of any well, and the number or designation  
19 specified for any well in a notice filed as required by this section,  
20 shall not be changed without first obtaining a written consent of  
21 the supervisor.

22 (c) If an operator has failed to comply with an order of the  
23 supervisor, the supervisor may deny approval of proposed well  
24 operations until the operator brings its existing well operations  
25 into compliance with the order. If an operator has failed to pay a  
26 civil penalty, remedy a violation that it is required to remedy to  
27 the satisfaction of the supervisor pursuant to an order issued under  
28 Section 3236.5, or to pay any charges assessed under Article 7  
29 (commencing with Section 3400), the supervisor may deny  
30 approval to the operator's proposed well operations until the  
31 operator pays the civil penalty, remedies the violation to the  
32 satisfaction of the supervisor, or pays the charges assessed under  
33 Article 7 (commencing with Section 3400).

34 SEC. 3. Section 3203.5 is added to the Public Resources Code,  
35 to read:

36 3203.5. (a) For purposes of this division, ~~“hydraulic the~~  
37 *following definitions apply:*

38 (1) *“Acid stimulation” means a treatment that uses various*  
39 *formulations of acids to stimulate the extraction of hydrocarbons*

1 *from carbonate or sandstone formations. This includes, but is not*  
2 *limited to, fracture acid stimulation and matrix acid stimulation.*

3 (2) “Hydraulic fracturing” means a treatment used in stimulating  
4 a well that involves the pressurized injection of hydraulic fracturing  
5 fluid and proppants into an underground geologic formation in  
6 order to fracture the formation, thereby causing or enhancing, for  
7 the purposes of this division, the production of oil or gas from a  
8 well.

9 (3) “Well stimulation” means any well intervention technique,  
10 including, but not limited to, hydraulic fracturing and acid  
11 stimulation, to improve the permeability of the near-wellbore  
12 formation, thereby enhancing the productivity of a well.

13 (b) The operator of a well approved under Section 3203<sup>7</sup> shall  
14 file with the supervisor or the district deputy a written notice of  
15 intention to commence ~~hydraulic fracturing~~ *well stimulation*  
16 *operations* at least 30 working days prior to any ~~hydraulic~~  
17 ~~fracturing~~ *well stimulation* operations. The notice shall contain the  
18 pertinent data the supervisor requires on printed forms supplied  
19 by the division or on other forms acceptable to the supervisor, and  
20 shall *detail all well stimulation techniques, methods, and practices*  
21 *expected to be performed on the well, and* include sufficient  
22 information as to demonstrate that *the* use of ~~hydraulic fracturing~~  
23 *well stimulation* will not present a threat to public health and safety.  
24 The supervisor may require other pertinent information to  
25 supplement the notice. ~~Hydraulic fracturing~~ *Well stimulation*  
26 *operations* shall not commence until written approval is given by  
27 the supervisor or district deputy.

28 (c) If ~~hydraulic fracturing~~ *well stimulation* has not commenced  
29 within one year of receipt of the notice, the notice shall be deemed  
30 canceled.

31 (d) The supervisor shall have ~~10~~ 30 working days to notify the  
32 operator *in writing* of approval or denial of the notice. In providing  
33 the duties *to the public* as required under subdivision (a) of Section  
34 3106, the supervisor shall approve a notice under this section only  
35 if the supervisor finds that the operator has provided sufficient  
36 information as to demonstrate that *the* use of ~~hydraulic fracturing~~  
37 *well stimulation* will not present a threat to public health and safety.

38 (e) Upon approval of a notice under this section, the supervisor  
39 shall immediately notify the appropriate regional water quality  
40 control board.

1 (f) ~~The department may establish, by regulation,~~ *In addition to*  
2 *any charges pursuant to Article 7 (commencing with Section 3400),*  
3 *the department shall impose a reasonable and appropriate fee for*  
4 *each notice received pursuant to subdivision (b) to be paid by the*  
5 *owner or operator for the costs incurred by the department in*  
6 *implementing this section.*

7 *SEC. 4. No reimbursement is required by this act pursuant to*  
8 *Section 6 of Article XIII B of the California Constitution because*  
9 *the only costs that may be incurred by a local agency or school*  
10 *district will be incurred because this act creates a new crime or*  
11 *infraction, eliminates a crime or infraction, or changes the penalty*  
12 *for a crime or infraction, within the meaning of Section 17556 of*  
13 *the Government Code, or changes the definition of a crime within*  
14 *the meaning of Section 6 of Article XIII B of the California*  
15 *Constitution.*