

AMENDED IN SENATE MARCH 11, 2013

SENATE BILL

No. 4

Introduced by Senator Pavley
(Coauthor: Senator Monning)

December 3, 2012

An act to amend ~~Section~~ Sections 3213, 3215, 3236.5, and 3401 of, and to add Article 3 (commencing with Section 3150) to Chapter 1 of Division 3 of, the Public Resources Code, relating to oil and gas.

LEGISLATIVE COUNSEL'S DIGEST

SB 4, as amended, Pavley. Oil and gas: hydraulic fracturing.

~~Under~~

(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 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. *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 would define, among other things, the terms hydraulic fracturing and hydraulic fracturing fluid. The bill would require the Secretary of the Natural Resources Agency, on or before January 1, 2015, to cause to be conducted an independent scientific study on hydraulic fracturing treatments. The bill ~~requires~~ would require an operator of a well to record and include all data on hydraulic fracturing treatment, including names and locations of all known seismic faults, as a part of the history of the drilling of the well treatments, as specified. The bill would require ~~DOGGR the division, 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, 2015, 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~~ apply for a permit, as specified, 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 prior to performing a hydraulic fracturing treatment of a well and would prohibit the operator from either conducting a new hydraulic fracturing treatment or repeating a hydraulic fracturing treatment without a valid, approved permit. The bill would prohibit the approval of a permit that presents an unreasonable risk or is incomplete. The bill would require the division, within 5 business days of issuing a permit to commence hydraulic fracturing, to provide a copy to specific boards and entities and to post the permit on a publicly accessible portion of its Internet Web site. The bill would require the hydraulic fracturing treatment to be completed within one year of the filing of the notice of intention from the date that a permit is issued. 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 division to perform random periodic spot check investigations during hydraulic fracturing treatments, as specified.~~ The bill would prohibit the supervisor or district deputy, as of January 1, 2015, from issuing a permit to commence a hydraulic fracturing treatment, as specified, until the study is completed and peer reviewed by independent scientific experts. The bill would require the operator

to provide a copy of the approved hydraulic fracturing treatment permit to specified property owners at least 30 days prior to commencing a hydraulic fracturing treatment. The bill would require the operator to provide notice to the division at least 72 hours prior to the actual start of the hydraulic fracturing treatment in order for the division to witness the hydraulic fracturing treatment. 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. 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, as specified. *The bill would provide that where the division shares jurisdiction over a well with a federal entity, the division's rules and regulations govern the hydraulic fracturing treatment of a well.* 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~~ *the division, in conjunction with a hydraulic fracturing treatment permit application,* but would, except as specified, prohibit those with access to the trade secret to disclose it, and a person who violates this prohibition would be guilty of a misdemeanor from disclosing it. Because a violation of this bill would create a new crime, it would impose a state-mandated local program.

(2) *Under existing law, a person who violates certain statutes or regulations relating to oil and gas well operations is subject to a civil penalty not to exceed \$25,000 for each violation.*

This bill would make persons who violate specified provisions relating to hydraulic fracturing subject to a civil penalty of not less than \$10,000 and not to exceed \$25,000 per day per violation.

(3) *Existing law imposes an annual charge upon each person operating or owning an interest in an oil or gas well in respect to the production of the well which charge is payable to the Treasurer for deposit into the Oil, Gas, and Geothermal Administrative Fund. Existing law further requires that specific moneys from charges levied, assessed, and collected upon the properties of every person operating or owning an interest in the production of a well to be used exclusively, upon appropriation, for the support and maintenance of the department charged with the supervision of oil and gas operations.*

This bill would allow the moneys described above to be used for all costs associated with hydraulic fracturing including scientific studies required to evaluate the treatment, inspections, and any air and water monitoring and testing performed by public entities.

This bill would require the supervisor, on or before January 1, 2016, 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.

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 of oil and gas wells in combination*
4 *with technological advances in oil and gas well drilling are*
5 *spurring oil and gas extraction and exploration in California.*

6 *(b) Insufficient information is available to fully assess the*
7 *science of the practice of hydraulic fracturing in California*
8 *including environmental, occupational, and public health hazards*
9 *and risks.*

10 *(c) Providing transparency and accountability to the public*
11 *regarding hydraulic fracturing, associated emissions to the*
12 *environment, and the handling, processing, and disposal of*
13 *hydraulic fracturing and related wastes is of paramount concern.*

14 ~~SECTION 1.~~

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

17

18 Article 3. Hydraulic Fracturing

19

20 3150. “Additive” means a substance or combination of
21 substances added to a base fluid for purposes of preparing a
22 hydraulic fracturing fluid. An additive may, but is not required to,

1 serve additional purposes beyond the transmission of hydraulic
2 pressure to the geologic formation. An additive may be of any
3 phase and includes proppants.

4 3151. “Base fluid” means the continuous phase fluid used in
5 the makeup of a hydraulic fracturing fluid. The continuous phase
6 fluid may include, but is not limited to, water, and may be a liquid
7 or a *hydrocarbon or nonhydrocarbon* gas. *A hydraulic fracturing*
8 *treatment may use more than one base fluid.*

9 ~~3152. “Carrier fluid” means a base fluid into which additives~~
10 ~~are mixed to form a hydraulic fracturing fluid.~~

11 ~~3153.~~

12 3152. “Hydraulic fracturing” means ~~a treatment used in~~
13 ~~stimulating a well~~ *well stimulation or well completion treatment*
14 that involves the pressurized injection of hydraulic fracturing fluid
15 and proppant into an underground geologic formation in order to
16 fracture the formation, thereby causing or enhancing, for the
17 purposes of this division, the production of oil or gas from a well.

18 ~~3154.~~

19 3153. “Hydraulic fracturing fluid” means ~~a carrier~~ *base* fluid
20 mixed with physical and chemical additives for the purpose of
21 hydraulic fracturing. A hydraulic fracturing treatment may include
22 more than one hydraulic fracturing fluid.

23 ~~3155.~~

24 3154. “Proppants” means materials inserted or injected into
25 the underground geologic formation that are intended to prevent
26 fractures from closing.

27 ~~3156.~~

28 3155. “Supplier” means an entity performing *a* hydraulic
29 fracturing *treatment* or an entity supplying an additive or proppant
30 directly to the operator for use in *a* hydraulic fracturing *treatment*.

31 ~~3157. (a) The Legislature finds and declares that hydraulic~~
32 ~~fracturing of oil and gas wells in combination with technological~~
33 ~~advances in oil and gas well drilling are spurring oil and gas~~
34 ~~extraction, as well as oil and gas exploration, in California.~~

35 3156. “Surface property owner” means *the owner of real*
36 *property as shown on the latest equalized assessment roll or, if*
37 *more recent information than the information contained on the*
38 *assessment roll is available, the owner of record according to the*
39 *county assessor or tax collector.*

1 3160. (a) *On or before January 1, 2015, the Secretary of the*
2 *Natural Resources Agency shall cause to be conducted an*
3 *independent scientific study on hydraulic fracturing treatments.*
4 *The scientific study shall evaluate the hazards and risks and*
5 *potential hazards and risks that hydraulic fracturing treatments*
6 *pose to natural resources and public, occupational, and*
7 *environmental health and safety. The scientific study shall do all*
8 *of the following:*

9 (1) *Follow the well-established standard protocols of the*
10 *scientific profession, including, but not limited to, the use of*
11 *recognized experts, peer review, and publication.*

12 (2) *Identify areas with existing and potential conventional and*
13 *unconventional oil and gas reserves where hydraulic fracturing*
14 *treatments are likely to spur or enable oil and gas exploration and*
15 *production.*

16 (3) *Evaluate all aspects of hydraulic fracturing, including, but*
17 *not limited to, the hydraulic fracturing treatment, additive and*
18 *water transportation to and from the well site, mixing and handling*
19 *of the hydraulic fracturing fluids and additives on site, waste water*
20 *and waste hydraulic fracturing fluid handling, treatment, and*
21 *disposal.*

22 (4) *Consider, at a minimum, atmospheric emissions, the*
23 *potential degradation of air quality, potential water and surface*
24 *contamination, induced seismicity, and the ultimate disposition,*
25 *transport, transformation, and toxicology of hydraulic fracturing*
26 *fluids, and waste hydraulic fracturing fluids in the environment.*

27 (5) *Include a hazard assessment and risk analysis addressing*
28 *occupational and environmental exposures to hydraulic fracturing*
29 *treatments and hydraulic fracturing treatment-related processes*
30 *and the corresponding impacts on public health and safety with*
31 *the participation of the Office of Environmental Health Hazard*
32 *Assessment.*

33 (6) *Clearly identify where additional information is necessary*
34 *to inform and improve the analyses.*

35 (b) (1) *On or before January 1, 2015, the division, ~~in~~*
36 *~~consultation with the Department of Toxic Substances Control,~~*
37 *~~the State Air Resources Board, and the State Water Resources~~*
38 *~~Control Board,~~ shall adopt rules and regulations specific to*
39 *hydraulic fracturing. The rules and regulations shall include, but*
40 *are not limited to, revisions, as needed, to the rules and regulations*

1 governing construction of wells and well casings to ensure integrity
2 of wells, well casings, and the geologic and hydrologic isolation
3 of the oil and gas formation during and following hydraulic
4 fracturing, and full disclosure of the composition and disposition
5 of hydraulic fracturing fluids *and waste hydraulic fracturing fluids*.

6 (2) Full disclosure of the composition and disposition of
7 hydraulic fracturing fluids shall, at a minimum, include:

8 (A) The date of the hydraulic fracturing *treatment*.

9 (B) A complete list of the names, Chemical Abstract Service
10 (CAS) numbers, and maximum concentration, in percent by mass,
11 of each and every chemical constituent of the hydraulic fracturing
12 fluids used. If a CAS number does not exist for a chemical
13 constituent, the well owner or operator may provide another unique
14 identifier, if available. Chemical information claimed as a trade
15 secret, pursuant to subdivision-~~(h)~~ (j), shall be identified as such
16 and reported as described in subdivision-~~(h)~~ (j).

17 (C) The trade name, the supplier, and a brief description of the
18 intended purpose of each additive contained in the hydraulic
19 fracturing fluid.

20 ~~(D) The total volume of carrier fluid used during hydraulic~~
21 ~~fracturing, and the identification of whether the carrier fluid is~~
22 ~~water suitable for irrigation or domestic purposes, water not~~
23 ~~suitable for irrigation or domestic purposes, or a fluid other than~~
24 ~~water.~~

25 ~~(E)~~

26 (D) The total volume of base fluid, if not reported as a carrier
27 fluid, used during *the* hydraulic fracturing *treatment*, and the
28 identification of whether the base fluid is water suitable for
29 irrigation or domestic purposes, water not suitable for irrigation
30 or domestic purposes, or a fluid other than water.

31 ~~(F)~~

32 (E) The source, volume, and *specific composition and*
33 *disposition* of all water, including, but not limited to, all water
34 used as base ~~and carrier fluids, used fluid~~ during *the* hydraulic
35 fracturing *treatment* and recovered from the well following *the*
36 hydraulic fracturing *treatment* that is not otherwise reported as
37 produced water pursuant to Section 3227.

38 ~~(G)~~

39 (F) The *specific composition and* disposition of all hydraulic
40 fracturing fluids, *including waste fluids*, other than water.

1 ~~(H)~~
 2 (G) Any radiological components or tracers injected into the
 3 well as part of, *or in order to evaluate*, the hydraulic fracturing
 4 ~~process~~ *treatment*, a description of the recovery method, if any,
 5 for those components or tracers, the recovery rate, and ~~the specific~~
 6 ~~disposal method~~ *information* for recovered components or tracers.

7 ~~(I)~~
 8 (H) The radioactivity of the recovered hydraulic fracturing
 9 fluids.

10 ~~(J)~~
 11 (I) The location of the portion of the well subject to the hydraulic
 12 fracturing treatment and the extent of the fracturing surrounding
 13 the well induced by the treatment.

14 (3) *The rules and regulations shall be revised to incorporate*
 15 *the results of the independent scientific study conducted pursuant*
 16 *to subdivision (a).*

17 (c) (1) *On or before January 1, 2015, the division shall enter*
 18 *into formal agreements with the Department of Toxic Substances*
 19 *Control, the State Air Resources Board, any local air districts*
 20 *where hydraulic fracturing treatments may occur, the State Water*
 21 *Resources Control Board, and any regional water quality control*
 22 *board where hydraulic fracturing treatments may occur, clearly*
 23 *delineating respective authority, responsibility, and notification*
 24 *and reporting requirements associated with hydraulic fracturing*
 25 *treatments and hydraulic fracturing treatment-related activities*
 26 *in order to promote regulatory transparency and accountability.*

27 (2) *The agreements under paragraph (1) shall include provisions*
 28 *for air and water quality monitoring, trade secret handling*
 29 *protocols, if necessary, and provide for ready public access to*
 30 *information related to hydraulic fracturing treatments and related*
 31 *activities. The agreements shall be posted on the publicly accessible*
 32 *Internet Web site of each entity.*

33 ~~(e)~~
 34 (d) (1) Notwithstanding any other law or regulation, ~~at least 30~~
 35 ~~days prior to commencing~~ *performing* a hydraulic fracturing
 36 treatment on a well, the operator shall ~~file a written notice of~~
 37 ~~intention to commence~~ *the apply for a permit to perform a*
 38 hydraulic fracturing treatment with the supervisor or district deputy.
 39 ~~The notice permit application~~ shall contain the pertinent data the
 40 supervisor requires on printed forms supplied by the division or

1 on other forms acceptable to the supervisor. ~~The hydraulic~~
2 ~~fracturing treatment shall be completed within one year of filing~~
3 ~~the notice of intention.~~ The information provided in the notice
4 *permit application* shall include, but is not limited to, the following:

5 (A) The well identification number and location.

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

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

14 (C) *An estimate of the amount of water to be used in the*
15 *treatment and its source.*

16 (D) *A complete list of the names, Chemical Abstract Service*
17 *(CAS) numbers, and estimated concentrations, in percent by mass,*
18 *of each and every chemical constituent of the hydraulic fracturing*
19 *fluids planned to be used in the treatment. If a CAS number does*
20 *not exist for a chemical constituent, the well owner or operator*
21 *may provide another unique identifier, if available. Chemical*
22 *information claimed as a trade secret, pursuant to subdivision (j),*
23 *shall be identified as such and reported as described in subdivision*
24 *(j).*

25 (E) *The planned location of the hydraulic fracturing treatment*
26 *on the wellbore and the estimated length, height, and direction of*
27 *the induced fractures.*

28 (2) (A) *The supervisor or district deputy shall review the*
29 *hydraulic fracturing treatment permit application and may approve*
30 *the permit if the application is complete.*

31 (B) *A hydraulic fracturing treatment or repeat hydraulic*
32 *fracturing treatment shall not be performed on any well without*
33 *a valid permit that the supervisor or district deputy has approved.*

34 (C) *A permit describing a hydraulic fracturing treatment that*
35 *presents unreasonable risk or is incomplete shall not be approved.*

36 (3) *The hydraulic fracturing treatment shall be completed within*
37 *one year of the issuance of the permit.*

38 (4) *Within five business days of issuing a permit to perform a*
39 *hydraulic fracturing treatment, the division shall provide a copy*
40 *of the permit to the appropriate regional water quality control*

1 board or boards and to the local planning entity where the well,
2 including its subsurface portion, is located. The division shall post
3 the permit on the publicly accessible portion of its Internet Web
4 site.

5 (5) At least 30 calendar days prior to commencing a hydraulic
6 fracturing treatment, the operator shall provide a copy of the
7 approved hydraulic fracturing treatment permit to every surface
8 property owner or authorized agent of that owner whose property
9 line location is one of the following:

10 (A) Within a 1,500 foot radius of the wellhead.

11 (B) Within 500 feet from the horizontal projection of all
12 subsurface portions of the designated well to the surface.

13 (6) A property owner notified pursuant to paragraph (5) may
14 request the regional water quality control board to perform water
15 quality sampling and testing on any water well suitable for drinking
16 or irrigation purposes and on any surface water suitable for
17 drinking or irrigation purposes as follows:

18 (A) Baseline measurements prior to the commencement of the
19 hydraulic fracturing treatment.

20 (B) Follow-up measurements after the hydraulic fracturing
21 treatment on the same schedule as the pressure testing of the
22 well-casing of the hydraulically-fractured well.

23 (7) The regional water quality control board shall retain and
24 archive sufficient sample collected pursuant to paragraph (6) to
25 permit a reasonable number of additional analyses.

26 (8) The operator shall provide the division with a list of the
27 entities and property owners notified pursuant to paragraphs (4)
28 and (5).

29 ~~(3)~~

30 (9) The operator shall provide notice to the division at least 72
31 hours prior to the actual start of the hydraulic fracturing treatment
32 in order for the division to witness the treatment.

33 (e) On and after January 1, 2015, the supervisor or district
34 deputy shall not issue a hydraulic fracturing treatment permit for
35 any well until the independent scientific study in subdivision (a)
36 is completed and peer-reviewed by independent scientific experts.

37 ~~(d)~~

38 (f) If a hydraulic fracturing treatment is performed on a well, a
39 supplier that performs any part of hydraulic fracturing or provides
40 additives directly to the operator for a hydraulic fracturing

1 *treatment* shall furnish the operator with information needed for
2 the operator to comply with subdivision ~~(e)~~ (g). If a supplier claims
3 trade secret protection pursuant to subdivision ~~(h)~~ (j), the supplier
4 shall notify the operator and provide to the operator substitute
5 information, as described in subdivision ~~(h)~~ (j), suitable for public
6 disclosure. This information shall be provided as soon as possible
7 but no later than 30 days following the conclusion of the hydraulic
8 fracturing *treatment*.

9 (e)

10 (g) (1) Within 60 days following cessation of a hydraulic
11 fracturing *treatment* on a well, the operator shall post or cause to
12 have posted to an Internet Web site designated or maintained by
13 the division and accessible to the public, all of the hydraulic
14 fracturing fluid composition and disposition information required
15 to be collected pursuant to rules and regulations adopted under
16 subdivision (b), including well identification number and location.

17 ~~(2) The division may designate a publicly accessible Internet~~
18 ~~Web site, developed by the Ground Water Protection Council and~~
19 ~~the Interstate Oil and Gas Compact Commission for the posting~~
20 ~~of the data pursuant to paragraph (1), if all of the following~~
21 ~~requirements are met:~~

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

27 (B) The Internet Web site permits any person to export, copy,
28 or otherwise obtain in electronic format the data submitted pursuant
29 to subdivision (b) from that Internet Web site. Once obtained, there
30 shall be no restrictions on the possession or further distribution,
31 modification, transmission, or reproduction of any information
32 submitted pursuant to this section in any form and by any means
33 and no prior authorization shall be required.

34 (3) If an Internet Web site is not designated by the division
35 pursuant to paragraph (2), the division shall maintain a publicly
36 accessible Internet Web site, in compliance with subparagraphs
37 (A) and (B) of paragraph (2), for the posting of the data required
38 pursuant to paragraph (1).

39 (2) *The division's Internet Web site shall be operational by*
40 *January 1, 2016, and the division may direct reporting to an*

1 *alternative Internet Web site developed by the Ground Water*
2 *Protection Council and the Interstate Oil and Gas Compact*
3 *Commission in the interim. The reported information shall be*
4 *organized on the division’s Internet Web site in a format, such as*
5 *a spreadsheet, that allows the public to easily search and*
6 *aggregate, to the extent practicable, each type of information*
7 *required to be collected pursuant to subdivision (b) using search*
8 *functions on that Internet Web site.*

9 ~~(f)~~

10 (h) The operator is responsible for compliance with this section.

11 ~~(g) The names and locations of all known seismic faults within~~
12 ~~a distance from the well bore in any direction equal to five times~~
13 ~~the fracture zone length and the names and locations of seismic~~
14 ~~faults whose movement is reasonably anticipated to impact the~~
15 ~~integrity of the well, well casing, and oil and gas formation shall~~
16 ~~be added to the well history. The fracture zone length is defined~~
17 ~~as the distance from the well bore to the maximum extent of any~~
18 ~~induced fracture.~~

19 (i) (1) *All geologic features within a distance reflecting an*
20 *appropriate safety factor of the fracture zone and having the*
21 *potential to either limit or facilitate the migration of fluids outside*
22 *of the fracture zone, shall be identified and added to the well*
23 *history. Geologic features include, but are not limited to, seismic*
24 *faults.*

25 (2) *For the purposes of this section, the “fracture zone” is*
26 *defined as the volume surrounding the well bore where fractures*
27 *were created or enhanced by the hydraulic fracturing treatment.*
28 *The safety factor shall be at least five and may vary depending*
29 *upon geologic knowledge.*

30 ~~(h)~~

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

36 (2) If a supplier believes that information regarding a chemical
37 constituent of a hydraulic fracturing fluid is a trade secret, the
38 supplier shall nevertheless disclose the information to the division
39 *in conjunction with a hydraulic fracturing treatment permit*
40 *application, if not previously disclosed, within 30 days following*

1 cessation of hydraulic fracturing on a well, and shall notify the
2 division in writing of that belief.

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

5 (4) This subdivision does not permit a supplier to refuse to
6 disclose the information required pursuant to this section to the
7 division.

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

13 (6) Except as provided in subparagraph (B) of paragraph (8),
14 the division shall protect from disclosure any trade secret
15 designated as such by the supplier, if that trade secret is not a public
16 record.

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) (A) Except as provided in subparagraph (B) of paragraph
35 (8), 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, *local air districts*, or the United States, in
38 connection with the official duties of that officer or employee, to
39 a health professional, under any law for the protection of health,
40 or to contractors with the division or the state and its employees

1 if, in the opinion of the division, disclosure is necessary and
2 required for the satisfactory performance of a contract, for
3 performance of work, or to protect 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 *(B) A health professional may share trade secret information*
20 *with other persons as may be professionally necessary, including,*
21 *but not limited to, the patient and other health professionals.*
22 *Confidentiality of the trade secret information shall be maintained.*
23 *The holder of the trade secret may request a confidentiality*
24 *agreement consistent with the requirements of this subdivision to*
25 *whom this information is disclosed as soon as circumstances*
26 *permit. If necessary, a procedure for timely disclosure by the*
27 *division in the event of an emergency shall be identified.*

28 ~~(i)~~

29 ~~(k) This section does not apply to routine pressure tests to~~
30 ~~monitor the integrity of wells and well casings.~~

31 ~~(j)~~

32 ~~(l) A well granted confidential status pursuant to Section 3234~~
33 ~~shall comply with this section, with the exception of the disclosure~~
34 ~~of hydraulic fracturing fluids pursuant to subdivision (e) (g) which~~
35 ~~shall not be required until the confidential status of the well ceases.~~

36 ~~(m) The division shall perform random periodic spot check~~
37 ~~investigations to ensure that the information provided on hydraulic~~
38 ~~fracturing treatments is accurately reported, including that the~~
39 ~~estimates provided prior to the commencement of the hydraulic~~

1 *fracturing treatment are reasonably consistent with the well*
2 *history.*

3 *(n) Where the division shares jurisdiction over a well or the*
4 *hydraulic fracturing treatment on a well with a federal entity, the*
5 *division's rules and regulations shall govern the hydraulic*
6 *fracturing treatment of the well.*

7 ~~3158. (a) Within 60 days after the date of cessation of~~
8 ~~hydraulic fracturing, the operator shall file with the district deputy,~~
9 ~~in a form approved by the supervisor, true copies of the log, core~~
10 ~~record, and history of work performed, and, if made, true and~~
11 ~~reproducible copies of all electrical, physical, or chemical logs,~~
12 ~~tests, or surveys. Upon a showing of hardship, the supervisor may~~
13 ~~extend the time within which to comply with this section for a~~
14 ~~period not to exceed 60 additional days.~~

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

25 ~~(1) Geographic area.~~

26 ~~(2) Additive.~~

27 ~~(3) Chemical constituent.~~

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

29 ~~(5) Time period.~~

30 ~~(6) Operator.~~

31 ~~(e) Notwithstanding Section 10231.5 of the Government Code,~~
32 ~~on or before January 1, 2016, and annually thereafter, the~~
33 ~~supervisor shall, in compliance with Section 9795 of the~~
34 ~~Government Code, prepare and transmit to the Legislature a~~
35 ~~comprehensive report on hydraulic fracturing in the exploration~~
36 ~~and production of oil and gas resources in California. The report~~
37 ~~shall include aggregated data of all of the information required to~~
38 ~~be reported pursuant to Section 3157 reported by district, county,~~
39 ~~and operator. The report also shall include relevant additional~~

1 information, as necessary, including, but not limited to, all the
2 following:

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

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

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

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

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

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

23 ~~SEC. 2.~~

24 *SEC. 3.* Section 3213 of the Public Resources Code is amended
25 to read:

26 3213. The history shall show the location and amount of
27 sidetracked casings, tools, or other material, the depth and quantity
28 of cement in cement plugs, the shots of dynamite or other
29 explosives, and the results of production and other tests during
30 drilling operations. All data on hydraulic fracturing treatments
31 pursuant to Section ~~3157~~ 3160 shall be recorded in the history.

32 *SEC. 4.* Section 3215 of the Public Resources Code is amended
33 to read:

34 3215. (a) Within 60 days after the date of cessation of drilling,
35 rework, *hydraulic fracturing treatment*, or abandonment operations,
36 or the date of suspension of operations, *the operator shall file with*
37 *the district deputy, in a form approved by the supervisor*, true
38 copies of the log, core record, and history of work performed, and,
39 if made, true and reproducible copies of all electrical, physical, or
40 chemical logs, tests, or surveys ~~in such form as the supervisor may~~

1 ~~approve shall be filed with the district deputy.~~ Upon a showing of
2 hardship, the supervisor may extend the time within which to
3 comply with the provisions of this section for a period not to exceed
4 60 additional days.

5 *(b) The supervisor shall include information provided pursuant*
6 *to subdivision (g) of Section 3160 on existing publicly accessible*
7 *maps on the division's Internet Web site, and make the information*
8 *available such that hydraulic fracturing treatment and related*
9 *information are associated with each specific well. If data is*
10 *reported on an Internet Web site not maintained by the division*
11 *pursuant to paragraph (2) of subdivision (g) of Section 3160, the*
12 *division shall provide electronic links to that Internet Web site.*
13 *The public shall be able to search and sort the hydraulic fracturing*
14 *treatment and related information by at least the following criteria:*

- 15 *(1) Geographic area.*
- 16 *(2) Additive.*
- 17 *(3) Chemical constituent.*
- 18 *(4) Chemical Abstract Service number.*
- 19 *(5) Time period.*
- 20 *(6) Operator.*

21 *(c) Notwithstanding Section 10231.5 of the Government Code,*
22 *on or before January 1, 2016, and annually thereafter, the*
23 *supervisor shall, in compliance with Section 9795 of the*
24 *Government Code, prepare and transmit to the Legislature a*
25 *comprehensive report on hydraulic fracturing in the exploration*
26 *and production of oil and gas resources in California. The report*
27 *shall include aggregated data of all of the information required*
28 *to be reported pursuant to Section 3160 reported by the district,*
29 *county, and operator. The report also shall include relevant*
30 *additional information, as necessary, including, but not limited*
31 *to, all the following:*

- 32 *(1) Aggregated data detailing the disposition of any produced*
33 *water from wells that have undergone hydraulic fracturing*
34 *treatments.*
- 35 *(2) Aggregated data describing the formations where wells have*
36 *received hydraulic fracturing treatments including the range of*
37 *safety factors used and fracture zone lengths.*
- 38 *(3) The number of emergency responses to a spill or release*
39 *associated with a hydraulic fracturing treatment.*

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

4 (5) Data detailing the loss of well and well casing integrity in
5 the preceding year for wells that have undergone hydraulic
6 fracturing treatment. For comparative purposes, data detailing
7 the loss of well and well casing integrity in the preceding year for
8 all wells shall also be provided. The cause of each well and well
9 casing failure, if known, shall also be provided.

10 (6) The number of spot check inspections conducted pursuant
11 to subdivision (m) of Section 3160, including the number of
12 inspections where the composition of hydraulic fracturing fluids
13 were verified and the results of those inspections.

14 (7) The number of hydraulic fracturing treatments witnessed
15 by the division.

16 (8) The number of enforcement actions associated with hydraulic
17 fracturing treatments, including, but not limited to, notices of
18 deficiency, notices of violation, civil or criminal enforcement
19 actions, and any penalties assessed.

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

22 SEC. 5. Section 3236.5 of the Public Resources Code is
23 amended to read:

24 3236.5. (a) A person who violates this chapter or a regulation
25 implementing this chapter is subject to a civil penalty not to exceed
26 twenty-five thousand dollars (\$25,000) for each violation. A person
27 who commits a violation of Article 3 (commencing with Section
28 3150) is subject to a civil penalty of not less than ten thousand
29 dollars (\$10,000) and not to exceed twenty-five thousand dollars
30 (\$25,000) per day per violation. An act of God and an act of
31 vandalism beyond the reasonable control of the operator shall not
32 be considered a violation. The civil penalty shall be imposed by
33 an order of the supervisor pursuant to Section 3225 upon a
34 determination that a violation has been committed by the person
35 charged. The imposition of a civil penalty under this section shall
36 be in addition to any other penalty provided by law for the
37 violation. When establishing the amount of the civil penalty
38 pursuant to this section, the supervisor shall consider, in addition
39 to other relevant circumstances, all of the following:

40 (1) The extent of harm caused by the violation.

1 (2) The persistence of the violation.

2 (3) The pervasiveness of the violation.

3 (4) The number of prior violations by the same violator.

4 (b) An order of the supervisor imposing a civil penalty shall be
5 reviewable pursuant to Article 6 (commencing with Section 3350).
6 When the order of the supervisor has become final and the penalty
7 has not been paid, the supervisor may apply to the appropriate
8 superior court for an order directing payment of the civil penalty.
9 The supervisor may also seek from the court an order directing
10 that production from the well or use of the production facility that
11 is the subject of the civil penalty order be discontinued until the
12 violation has been remedied to the satisfaction of the supervisor
13 and the civil penalty has been paid.

14 (c) Any amount collected under this section shall be deposited
15 in the Oil, Gas, and Geothermal Administrative Fund.

16 *SEC. 6. Section 3401 of the Public Resources Code is amended*
17 *to read:*

18 3401. The proceeds of charges levied, assessed, and collected
19 pursuant to this article upon the properties of every person
20 operating or owning an interest in the production of a well shall
21 be used exclusively for the support and maintenance of the
22 department charged with the supervision of oil and gas operations.
23 *This shall include all costs associated with hydraulic fracturing*
24 *treatments including scientific studies required to evaluate the*
25 *treatment, inspections, and any air and water quality monitoring*
26 *and testing performed by public entities.*

27 ~~SEC. 3.~~

28 *SEC. 7.* No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.