

AMENDED IN ASSEMBLY JUNE 18, 2013

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE MAY 7, 2013

AMENDED IN SENATE APRIL 24, 2013

AMENDED IN SENATE MARCH 11, 2013

SENATE BILL

No. 4

Introduced by Senator Pavley

(Principal coauthor: Assembly Member Gray)

(Coauthors: Senators De León, Leno, and Monning)

(Coauthor: Assembly Member Stone)

December 3, 2012

An act to amend 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~~. *well stimulation*.

(1) Under existing law, the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation, or the division, regulates the drilling, operation, maintenance, and abandonment of oil and gas wells in the state. The State Oil and Gas Supervisor, or 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 supervisor or 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 *well stimulation treatment*, 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 *well stimulation treatments, including acid well stimulation and hydraulic fracturing treatments*. The bill would require an operator of a well to record and include all data on ~~hydraulic fracturing~~ *well stimulation treatments*, as specified. The bill would require the division, in consultation with the Department of Toxic Substances Control, the State Air Resources Board, the State Water Resources Control Board, the Department of Resources Recycling and Recovery, and any local air districts and regional water quality control boards in areas where ~~hydraulic fracturing~~ *well stimulation treatments* may occur, on or before January 1, 2015, to adopt rules and regulations specific to ~~hydraulic fracturing~~ *well stimulation*, including governing the construction of wells and well casings and full disclosure of the composition and disposition of ~~hydraulic fracturing~~ *well stimulation fluids*. The bill would require an operator to apply for a permit, as specified, with the supervisor or district deputy, prior to performing a ~~hydraulic fracturing~~ *well stimulation treatment* of a well and would prohibit the operator from either conducting a new ~~hydraulic fracturing~~ *well stimulation treatment* or repeating a ~~hydraulic fracturing~~ *well stimulation 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~~ *a well stimulation treatment*, 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~~ *well stimulation treatment* to be completed within one year from the date that a permit is issued. The bill would require the division to perform random periodic

spot check inspections during ~~hydraulic fracturing well stimulation~~ 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,~~ *require the Secretary of the Natural Resources Agency to notify various legislative committees on the progress of the independent scientific study on well stimulation and related activities, 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 well stimulation~~ treatment permit to specified *tenants and* property owners at least 30 days prior to commencing a ~~hydraulic fracturing well stimulation~~ 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 a well stimulation~~ treatment in order for the division to witness the ~~hydraulic fracturing~~ treatment. The bill would require the supplier, as defined, of the ~~hydraulic fracturing well stimulation~~ treatment to provide to the operator, within 30 days following the conclusion of the ~~hydraulic fracturing treatment,~~ certain information regarding the ~~hydraulic fracturing well stimulation~~ fluid. The bill would require the operator, within 60 days of the cessation of ~~hydraulic fracturing a well stimulation~~ treatment, to post or cause to have posted on an Internet Web site accessible to the public specified information on the ~~fracturing and well stimulation~~ 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 well stimulation~~ treatment of a well. The bill would require a supplier claiming trade secret protection for the chemical composition of additives used in ~~the hydraulic a well stimulation~~ treatment to disclose the composition to the division, in conjunction with a ~~hydraulic fracturing well stimulation~~ treatment permit application, but would, except as specified, prohibit those with access to the trade secret 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 well stimulation treatments~~ 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~~ *well stimulation* including scientific studies required to evaluate the treatment, inspections, and any air and water quality sampling, 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~~ *well stimulation* 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 spurring
- 5 oil and gas extraction and exploration in California. *Other well*
- 6 *stimulation treatments, in addition to hydraulic fracturing, are*
- 7 *also critical to boosting oil and gas production.*
- 8 (b) Insufficient information is available to fully assess the
- 9 science of the practice of hydraulic fracturing *and other well*
- 10 *stimulation treatment technologies* in California including
- 11 environmental, occupational, and public health hazards and risks.

1 (c) Providing transparency and accountability to the public
2 regarding *well stimulation treatments, including, but not limited*
3 *to*, hydraulic fracturing, associated emissions to the environment,
4 and the handling, processing, and disposal of *well stimulation and*
5 *related wastes, including from hydraulic fracturing and related*
6 ~~wastes fracturing~~, is of paramount concern.

7 (d) *The Legislature encourages the use or reuse of treated or*
8 *untreated water and produced water for well stimulation treatments*
9 *and well stimulation treatment-related activities.*

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

12
13 Article 3. ~~Hydraulic Fracturing~~ *Well Stimulation*

14
15 3150. “Additive” means a substance or combination of
16 substances added to a base fluid for purposes of preparing *well*
17 *stimulation treatment fluid which includes, but is not limited to,*
18 *an acid stimulation treatment fluid or a hydraulic fracturing fluid.*
19 An additive may, but is not required to, serve additional purposes
20 beyond the transmission of hydraulic pressure to the geologic
21 formation. An additive may be of any phase and includes
22 proppants.

23 3151. “Base fluid” means the continuous phase fluid used in
24 the makeup of a *well stimulation treatment fluid, including, but*
25 *not limited to, an acid stimulation treatment fluid or a hydraulic*
26 *fracturing fluid.* The continuous phase fluid may include, but is
27 not limited to, water, and may be a liquid or a hydrocarbon or
28 nonhydrocarbon gas. A ~~hydraulic fracturing~~ *well stimulation*
29 *treatment may use more than one base fluid.*

30 3152. “Hydraulic fracturing” means a well stimulation
31 treatment that, *in whole or in part,* includes the pressurized
32 injection of hydraulic fracturing fluid or fluids into an underground
33 geologic formation in order to fracture *or with the intent to fracture*
34 the formation, thereby causing or enhancing, for the purposes of
35 this division, the production of oil or gas from a well.

36 3153. “Hydraulic fracturing fluid” means a base fluid mixed
37 with physical and chemical additives for the purpose of hydraulic
38 fracturing. A hydraulic fracturing treatment may include more than
39 one hydraulic fracturing fluid.

1 3154. “Proppants” means materials inserted or injected into
2 the underground geologic formation that are intended to prevent
3 fractures from closing.

4 3155. “Supplier” means an entity performing a ~~hydraulic~~
5 ~~fracturing well stimulation~~ treatment or an entity supplying an
6 additive or proppant directly to the operator for use in a ~~hydraulic~~
7 ~~fracturing well stimulation~~ treatment.

8 3156. “Surface property owner” means the owner of real
9 property as shown on the latest equalized assessment roll or, if
10 more recent information than the information contained on the
11 assessment roll is available, the owner of record according to the
12 county assessor or tax collector.

13 ~~3157. “Cyclic steam injection” means the alternating injection~~
14 ~~of steam and production of oil with condensed steam from the~~
15 ~~same well or wells and is an enhanced oil recovery technique.~~
16 ~~Typical operations using this technique involve a cycle through a~~
17 ~~steam injection stage, followed by a steam soak stage, and then a~~
18 ~~production stage.~~

19 3157. “Well stimulation treatment” means a treatment applied
20 to a well in order to enhance oil and gas production. Well
21 stimulation treatments include, but are not limited to, hydraulic
22 fracturing treatments and acid well stimulation treatments. Well
23 stimulation treatments are not underground injection or disposal
24 projects that are approved under Sections 1724.6 to 1724.10,
25 inclusive, of Title 14 of the California Code of Regulations.

26 3158. “Acid well stimulation treatment” means a well
27 stimulation treatment that uses, in whole or in part, the application
28 of one or more acids to the well or underground geologic formation
29 with the intent to cause or enhance the production of oil or gas
30 from a well. The acid well stimulation treatment may be at any
31 applied pressure and may be used in combination with hydraulic
32 fracturing treatments or other well stimulation treatments.

33 3160. (a) On or before January 1, 2015, the Secretary of the
34 Natural Resources Agency shall cause to be conducted an
35 independent scientific study on *well stimulation treatments,*
36 *including, but not limited to, hydraulic fracturing and acid well*
37 *stimulation treatments.* The scientific study shall evaluate the
38 hazards and risks and potential hazards and risks that ~~hydraulic~~
39 ~~fracturing well stimulation~~ treatments pose to natural resources

1 and public, occupational, and environmental health and safety.

2 The scientific study shall do all of the following:

3 (1) Follow the well-established standard protocols of the
4 scientific profession, including, but not limited to, the use of
5 recognized experts, peer review, and publication.

6 (2) Identify areas with existing and potential conventional and
7 unconventional oil and gas reserves where ~~hydraulic fracturing~~
8 *well stimulation* treatments are likely to spur or enable oil and gas
9 exploration and production.

10 (3) (A) Evaluate all aspects of hydraulic fracturing, including,
11 but not limited to, the hydraulic fracturing treatment, additive and
12 water transportation to and from the well site, mixing and handling
13 of the hydraulic fracturing fluids and additives onsite, *the use and*
14 *potential for use of nontoxic additives and the use or reuse of*
15 *treated or produced water in hydraulic fracturing fluids,*
16 wastewater and waste hydraulic fracturing fluid handling,
17 treatment, and disposal.

18 (B) Evaluate all aspects of acid well stimulation treatments,
19 including the use and potential use of large-scale acidization
20 treatments and waste handling, treatment, and disposal.

21 (4) Consider, at a minimum, atmospheric emissions, including
22 *potential greenhouse gas emissions,* the potential degradation of
23 air quality, *potential impacts on wildlife, native plants, and habitat,*
24 potential water and surface contamination, *potential noise*
25 *pollution,* induced seismicity, and the ultimate disposition,
26 transport, transformation, and toxicology of *well stimulation*
27 *treatments, including acid well stimulation fluids,* hydraulic
28 fracturing fluids, and waste hydraulic fracturing fluids *and acid*
29 *well stimulation* in the environment.

30 (5) Include a hazard assessment and risk analysis addressing
31 occupational and environmental exposures to *well stimulation*
32 *treatments, including hydraulic fracturing—treatments—and*
33 *treatments,* hydraulic fracturing treatment-related processes, *acid*
34 *well stimulation treatments, acid well stimulation treatment-related*
35 *processes,* and the corresponding impacts on public health and
36 safety with the participation of the Office of Environmental Health
37 Hazard Assessment.

38 (6) Clearly identify where additional information is necessary
39 to inform and improve the analyses.

1 (b) (1) On or before January 1, 2015, the division, in
2 consultation with the Department of Toxic Substances Control,
3 the State Air Resources Board, the State Water Resources Control
4 Board, the Department of Resources Recycling and Recovery, and
5 any local air districts and regional water quality control boards in
6 areas where *well stimulation treatments, including acid well*
7 *stimulation treatments and hydraulic fracturing treatments* may
8 occur, shall adopt rules and regulations specific to ~~hydraulic~~
9 ~~fracturing well stimulation treatments~~. The rules and regulations
10 shall include, but are not limited to, revisions, as needed, to the
11 rules and regulations governing construction of wells and well
12 casings to ensure integrity of wells, well casings, and the geologic
13 and hydrologic isolation of the oil and gas formation during and
14 following ~~hydraulic fracturing well stimulation treatments~~, and
15 full disclosure of the composition and disposition of *well*
16 *stimulation fluids, including, but not limited to, hydraulic fracturing*
17 *fluids, acid well stimulation fluids, and waste hydraulic fracturing*
18 *and acid stimulation fluids*.

19 (2) Full disclosure of the composition and disposition of *well*
20 *stimulation fluids, including, but not limited to, hydraulic*
21 *fracturing fluids and acid stimulation treatment fluids*, shall, at a
22 minimum, include:

23 (A) The date of the ~~hydraulic fracturing well stimulation~~
24 ~~treatment~~.

25 (B) A complete list of the names, Chemical Abstract Service
26 (CAS) numbers, and maximum concentration, in percent by mass,
27 of each and every chemical constituent of the ~~hydraulic fracturing~~
28 *well stimulation treatment fluids* used. If a CAS number does not
29 exist for a chemical constituent, the well owner or operator may
30 provide another unique identifier, if available. Chemical
31 information claimed as a trade secret, pursuant to subdivision (j),
32 shall be identified as such and reported as described in subdivision
33 (j).

34 (C) The trade name, the supplier, and a brief description of the
35 intended purpose of each additive contained in the ~~hydraulic~~
36 ~~fracturing fluid well stimulation treatment fluid~~.

37 (D) The total volume of base fluid used during the ~~hydraulic~~
38 ~~fracturing well stimulation treatment~~, and the identification of
39 whether the base fluid is water suitable for irrigation or domestic

1 purposes, water not suitable for irrigation or domestic purposes,
2 or a fluid other than water.

3 (E) The source, volume, and specific composition and
4 disposition of all water, including, but not limited to, all water
5 used as base fluid during the ~~hydraulic fracturing well stimulation~~
6 treatment and recovered from the well following the ~~hydraulic~~
7 ~~fracturing well stimulation~~ treatment that is not otherwise reported
8 as produced water pursuant to Section 3227. *Any repeated reuse*
9 *of treated or untreated water for well stimulation treatments and*
10 *well stimulation treatment-related activities shall be identified.*

11 (F) The specific composition and disposition of all ~~hydraulic~~
12 ~~fracturing well stimulation treatment~~ fluids, including waste fluids,
13 other than water.

14 (G) Any radiological components or tracers injected into the
15 well as part of, or in order to evaluate, the ~~hydraulic fracturing~~
16 ~~well stimulation~~ treatment, a description of the recovery method,
17 if any, for those components or tracers, the recovery rate, and
18 specific disposal information for recovered components or tracers.

19 (H) The radioactivity of the recovered ~~hydraulic fracturing well~~
20 ~~stimulation~~ fluids.

21 (I) The location of the portion of the well subject to the ~~hydraulic~~
22 ~~fracturing well stimulation~~ treatment and the extent of the fracturing
23 *or other modification, if any*, surrounding the well induced by the
24 treatment.

25 ~~(3) (A) A hydraulic fracturing treatment that is applied to a~~
26 ~~well where cyclic steam injection is approved pursuant to Section~~
27 ~~1724.8 of Title 14 of the California Code of Regulations, and that~~
28 ~~is distinct from the process described under Section 3157, is subject~~
29 ~~to this section.~~

30 ~~(B) A cyclic steam injection process as described in Section~~
31 ~~3157 is not subject to this section.~~

32 (c) (1) Through the consultation process described in paragraph
33 (1) of subdivision (b), the division shall ~~collaborately~~
34 *collaboratively* identify and delineate the existing statutory
35 authority and regulatory responsibility relating to ~~hydraulic~~
36 ~~fracturing well stimulation~~ treatments and ~~hydraulic fracturing~~
37 ~~well stimulation~~ treatment-related activities of the Department of
38 Toxic Substances Control, the State Air Resources Board, any
39 local air districts, the State Water Resources Control Board, the
40 Department of Resources Recycling and Recovery, any regional

1 water quality control board, and other public entities, as applicable.
2 This shall include how the respective authority, responsibility, and
3 notification and reporting requirements associated with ~~hydraulic~~
4 ~~fracturing well stimulation~~ treatments and ~~hydraulic fracturing~~
5 ~~well stimulation~~ treatment-related activities are divided among
6 each public entity.

7 (2) On or before January 1, 2015, the division shall enter into
8 formal agreements with the Department of Toxic Substances
9 Control, the State Air Resources Board, any local air districts where
10 ~~hydraulic fracturing well stimulation~~ treatments may occur, the
11 State Water Resources Control Board, the Department of Resources
12 Recycling and Recovery, and any regional water quality control
13 board where ~~hydraulic fracturing well stimulation~~ treatments may
14 occur, clearly delineating respective authority, responsibility, and
15 notification and reporting requirements associated with ~~hydraulic~~
16 ~~fracturing well stimulation~~ treatments and ~~hydraulic fracturing~~
17 ~~well stimulation~~ treatment-related activities, *including air and*
18 *water quality monitoring*, in order to promote regulatory
19 transparency and accountability.

20 (3) The agreements under paragraph (2) shall specify the
21 appropriate public entity responsible for air and water quality
22 monitoring and the safe disposal of materials in landfills, include
23 trade secret handling protocols, if necessary, and provide for ready
24 public access to information related to ~~hydraulic fracturing well~~
25 ~~stimulation~~ treatments and related activities.

26 (d) (1) Notwithstanding any other law or regulation, prior to
27 performing a ~~hydraulic fracturing well stimulation~~ treatment on a
28 well, the operator shall apply for a permit to perform a ~~hydraulic~~
29 ~~fracturing well stimulation~~ treatment with the supervisor or district
30 deputy. The permit application shall contain the pertinent data the
31 supervisor requires on printed forms supplied by the division or
32 on other forms acceptable to the supervisor. The information
33 provided in the permit application shall include, but is not limited
34 to, the following:

35 (A) The well identification number and location.

36 (B) The time period during which the ~~hydraulic fracturing well~~
37 ~~stimulation~~ treatment is planned to occur.

38 (C) An estimate of the amount of water to be used in the
39 treatment and its source.

1 (D) A complete list of the names, Chemical Abstract Service
2 (CAS) numbers, and estimated concentrations, in percent by mass,
3 of each and every chemical constituent of the ~~hydraulic fracturing~~
4 *well stimulation* fluids planned to be used in the treatment. If a
5 CAS number does not exist for a chemical constituent, the well
6 owner or operator may provide another unique identifier, if
7 available. Chemical information claimed as a trade secret, pursuant
8 to subdivision (j), shall be identified as such and reported as
9 described in subdivision (j).

10 (E) The planned location of the ~~hydraulic fracturing well~~
11 *stimulation* treatment on the well bore and the estimated length,
12 height, and direction of the induced fractures *or other planned*
13 *modification, if any.*

14 (F) *A groundwater monitoring plan. A groundwater monitoring*
15 *plan is not required if the appropriate regional water quality*
16 *control board confirms that the well subject to the proposed well*
17 *stimulation treatment does not or will not penetrate or does not*
18 *or will not influence an aquifer that is designated for a beneficial*
19 *use. The groundwater monitoring plan shall include, at a minimum,*
20 *all of the following information:*

21 (i) *The current water quality of the groundwater basin through*
22 *which the well subject to the proposed well stimulation treatment*
23 *is or will be drilled that is sufficient to characterize the quality of*
24 *any aquifer through which the well is or will be drilled.*

25 (ii) *An estimate of the zone of influence of the well subject to*
26 *the proposed well stimulation treatment.*

27 (iii) *Water quality data or a plan to obtain data regarding the*
28 *presence and concentration of the constituents to be used in, or*
29 *that can be influenced by, the well subject to the proposed well*
30 *stimulation treatment.*

31 (iv) *A plan that specifies sites for monitoring wells designed to*
32 *detect contamination due to operation of the well subject to the*
33 *proposed well stimulation treatment until the well is plugged and*
34 *abandoned. The plan shall also include provisions for emergency*
35 *implementation in the event of well or well casing failure or other*
36 *event with the potential to contaminate groundwater.*

37 (G) *A waste and wastewater disposal plan.*

38 (2) (A) The supervisor or district deputy shall review the
39 ~~hydraulic fracturing~~ *well stimulation* treatment permit application
40 and may approve the permit if the application is complete.

1 (B) A ~~hydraulic fracturing~~ *well stimulation* treatment or repeat
2 ~~hydraulic fracturing~~ *well stimulation* treatment shall not be
3 performed on any well without a valid permit that the supervisor
4 or district deputy has approved.

5 (C) A permit describing a ~~hydraulic fracturing~~ *well stimulation*
6 treatment that presents unreasonable risk or is incomplete shall
7 not be approved.

8 (3) The ~~hydraulic fracturing~~ *well stimulation* treatment shall be
9 completed within one year of the issuance of the permit.

10 (4) Within five business days of issuing a permit to perform a
11 ~~hydraulic fracturing~~ *well stimulation* treatment, the division shall
12 provide a copy of the permit to the appropriate regional water
13 quality control board or boards and to the local planning entity
14 where the well, including its subsurface portion, is located. The
15 division shall *also* post the permit on the publicly accessible portion
16 of its Internet Web site *within five business days of issuing a*
17 *permit*.

18 (5) ~~At least 30 calendar days prior to commencing a hydraulic~~
19 ~~fracturing treatment, the operator~~ (A) The division shall provide
20 a copy of the approved ~~hydraulic fracturing~~ *well stimulation*
21 treatment permit to every *tenant of the surface property and every*
22 *surface property owner or authorized agent of that owner whose*
23 *property line location is one of the following:*

24 ~~(A)~~

25 (i) Within a 1,500 foot radius of the wellhead.

26 ~~(B)~~

27 (ii) Within 500 feet from the horizontal projection of all
28 subsurface portions of the designated well to the surface.

29 (B) *A well stimulation treatment shall not commence before 30*
30 *calendar days after the permit copies pursuant to subparagraph*
31 *(A) are provided.*

32 (6) (A) A property owner notified pursuant to paragraph (5)
33 may request the regional water quality control board to perform
34 water quality sampling and testing on any water well suitable for
35 drinking or irrigation purposes and on any surface water suitable
36 for drinking or irrigation purposes as follows:

37 (i) Baseline measurements prior to the commencement of the
38 ~~hydraulic fracturing~~ *well stimulation* treatment.

1 (ii) Followup measurements after the ~~hydraulic fracturing well~~
2 *stimulation* treatment on the same schedule as the pressure testing
3 of the well casing of the ~~hydraulically-fractured~~ *treated* well.

4 (B) The regional water quality control board may contract with
5 an independent third party that adheres to board-specified standards
6 and protocols to perform the water sampling and testing.

7 ~~The~~ *If warranted, the* regional water quality control board
8 shall ~~have the authority to retain and archive sufficient an~~
9 *appropriately prepared and stored baseline sample or samples*
10 collected pursuant to paragraph (6) ~~to permit a reasonable number~~
11 *of additional analyses for as long as the planned analytical method*
12 *or methods would provide valid results.*

13 (8) ~~The operator shall provide the division with~~ *shall retain a*
14 list of the entities and property owners notified pursuant to
15 paragraphs (4) and (5).

16 (9) The operator shall provide notice to the division at least 72
17 hours prior to the actual start of the ~~hydraulic fracturing well~~
18 *stimulation* treatment in order for the division to witness the
19 treatment.

20 ~~(e) On and after January 1, 2015, the supervisor or district~~
21 ~~deputy shall not issue a hydraulic fracturing treatment permit for~~
22 ~~any well until the independent scientific study in subdivision (a)~~
23 ~~is completed and peer reviewed by independent scientific experts.~~

24 *(e) The Secretary of the Natural Resources Agency shall notify*
25 *the Joint Legislative Budget Committee and the chairs of the*
26 *Assembly Natural Resources, Senate Environmental Quality, and*
27 *Senate Natural Resources and Water Committees on the progress*
28 *of the independent scientific study on well stimulation and related*
29 *activities. The first progress report shall be provided to the*
30 *Legislature on or before April 1, 2014, and progress reports shall*
31 *continue every four months thereafter until the independent study*
32 *is completed, including a peer review of the study by independent*
33 *scientific experts.*

34 (f) If a ~~hydraulic fracturing well stimulation~~ treatment is
35 performed on a well, a supplier that performs any part of ~~hydraulic~~
36 ~~fracturing the stimulation~~ or provides additives directly to the
37 operator for a ~~hydraulic fracturing well stimulation~~ treatment shall
38 furnish the operator with information needed for the operator to
39 comply with subdivision (g). If a supplier claims trade secret
40 protection pursuant to subdivision (j), the supplier shall notify the

1 operator and provide to the operator substitute information, as
2 described in subdivision (j), suitable for public disclosure. This
3 information shall be provided as soon as possible but no later than
4 30 days following the conclusion of the ~~hydraulic fracturing well~~
5 *stimulation* treatment.

6 (g) (1) Within 60 days following cessation of a ~~hydraulic~~
7 ~~fracturing well stimulation~~ treatment on a well, the operator shall
8 post or cause to have posted to an Internet Web site designated or
9 maintained by the division and accessible to the public, all of the
10 ~~hydraulic fracturing well stimulation~~ fluid composition and
11 disposition information required to be collected pursuant to rules
12 and regulations adopted under subdivision (b), including well
13 identification number and location. *This shall include the collected*
14 *water quality data, which the operator shall report electronically*
15 *to the State Water Resources Control Board.*

16 (2) The division's Internet Web site shall be operational ~~by~~ *on*
17 *or before* January 1, 2016, and the division may direct reporting
18 to an alternative Internet Web site developed by the Ground Water
19 Protection Council and the Interstate Oil and Gas Compact
20 Commission in the interim. The reported information shall be
21 organized on the division's Internet Web site in a format, such as
22 a spreadsheet, that allows the public to easily search and aggregate,
23 to the extent practicable, each type of information required to be
24 collected pursuant to subdivision (b) using search functions on
25 that Internet Web site.

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

27 (i) (1) All geologic features within a distance reflecting an
28 appropriate safety factor of the fracture zone *for well stimulation*
29 *treatments that fracture the formation* and ~~having~~ *that have* the
30 potential to either limit or facilitate the migration of fluids outside
31 of the fracture ~~zone~~, *zone* shall be identified and added to the well
32 history. Geologic features include, but are not limited to, seismic
33 faults.

34 (2) For the purposes of this section, the "fracture zone" is
35 defined as the volume surrounding the well bore where fractures
36 were created or enhanced by the ~~hydraulic fracturing well~~
37 *stimulation* treatment. The safety factor shall be at least five and
38 may vary depending upon geologic knowledge.

39 (j) (1) The supplier may claim trade secret protection for the
40 chemical composition of additives, *whose use is not otherwise*

1 *prohibited by law*, pursuant to Section 1060 of the Evidence Code,
2 or the Uniform Trade Secrets Act (Title 5 (commencing with
3 Section 3426) of Part 1 of Division 4 of the Civil Code).

4 (2) If a supplier believes that information regarding a chemical
5 constituent of a ~~hydraulic fracturing~~ *well stimulation* fluid is a
6 trade secret, the supplier shall nevertheless disclose the information
7 to the division in conjunction with a ~~hydraulic fracturing~~ *well*
8 *stimulation* treatment permit application, if not previously
9 disclosed, within 30 days following cessation of ~~hydraulic~~
10 ~~fracturing~~ *well stimulation* on a well, and shall notify the division
11 in writing of that belief.

12 (3) *In order to substantiate the trade secret claim to the division,*
13 *the supplier shall provide the following information to the division:*

14 (A) *The extent to which the information is known outside the*
15 *business of the supplier submitting the information, and whether*
16 *or not all individuals with that knowledge are bound by*
17 *nondisclosure agreements.*

18 (B) *The extent to which the information is known by the*
19 *supplier's employees and others involved in the supplier's business,*
20 *and whether or not all those individuals are bound by*
21 *nondisclosure agreements.*

22 (C) *The extent of measures taken by the supplier to restrict*
23 *access to and guard the secrecy of the information, and whether*
24 *or not the supplier plans to continue utilizing those measures.*

25 (D) *The estimated value of the information to the supplier and*
26 *its competitors.*

27 (E) *The estimated amount of effort and money expended by the*
28 *supplier in developing the information, and a description of the*
29 *nature and extent of harm that would be caused if the information*
30 *were made public.*

31 (F) *The estimated ease or difficulty with which the information*
32 *could be properly acquired or duplicated by others, and an*
33 *explanation of why the chemical identity is not readily discoverable*
34 *through reverse engineering.*

35 (G) *Copies of, or references to, any pertinent trade secret or*
36 *other confidentiality determinations previously made by the*
37 *division or other public agencies, including court orders or*
38 *decisions.*

39 (4) *If the division determines that the information provided in*
40 *support of a request for trade secret protection pursuant to*

1 *paragraph (3) is incomplete, the division shall notify the supplier*
2 *and the supplier shall have 30 days to complete the submission.*
3 *An incomplete submission does not meet the substantive criteria*
4 *for trade secret designation.*

5 *(5) If the division determines that the information provided in*
6 *support of a request for trade secret protection does not meet the*
7 *substantive criteria for trade secret designation, the department*
8 *shall notify the supplier by certified mail of its determination. The*
9 *division shall release the information to the public, but not earlier*
10 *than 60 days after the date of mailing the determination, unless,*
11 *prior to the expiration of the 60-day period, the supplier obtains*
12 *an action in an appropriate court for a declaratory judgment that*
13 *the information is subject to protection or for a preliminary*
14 *injunction prohibiting disclosure of the information to the public*
15 *and provides notice to the division of the court order. If no order*
16 *or declaratory judgment is obtained, the division shall release the*
17 *information to the public by revising the information provided*
18 *pursuant to subdivision (g).*

19 ~~(3)~~

20 (6) The supplier is not required to disclose trade secret
21 information to the operator.

22 ~~(4)~~

23 (7) This subdivision does not permit a supplier to refuse to
24 disclose the information required pursuant to this section to the
25 division.

26 ~~(5)~~

27 (8) To comply with the public disclosure requirements of this
28 section, the supplier shall indicate where trade secret information
29 has been withheld and ~~the specific name of a chemical constituent~~
30 ~~shall be replaced with the chemical family name or similar~~
31 ~~descriptor associated with the trade secret chemical information~~
32 *provide substitute information for public disclosure. The substitute*
33 *information shall be a list, in any order, of the chemical*
34 *constituents of the additive, including CAS identification numbers,*
35 *whose specific composition is a trade secret. Information on the*
36 *relative amounts or concentration of the constituents of additives*
37 *whose specific composition is a trade secret shall not be publicly*
38 *disclosed. The division shall review and approve the supplied*
39 *substitute information.*

40 ~~(6)~~

1 (9) Except as provided in subparagraph (B) of paragraph ~~(8)~~
2 ~~(11)~~, the division shall protect from disclosure any trade secret
3 ~~designated as such~~ *claimed* by the supplier, if that trade secret is
4 not a public record.

5 ~~(7)~~

6 (10) The supplier shall notify the division in writing within 30
7 days of any changes to information provided to the division to
8 support a trade secret claim, *including if the information is no*
9 *longer a trade secret.*

10 ~~(8)~~

11 (11) Upon receipt of a request for the release of information to
12 the public, which includes information the supplier has notified
13 the division is a trade secret and is not a public record, the
14 following procedure applies:

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

17 (B) The division shall release the information to the public, but
18 not earlier than 60 days after the date of mailing the notice of the
19 request for information, unless, prior to the expiration of the 60-day
20 period, the supplier obtains an action in an appropriate court for a
21 declaratory judgment that the information is subject to protection
22 or for a preliminary injunction prohibiting disclosure of the
23 information to the public and provides notice to the division of
24 that action.

25 ~~(9)~~

26 (12) (A) Except as provided in subparagraph (B) of paragraph
27 ~~(8)~~ ~~(11)~~, trade secret information is not a public record and shall
28 not be disclosed to anyone except to an officer or employee of the
29 division, the state, *local governments, including, but not limited*
30 *to*, local air districts, or the United States, in connection with the
31 official duties of that officer or employee, to a health professional
32 *if the requirements of subparagraph (B) are met*, under any law
33 for the protection of health, or to contractors with the division or
34 ~~the state~~ *other government entities* and ~~its~~ *their* employees if, in
35 the opinion of the division, disclosure is necessary and required
36 for the satisfactory performance of a contract, for performance of
37 work, or to protect health and safety.

38 (B) *In order to receive trade secret information, a health*
39 *professional shall have a reasonable basis to suspect all of the*
40 *following:*

1 (i) *The information is needed for purposes of diagnosis or*
2 *treatment of a patient.*

3 (ii) *The patient being diagnosed or treated has been exposed*
4 *to one or more chemicals subject to trade secret nondisclosure.*

5 (iii) *Knowledge of the specific chemical identity of the chemical*
6 *or chemicals will assist in diagnosis or treatment of the patient.*

7 ~~(B)~~

8 (C) *A health professional may share trade secret information*
9 *with other persons as may be professionally necessary, in order*
10 *to diagnose or treat a patient, including, but not limited to, the*
11 *patient and other health professionals. Confidentiality of the trade*
12 *secret information shall be maintained. The holder of the trade*
13 *secret may request a confidentiality agreement consistent with the*
14 *requirements of this subdivision to whom this information is*
15 *disclosed as soon as circumstances permit. If necessary, a procedure*
16 *for timely disclosure by the division in the event of an emergency*
17 *shall be identified. professionals, subject to state and federal laws*
18 *restricting disclosure of medical records including, but not limited*
19 *to, Chapter 2 (commencing with Section 56.10) of Part 2.6 of*
20 *Division 1 of the Civil Code.*

21 (D) *The division shall develop a procedure for the timely*
22 *disclosure of trade secret information in the event of an emergency*
23 *or to diagnose or treat a patient pursuant to this subdivision.*

24 (E) *Confidentiality of trade secret information from public*
25 *disclosure shall be maintained by those who receive trade secret*
26 *information pursuant to the provisions of this subdivision, subject*
27 *to the enforcement provisions of this division, and any additional*
28 *applicable state and federal law.*

29 (F) *For purposes of this paragraph, “health professional”*
30 *means any person licensed or certified pursuant to Division 2*
31 *(commencing with Section 500) of the Business and Professions*
32 *Code, the Osteopathic Initiative Act, the Chiropractic Initiative*
33 *Act, or the Emergency Medical Services System and the Prehospital*
34 *Emergency Medical Care Personnel Act (Division 2.5 (commencing*
35 *with Section 1797) of the Health and Safety Code).*

36 (13) (A) *The supplier may provide trade secret information in*
37 *order to protect public health to any health professional,*
38 *toxicologist, or epidemiologist who is employed in the field of*
39 *public health and who provides a written statement of need and*
40 *confidentiality agreement. The written statement of need shall*

1 *include the public health purposes and shall explain the reason*
2 *the disclosure of the specific chemical and its concentration is*
3 *required in lieu of information describing the properties and effects*
4 *of the chemical.*

5 (B) *Confidentiality of trade secret information from public*
6 *disclosure shall be maintained by those who receive trade secret*
7 *information pursuant to the provisions of this paragraph subject*
8 *to the enforcement provisions of this division and any additional*
9 *applicable state and federal law.*

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

12 (l) A well granted confidential status pursuant to Section 3234
13 shall comply with this section, with the exception of the disclosure
14 of ~~hydraulic fracturing~~ *well stimulation* fluids pursuant to
15 subdivision (g) which shall not be required until the confidential
16 status of the well ceases.

17 (m) The division shall perform random periodic spot check
18 inspections to ensure that the information provided on ~~hydraulic~~
19 ~~fracturing~~ *well stimulation* treatments is accurately reported,
20 including that the estimates provided prior to the commencement
21 of the ~~hydraulic fracturing~~ *well stimulation* treatment are reasonably
22 consistent with the well history.

23 (n) Where the division shares jurisdiction over a well or the
24 ~~hydraulic fracturing~~ *well stimulation* treatment on a well with a
25 federal entity, the division's rules and regulations shall govern the
26 ~~hydraulic fracturing~~ *well stimulation* treatment of the well.

27 SEC. 3. Section 3213 of the Public Resources Code is amended
28 to read:

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

35 SEC. 4. Section 3215 of the Public Resources Code is amended
36 to read:

37 3215. (a) Within 60 days after the date of cessation of drilling,
38 rework, ~~hydraulic fracturing~~ *well stimulation* treatment, or
39 abandonment operations, or the date of suspension of operations,
40 the operator shall file with the district deputy, in a form approved

1 by the supervisor, true copies of the log, core record, and history
2 of work performed, and, if made, true and reproducible copies of
3 all electrical, physical, or chemical logs, tests, or surveys. Upon a
4 showing of hardship, the supervisor may extend the time within
5 which to comply with this section for a period not to exceed 60
6 additional days.

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

- 19 (1) Geographic area.
- 20 (2) Additive.
- 21 (3) Chemical constituent.
- 22 (4) Chemical Abstract Service number.
- 23 (5) Time period.
- 24 (6) Operator.

25 (c) Notwithstanding Section 10231.5 of the Government Code,
26 on or before January 1, 2016, and annually thereafter, the
27 supervisor shall, in compliance with Section 9795 of the
28 Government Code, prepare and transmit to the Legislature a
29 comprehensive report on ~~hydraulic fracturing well stimulation~~
30 ~~treatments~~ in the exploration and production of oil and gas
31 resources in California. The report shall include aggregated data
32 of all of the information required to be reported pursuant to Section
33 3160 reported by the district, county, and operator. The report also
34 shall include relevant additional information, as necessary,
35 including, but not limited to, all the following:

- 36 (1) Aggregated data detailing the disposition of any produced
37 water from wells that have undergone ~~hydraulic fracturing well~~
38 ~~stimulation~~ treatments.

1 (2) Aggregated data describing the formations where wells have
2 received ~~hydraulic fracturing~~ *well stimulation* treatments including
3 the range of safety factors used and fracture zone lengths.

4 (3) The number of emergency responses to a spill or release
5 associated with a ~~hydraulic fracturing~~ *well stimulation* treatment.

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

9 (5) Data detailing the loss of well and well casing integrity in
10 the preceding year for wells that have undergone ~~hydraulic~~
11 ~~fracturing~~ *well stimulation* treatment. For comparative purposes,
12 data detailing the loss of well and well casing integrity in the
13 preceding year for all wells shall also be provided. The cause of
14 each well and well casing failure, if known, shall also be provided.

15 (6) The number of spot check inspections conducted pursuant
16 to subdivision (m) of Section 3160, including the number of
17 inspections where the composition of ~~hydraulic fracturing~~ *well*
18 *stimulation* fluids were verified and the results of those inspections.

19 (7) The number of ~~hydraulic fracturing~~ *well stimulation*
20 treatments witnessed by the division.

21 (8) The number of enforcement actions associated with ~~hydraulic~~
22 ~~fracturing~~ *well stimulation* treatments, including, but not limited
23 to, notices of deficiency, notices of violation, civil or criminal
24 enforcement actions, and any penalties assessed.

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

27 SEC. 5. Section 3236.5 of the Public Resources Code is
28 amended to read:

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

1 be in addition to any other penalty provided by law for the
2 violation. When establishing the amount of the civil penalty
3 pursuant to this section, the supervisor shall consider, in addition
4 to other relevant circumstances, all of the following:

- 5 (1) The extent of harm caused by the violation.
- 6 (2) The persistence of the violation.
- 7 (3) The pervasiveness of the violation.
- 8 (4) The number of prior violations by the same violator.

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

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

21 SEC. 6. Section 3401 of the Public Resources Code is amended
22 to read:

23 3401. (a) The proceeds of charges levied, assessed, and
24 collected pursuant to this article upon the properties of every person
25 operating or owning an interest in the production of a well shall
26 be used exclusively for the support and maintenance of the
27 department charged with the supervision of oil and gas operations.

28 (b) Notwithstanding subdivision (a), the proceeds of charges
29 levied, assessed, and collected pursuant to this article upon the
30 properties of every person operating or owning an interest in the
31 production of a well undergoing a ~~hydraulic fracturing~~ *well*
32 *stimulation* treatment, may be used by public entities, subject to
33 appropriation by the Legislature, for all costs associated with
34 ~~hydraulic fracturing~~ *well stimulation* treatments including scientific
35 studies required to evaluate the treatment, inspections, and any air
36 and water quality sampling, monitoring, and testing performed by
37 public entities.

38 SEC. 7. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

7

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9 **CORRECTIONS:**

10 **Heading—Lines 2 and 4.**

11 **Text—Pages 7 and 11.**

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