

AMENDED IN ASSEMBLY JUNE 25, 2013

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: 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 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 well stimulation treatments may occur, on or before January 1, 2015, to adopt rules and regulations specific to well stimulation, including governing the construction of wells and well casings and full disclosure of the composition and disposition of 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 well stimulation treatment of a well and would prohibit the operator from either conducting a new well stimulation treatment or repeating a 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 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 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 well stimulation treatments, as specified. The bill would 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 well stimulation treatment permit to specified tenants and property owners at least 30 days prior to commencing a 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 a well stimulation treatment in order for the division to witness the treatment. The bill would require the supplier, as defined, of the well stimulation treatment to provide to the operator, within 30 days following the conclusion of the treatment, certain information regarding the well stimulation fluid. The bill would require the operator, within 60 days of the cessation of a well stimulation treatment, to post or cause to have posted on an Internet Web site accessible to the public specified information on the 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 well stimulation treatment of a well.~~ *apply in addition to all applicable federal law and regulations.* The bill would require a supplier claiming trade secret protection for the chemical composition of additives used in a well stimulation treatment to disclose the composition to the division, in conjunction with a well stimulation treatment permit application, but would, except as specified, prohibit those with access to the trade secret from disclosing it. Because 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 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 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 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 also
- 7 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 California,
- 11 including environmental, occupational, and public health hazards
- 12 and risks.
- 13 (c) Providing transparency and accountability to the public
- 14 regarding well stimulation treatments, including, but not limited
- 15 to, hydraulic fracturing, associated emissions to the environment,
- 16 and the handling, processing, and disposal of well stimulation and
- 17 related wastes, including from hydraulic fracturing, is of paramount
- 18 concern.

1 (d) The Legislature encourages the use or reuse of treated or
2 untreated water and produced water for well stimulation treatments
3 and well stimulation treatment-related activities.

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

6
7 Article 3. Well Stimulation

8
9 3150. “Additive” means a substance or combination of
10 substances added to a base fluid for purposes of preparing well
11 stimulation treatment fluid which includes, but is not limited to,
12 an acid stimulation treatment fluid or a hydraulic fracturing fluid.
13 An additive may, but is not required to, serve additional purposes
14 beyond the transmission of hydraulic pressure to the geologic
15 formation. An additive may be of any phase and includes
16 proppants.

17 3151. “Base fluid” means the continuous phase fluid used in
18 the makeup of a well stimulation treatment fluid, including, but
19 not limited to, an acid stimulation treatment fluid or a hydraulic
20 fracturing fluid. The continuous phase fluid may include, but is
21 not limited to, water, and may be a liquid or a hydrocarbon or
22 nonhydrocarbon gas. A well stimulation treatment may use more
23 than one base fluid.

24 3152. “Hydraulic fracturing” means a well stimulation
25 treatment that, in whole or in part, includes the pressurized injection
26 of hydraulic fracturing fluid or fluids into an underground geologic
27 formation in order to fracture or with the intent to fracture the
28 formation, thereby causing or enhancing, for the purposes of this
29 division, the production of oil or gas from a well.

30 3153. “Hydraulic fracturing fluid” means a base fluid mixed
31 with physical and chemical additives for the purpose of hydraulic
32 fracturing. A hydraulic fracturing treatment may include more than
33 one hydraulic fracturing fluid.

34 3154. “Proppants” means materials inserted or injected into
35 the underground geologic formation that are intended to prevent
36 fractures from closing.

37 3155. “Supplier” means an entity performing a well stimulation
38 treatment or an entity supplying an additive or proppant directly
39 to the operator for use in a well stimulation treatment.

1 3156. “Surface property owner” means the owner of real
2 property as shown on the latest equalized assessment roll or, if
3 more recent information than the information contained on the
4 assessment roll is available, the owner of record according to the
5 county assessor or tax collector.

6 3157. ~~Well~~ *For purposes of this article, “well stimulation*
7 *treatment” means a any treatment applied to of a well in order*
8 *designed to enhance oil and gas production or recovery, including,*
9 *but not limited to, hydraulic fracturing and acid well stimulation.*
10 Well stimulation treatments include, but are not limited to,
11 hydraulic fracturing treatments and acid well stimulation
12 treatments. ~~Well stimulation treatments are not underground~~
13 ~~injection or disposal projects that are approved under Sections~~
14 ~~1724.6 to 1724.10, inclusive, of Title 14 of the California Code of~~
15 ~~Regulations. do not include steam flooding, water flooding, or~~
16 ~~cyclic steaming.~~

17 3158. “Acid well stimulation treatment” means a well
18 stimulation treatment that uses, in whole or in part, the application
19 of one or more acids to the well or underground geologic formation
20 with the intent to cause or enhance the production of oil or gas
21 from a well. The acid well stimulation treatment may be at any
22 applied pressure and may be used in combination with hydraulic
23 fracturing treatments or other well stimulation treatments.

24 3160. (a) On or before January 1, 2015, the Secretary of the
25 Natural Resources Agency shall cause to be conducted an
26 independent scientific study on well stimulation treatments,
27 including, but not limited to, hydraulic fracturing and acid well
28 stimulation treatments. The scientific study shall evaluate the
29 hazards and risks and potential hazards and risks that well
30 stimulation treatments pose to natural resources and public,
31 occupational, and environmental health and safety. The scientific
32 study shall do all of the following:

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

36 (2) Identify areas with existing and potential conventional and
37 unconventional oil and gas reserves where well stimulation
38 treatments are likely to spur or enable oil and gas exploration and
39 production.

1 (3) (A) Evaluate all aspects of hydraulic fracturing, including,
2 but not limited to, the hydraulic fracturing treatment, additive and
3 water transportation to and from the well site, mixing and handling
4 of the hydraulic fracturing fluids and additives onsite, the use and
5 potential for use of nontoxic additives and the use or reuse of
6 treated or produced water in hydraulic fracturing fluids, wastewater
7 and waste hydraulic fracturing fluid handling, treatment, and
8 disposal.

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

12 (4) Consider, at a minimum, atmospheric emissions, including
13 potential greenhouse gas emissions, the potential degradation of
14 air quality, potential impacts on wildlife, native plants, and habitat,
15 potential water and surface contamination, potential noise pollution,
16 induced seismicity, and the ultimate disposition, transport,
17 transformation, and toxicology of well stimulation treatments,
18 including acid well stimulation fluids, hydraulic fracturing fluids,
19 and waste hydraulic fracturing fluids and acid well stimulation in
20 the environment.

21 (5) Include a hazard assessment and risk analysis addressing
22 occupational and environmental exposures to well stimulation
23 treatments, including hydraulic fracturing treatments, hydraulic
24 fracturing treatment-related processes, acid well stimulation
25 treatments, acid well stimulation treatment-related processes, and
26 the corresponding impacts on public health and safety with the
27 participation of the Office of Environmental Health Hazard
28 Assessment.

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

31 (b) (1) On or before January 1, 2015, the division, in
32 consultation with the Department of Toxic Substances Control,
33 the State Air Resources Board, the State Water Resources Control
34 Board, the Department of Resources Recycling and Recovery, and
35 any local air districts and regional water quality control boards in
36 areas where well stimulation treatments, including acid well
37 stimulation treatments and hydraulic fracturing treatments may
38 occur, shall adopt rules and regulations specific to well stimulation
39 treatments. The rules and regulations shall include, but are not
40 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 well stimulation
4 treatments, and full disclosure of the composition and disposition
5 of well stimulation fluids, including, but not limited to, hydraulic
6 fracturing fluids, acid well stimulation fluids, and waste hydraulic
7 fracturing and acid stimulation fluids.

8 (2) Full disclosure of the composition and disposition of well
9 stimulation fluids, including, but not limited to, hydraulic fracturing
10 fluids and acid stimulation treatment fluids, shall, at a minimum,
11 include:

12 (A) The date of the well stimulation treatment.

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

21 (C) The trade name, the supplier, and a brief description of the
22 intended purpose of each additive contained in the well stimulation
23 treatment fluid.

24 (D) The total volume of base fluid used during the well
25 stimulation treatment, and the identification of whether the base
26 fluid is water suitable for irrigation or domestic purposes, water
27 not suitable for irrigation or domestic purposes, or a fluid other
28 than water.

29 (E) The source, volume, and specific composition and
30 disposition of all water, including, but not limited to, all water
31 used as base fluid during the well stimulation treatment and
32 recovered from the well following the well stimulation treatment
33 that is not otherwise reported as produced water pursuant to Section
34 3227. Any repeated reuse of treated or untreated water for well
35 stimulation treatments and well stimulation treatment-related
36 activities shall be identified.

37 (F) The specific composition and disposition of all well
38 stimulation treatment fluids, including waste fluids, other than
39 water.

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

6 (H) The radioactivity of the recovered well stimulation fluids.

7 (I) The location of the portion of the well subject to the well
8 stimulation treatment and the extent of the fracturing or other
9 modification, if any, surrounding the well induced by the treatment.

10 (c) (1) Through the consultation process described in paragraph
11 (1) of subdivision (b), the division shall collaboratively identify
12 and delineate the existing statutory authority and regulatory
13 responsibility relating to well stimulation treatments and well
14 stimulation treatment-related activities of the Department of Toxic
15 Substances Control, the State Air Resources Board, any local air
16 districts, the State Water Resources Control Board, the Department
17 of Resources Recycling and Recovery, any regional water quality
18 control board, and other public entities, as applicable. This shall
19 include how the respective authority, responsibility, and
20 notification and reporting requirements associated with well
21 stimulation treatments and well stimulation treatment-related
22 activities are divided among each public entity.

23 (2) On or before January 1, 2015, the division shall enter into
24 formal agreements with the Department of Toxic Substances
25 Control, the State Air Resources Board, any local air districts where
26 well stimulation treatments may occur, the State Water Resources
27 Control Board, the Department of Resources Recycling and
28 Recovery, and any regional water quality control board where well
29 stimulation treatments may occur, clearly delineating respective
30 authority, responsibility, and notification and reporting
31 requirements associated with well stimulation treatments and well
32 stimulation treatment-related activities, including air and water
33 quality monitoring, in order to promote regulatory transparency
34 and accountability.

35 (3) The agreements under paragraph (2) shall specify the
36 appropriate public entity responsible for air and water quality
37 monitoring and the safe disposal of materials in landfills, include
38 trade secret handling protocols, if necessary, and provide for ready
39 public access to information related to well stimulation treatments
40 and related activities.

1 (d) (1) Notwithstanding any other law or regulation, prior to
2 performing a well stimulation treatment on a well, the operator
3 shall apply for a permit to perform a well stimulation treatment
4 with the supervisor or district deputy. The permit application shall
5 contain the pertinent data the supervisor requires on printed forms
6 supplied by the division or on other forms acceptable to the
7 supervisor. The information provided in the permit application
8 shall include, but is not limited to, the following:

9 (A) The well identification number and location.

10 (B) The time period during which the well stimulation treatment
11 is planned to occur.

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

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

23 (E) The planned location of the well stimulation treatment on
24 the well bore ~~and~~, the estimated length, height, and direction of
25 the induced fractures or other planned modification, if any, *and*
26 *the location of existing wells, including plugged and abandoned*
27 *wells, that may be impacted by these fractures and modifications.*

28 (F) A groundwater monitoring plan. A groundwater monitoring
29 plan is not required if the appropriate regional water quality control
30 board confirms that the well subject to the proposed well
31 stimulation treatment does not or will not penetrate or does not or
32 will not influence an aquifer that is designated for a beneficial use.
33 The groundwater monitoring plan shall include, at a minimum, all
34 of the following information:

35 (i) The current water quality of the groundwater basin through
36 which the well subject to the proposed well stimulation treatment
37 is or will be drilled that is sufficient to characterize the quality of
38 any aquifer through which the well is or will be drilled.

39 (ii) An estimate of the zone of influence of the well subject to
40 the proposed well stimulation treatment.

1 (iii) Water quality data or a plan to obtain data regarding the
2 presence and concentration of the constituents to be used in, or
3 that can be influenced by, the well subject to the proposed well
4 stimulation treatment.

5 (iv) A plan that specifies sites for monitoring wells designed to
6 detect contamination due to operation of the well subject to the
7 proposed well stimulation treatment until the well is plugged and
8 abandoned. The plan shall also include provisions for emergency
9 implementation in the event of well or well casing failure or other
10 event with the potential to contaminate groundwater.

11 (G) A waste and wastewater disposal plan.

12 (2) (A) The supervisor or district deputy shall review the well
13 stimulation treatment permit application and may approve the
14 permit if the application is complete.

15 (B) A well stimulation treatment or repeat well stimulation
16 treatment shall not be performed on any well without a valid permit
17 that the supervisor or district deputy has approved.

18 (C) A permit describing a well stimulation treatment that
19 presents unreasonable risk or is incomplete shall not be approved.

20 (3) The well stimulation treatment shall be completed within
21 one year of the issuance of the permit.

22 (4) Within five business days of issuing a permit to perform a
23 well stimulation treatment, the division shall provide a copy of the
24 permit to the appropriate regional water quality control board or
25 boards and to the local planning entity where the well, including
26 its subsurface portion, is located. The division shall also post the
27 permit on the publicly accessible portion of its Internet Web site
28 within five business days of issuing a permit.

29 (5) (A) The division shall provide a copy of the approved well
30 stimulation treatment permit *and information on the water sampling*
31 *and testing available through the regional water quality control*
32 *board* to every tenant of the surface property and every surface
33 property owner or authorized agent of that owner whose property
34 line location is one of the following:

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

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

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

1 (6) (A) A property owner notified pursuant to paragraph (5)
2 may request the regional water quality control board to perform,
3 *and the regional water quality control board or its contractors*
4 *shall perform*, water quality sampling and testing on any water
5 well suitable for drinking or irrigation purposes and on any surface
6 water suitable for drinking or irrigation purposes as follows:

7 (i) Baseline measurements prior to the commencement of the
8 well stimulation treatment.

9 (ii) Followup measurements after the well stimulation treatment
10 on the same schedule as the pressure testing of the well casing of
11 the treated well.

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

15 (C) *A tenant notified pursuant to paragraph (5) shall receive*
16 *information on the results of the water testing to the extent*
17 *authorized by his or her lease and, where the tenant has lawful*
18 *use of the ground or surface water identified in subparagraph (A),*
19 *the tenant may independently contract for similar groundwater or*
20 *surface water testing.*

21 (7) If warranted, the regional water quality control board shall
22 have the authority to retain an appropriately prepared and stored
23 baseline sample or samples collected pursuant to paragraph (6) for
24 as long as the planned analytical method or methods would provide
25 valid results.

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

28 (9) The operator shall provide notice to the division at least 72
29 hours prior to the actual start of the well stimulation treatment in
30 order for the division to witness the treatment.

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

1 (f) If a well stimulation treatment is performed on a well, a
2 supplier that performs any part of the stimulation or provides
3 additives directly to the operator for a well stimulation treatment
4 shall furnish the operator with information needed for the operator
5 to comply with subdivision (g). If a supplier claims trade secret
6 protection pursuant to subdivision (j), the supplier shall notify the
7 operator and provide to the operator substitute information, as
8 described in subdivision (j), suitable for public disclosure. This
9 information shall be provided as soon as possible but no later than
10 30 days following the conclusion of the well stimulation treatment.

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

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

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

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

37 (2) For the purposes of this section, the "fracture zone" is
38 defined as the volume surrounding the well bore where fractures
39 were created or enhanced by the well stimulation treatment. The

1 safety factor shall be at least five and may vary depending upon
2 geologic knowledge.

3 (j) (1) The supplier may claim trade secret protection for the
4 chemical composition of additives, whose use is not otherwise
5 prohibited by law, pursuant to Section 1060 of the Evidence Code,
6 or the Uniform Trade Secrets Act (Title 5 (commencing with
7 Section 3426) of Part 1 of Division 4 of the Civil Code).

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

15 (3) In order to substantiate the trade secret claim to the division,
16 the supplier shall provide the following information to the division:

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

21 (B) The extent to which the information is known by the
22 supplier’s employees and others involved in the supplier’s business,
23 and whether or not all those individuals are bound by nondisclosure
24 agreements.

25 (C) The extent of measures taken by the supplier to restrict
26 access to and guard the secrecy of the information, and whether
27 or not the supplier plans to continue utilizing those measures.

28 (D) The estimated value of the information to the supplier and
29 its competitors.

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

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

38 (G) Copies of, or references to, any pertinent trade secret or
39 other confidentiality determinations previously made by the

1 division or other public agencies, including court orders or
2 decisions.

3 (4) If the division determines that the information provided in
4 support of a request for trade secret protection pursuant to
5 paragraph (3) is incomplete, the division shall notify the supplier
6 and the supplier shall have 30 days to complete the submission.
7 An incomplete submission does not meet the substantive criteria
8 for trade secret designation.

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

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

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

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

38 (9) Except as provided in subparagraph (B) of paragraph (11),
39 the division shall protect from disclosure any trade secret claimed
40 by the supplier, if that trade secret is not a public record.

1 (10) The supplier shall notify the division in writing within 30
2 days of any changes to information provided to the division to
3 support a trade secret claim, including if the information is no
4 longer a trade secret.

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

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

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

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

31 (B) In order to receive trade secret information, a health
32 professional shall have a reasonable basis to suspect all of the
33 following:

34 (i) The information is needed for purposes of diagnosis or
35 treatment of a patient.

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

38 (iii) Knowledge of the specific chemical identity of the chemical
39 or chemicals will assist in diagnosis or treatment of the patient.

1 (C) A health professional may share trade secret information
2 with other persons as may be professionally necessary, in order to
3 diagnose or treat a patient, including, but not limited to, the patient
4 and other health professionals, subject to state and federal laws
5 restricting disclosure of medical records including, but not limited
6 to, Chapter 2 (commencing with Section 56.10) of Part 2.6 of
7 Division 1 of the Civil Code.

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

11 (E) Confidentiality of trade secret information from public
12 disclosure shall be maintained by those who receive trade secret
13 information pursuant to the provisions of this subdivision, subject
14 to the enforcement provisions of this division, and any additional
15 applicable state and federal law.

16 (F) For purposes of this paragraph, “health professional” means
17 any person licensed or certified pursuant to Division 2
18 (commencing with Section 500) of the Business and Professions
19 Code, the Osteopathic Initiative Act, the Chiropractic Initiative
20 Act, or the Emergency Medical Services System and the
21 Prehospital Emergency Medical Care Personnel Act (Division 2.5
22 (commencing with Section 1797) of the Health and Safety Code).

23 (13) (A) The supplier ~~may~~ *shall* provide trade secret information
24 in order to protect public health to any health professional,
25 toxicologist, or epidemiologist who is employed in the field of
26 public health and who provides a written statement of need and
27 confidentiality agreement. The written statement of need shall
28 include the public health purposes and shall explain the reason the
29 disclosure of the specific chemical and its concentration is required
30 in lieu of information describing the properties and effects of the
31 chemical.

32 (B) Confidentiality of trade secret information from public
33 disclosure shall be maintained by those who receive trade secret
34 information pursuant to the provisions of this paragraph subject
35 to the enforcement provisions of this division and any additional
36 applicable state and federal law.

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

39 (l) A well granted confidential status pursuant to Section 3234
40 shall comply with this section, with the exception of the disclosure

1 of well stimulation fluids pursuant to subdivision (g) which shall
2 not be required until the confidential status of the well ceases.

3 (m) The division shall perform random periodic spot check
4 inspections to ensure that the information provided on well
5 stimulation treatments is accurately reported, including that the
6 estimates provided prior to the commencement of the well
7 stimulation treatment are reasonably consistent with the well
8 history.

9 (n) Where the division shares jurisdiction over a well or the
10 well stimulation treatment on a well with a federal entity, the
11 division’s rules and regulations shall ~~govern the well stimulation~~
12 ~~treatment of the well.~~ *apply in addition to all applicable federal*
13 *law and regulations.*

14 (o) *This article does not relieve the division or any other agency*
15 *from complying with any other provision of existing law.*

16 SEC. 3. Section 3213 of the Public Resources Code is amended
17 to read:

18 3213. The history shall show the location and amount of
19 sidetracked casings, tools, or other material, the depth and quantity
20 of cement in cement plugs, the shots of dynamite or other
21 explosives, and the results of production and other tests during
22 drilling operations. All data on well stimulation treatments pursuant
23 to Section 3160 shall be recorded in the history.

24 SEC. 4. Section 3215 of the Public Resources Code is amended
25 to read:

26 3215. (a) Within 60 days after the date of cessation of drilling,
27 rework, well stimulation treatment, or abandonment operations,
28 or the date of suspension of operations, the operator shall file with
29 the district deputy, in a form approved by the supervisor, true
30 copies of the log, core record, and history of work performed, and,
31 if made, true and reproducible copies of all electrical, physical, or
32 chemical logs, tests, or surveys. Upon a showing of hardship, the
33 supervisor may extend the time within which to comply with this
34 section for a period not to exceed 60 additional days.

35 (b) The supervisor shall include information or electronic links
36 to information provided pursuant to subdivision (g) of Section
37 3160 on existing publicly accessible maps on the division’s Internet
38 Web site, and make the information available such that well
39 stimulation treatment and related information are associated with
40 each specific well. If data is reported on an Internet Web site not

1 maintained by the division pursuant to paragraph (2) of subdivision
2 (g) of Section 3160, the division shall provide electronic links to
3 that Internet Web site. The public shall be able to search and sort
4 the hydraulic well stimulation and related information by at least
5 the following criteria:

- 6 (1) Geographic area.
- 7 (2) Additive.
- 8 (3) Chemical constituent.
- 9 (4) Chemical Abstract Service number.
- 10 (5) Time period.
- 11 (6) Operator.

12 (c) Notwithstanding Section 10231.5 of the Government Code,
13 on or before January 1, 2016, and annually thereafter, the
14 supervisor shall, in compliance with Section 9795 of the
15 Government Code, prepare and transmit to the Legislature a
16 comprehensive report on well stimulation treatments in the
17 exploration and production of oil and gas resources in California.
18 The report shall include aggregated data of all of the information
19 required to be reported pursuant to Section 3160 reported by the
20 district, county, and operator. The report also shall include relevant
21 additional information, as necessary, including, but not limited to,
22 all the following:

- 23 (1) Aggregated data detailing the disposition of any produced
24 water from wells that have undergone well stimulation treatments.
- 25 (2) Aggregated data describing the formations where wells have
26 received well stimulation treatments including the range of safety
27 factors used and fracture zone lengths.
- 28 (3) The number of emergency responses to a spill or release
29 associated with a well stimulation treatment.
- 30 (4) Aggregated data detailing the number of times trade secret
31 information was not provided to the public, by county and by each
32 company, in the preceding year.
- 33 (5) Data detailing the loss of well and well casing integrity in
34 the preceding year for wells that have undergone well stimulation
35 treatment. For comparative purposes, data detailing the loss of
36 well and well casing integrity in the preceding year for all wells
37 shall also be provided. The cause of each well and well casing
38 failure, if known, shall also be provided.
- 39 (6) The number of spot check inspections conducted pursuant
40 to subdivision (m) of Section 3160, including the number of

1 inspections where the composition of well stimulation fluids were
2 verified and the results of those inspections.

3 (7) The number of well stimulation treatments witnessed by the
4 division.

5 (8) The number of enforcement actions associated with well
6 stimulation treatments, including, but not limited to, notices of
7 deficiency, notices of violation, civil or criminal enforcement
8 actions, and any penalties assessed.

9 (d) The report shall be made publicly available and an electronic
10 version shall be available on the division’s Internet Web site.

11 SEC. 5. Section 3236.5 of the Public Resources Code is
12 amended to read:

13 3236.5. (a) A person who violates this chapter or a regulation
14 implementing this chapter is subject to a civil penalty not to exceed
15 twenty-five thousand dollars (\$25,000) for each violation. A person
16 who commits a violation of Article 3 (commencing with Section
17 3150) is subject to a civil penalty of not less than ten thousand
18 dollars (\$10,000) and not to exceed twenty-five thousand dollars
19 (\$25,000) per day per violation. An act of God and an act of
20 vandalism beyond the reasonable control of the operator shall not
21 be considered a violation. The civil penalty shall be imposed by
22 an order of the supervisor pursuant to Section 3225 upon a
23 determination that a violation has been committed by the person
24 charged. The imposition of a civil penalty under this section shall
25 be in addition to any other penalty provided by law for the
26 violation. When establishing the amount of the civil penalty
27 pursuant to this section, the supervisor shall consider, in addition
28 to other relevant circumstances, all of the following:

- 29 (1) The extent of harm caused by the violation.
- 30 (2) The persistence of the violation.
- 31 (3) The pervasiveness of the violation.
- 32 (4) The number of prior violations by the same violator.

33 (b) An order of the supervisor imposing a civil penalty shall be
34 reviewable pursuant to Article 6 (commencing with Section 3350).
35 When the order of the supervisor has become final and the penalty
36 has not been paid, the supervisor may apply to the appropriate
37 superior court for an order directing payment of the civil penalty.
38 The supervisor may also seek from the court an order directing
39 that production from the well or use of the production facility that
40 is the subject of the civil penalty order be discontinued until the

1 violation has been remedied to the satisfaction of the supervisor
2 and the civil penalty has been paid.

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

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

7 3401. (a) The proceeds of charges levied, assessed, and
8 collected pursuant to this article upon the properties of every person
9 operating or owning an interest in the production of a well shall
10 be used exclusively for the support and maintenance of the
11 department charged with the supervision of oil and gas operations.

12 (b) Notwithstanding subdivision (a), the proceeds of charges
13 levied, assessed, and collected pursuant to this article upon the
14 properties of every person operating or owning an interest in the
15 production of a well undergoing a well stimulation treatment, may
16 be used by public entities, subject to appropriation by the
17 Legislature, for all costs associated with well stimulation treatments
18 including scientific studies required to evaluate the treatment,
19 inspections, and any air and water quality sampling, monitoring,
20 and testing performed by public entities.

21 SEC. 7. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.