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AMENDED IN SENATE MAY 7, 2013

AMENDED IN SENATE APRIL 24, 2013

AMENDED IN SENATE MARCH 11, 2013

**SENATE BILL**

**No. 4**

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**Introduced by Senator Pavley**

(Principal coauthor: Assembly Member Gray)

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

(Coauthors: Assembly Members Levine, Muratsuchi, Stone, and Williams)

December 3, 2012

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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 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 (A) well stimulation treatments, including scientific studies required to evaluate the treatment, inspections, and any air and water quality sampling, monitoring, and testing performed by public entities, and (B) the development and implementation of specific consultation processes and agreements.

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) The 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, including
- 11 environmental, occupational, and public health hazards and risks.
- 12 (c) Providing transparency and accountability to the public
- 13 regarding well stimulation treatments, including, but not limited
- 14 to, hydraulic fracturing, associated emissions to the environment,
- 15 and the handling, processing, and disposal of well stimulation and

1 related wastes, including from hydraulic fracturing, is of paramount  
2 concern.

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

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

8

9

Article 3. Well Stimulation

10

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

19

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

26

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

32

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

36

37 3154. “Proppants” means materials inserted or injected into  
38 the underground geologic formation that are intended to prevent  
fractures from closing.

1 3155. “Supplier” means an entity performing a well stimulation  
2 treatment or an entity supplying an additive or proppant directly  
3 to the operator for use in a well stimulation treatment.

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

9 3157. For purposes of this article, “well stimulation treatment”  
10 means any treatment of a well designed to enhance oil and gas  
11 production or ~~recovery, including, but not limited to, hydraulic~~  
12 ~~fracturing and acid well stimulation~~ *recovery*. Well stimulation  
13 treatments include, but are not limited to, hydraulic fracturing  
14 treatments and acid well stimulation treatments. Well stimulation  
15 treatments do not include steam flooding, water flooding, or cyclic  
16 steaming *and do not include routine well cleanout work, routine*  
17 *well maintenance, bottom hole pressure surveys, or routine*  
18 *activities that do not affect the integrity of the well or the formation.*

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

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

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

38 (2) Identify areas with existing and potential conventional and  
39 unconventional oil and gas reserves where well stimulation

1 treatments are likely to spur or enable oil and gas exploration and  
2 production.

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

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

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

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

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

33 (b) (1) On or before January 1, 2015, the division, in  
34 consultation with the Department of Toxic Substances Control,  
35 the State Air Resources Board, the State Water Resources Control  
36 Board, the Department of Resources Recycling and Recovery, and  
37 any local air districts and regional water quality control boards in  
38 areas where well stimulation treatments, including acid well  
39 stimulation treatments and hydraulic fracturing treatments may  
40 occur, shall adopt rules and regulations specific to well stimulation

1 treatments. The rules and regulations shall include, but are not  
2 limited to, revisions, as needed, to the rules and regulations  
3 governing construction of wells and well casings to ensure integrity  
4 of wells, well casings, and the geologic and hydrologic isolation  
5 of the oil and gas formation during and following well stimulation  
6 treatments, and full disclosure of the composition and disposition  
7 of well stimulation fluids, including, but not limited to, hydraulic  
8 fracturing fluids, acid well stimulation fluids, and waste hydraulic  
9 fracturing and acid stimulation fluids.

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

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

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

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

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

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

1 (F) The specific composition and disposition of all well  
2 stimulation treatment fluids, including waste fluids, other than  
3 water.

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

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

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

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

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

38 (3) The agreements under paragraph (2) shall specify the  
39 appropriate public entity responsible for air and water quality  
40 monitoring and the safe disposal of materials in landfills, include

1 trade secret handling protocols, if necessary, and provide for ready  
2 public access to information related to well stimulation treatments  
3 and related activities.

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

12 (A) The well identification number and location.

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

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

17 (C) *A water management plan that shall include all of the*  
18 *following:*

19 *(i) An estimate of the amount of water to be used in the*  
20 *treatment. Estimates of water that is recycled or that could be*  
21 *recycled following the well stimulation treatment may be included.*

22 *(ii) The anticipated source of the water to be used in the*  
23 *treatment.*

24 *(iii) The disposal method identified for the recovered water used*  
25 *in the treatment that is not produced water included in the*  
26 *statement pursuant to Section 3227.*

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

36 (E) The planned location of the well stimulation treatment on  
37 the well bore, the estimated length, height, and direction of the  
38 induced fractures or other planned modification, if any, and the  
39 location of existing wells, including plugged and abandoned wells,  
40 that may be impacted by these fractures and modifications.

1 (F) A groundwater monitoring plan. A groundwater monitoring  
2 plan is not required if the appropriate regional water quality control  
3 board confirms that the well subject to the proposed well  
4 stimulation treatment does not or will not penetrate or does not or  
5 will not influence an aquifer that is designated for a beneficial use.  
6 The groundwater monitoring plan shall include, at a minimum, all  
7 of the following information:

8 (i) The current water quality of the groundwater basin through  
9 which the well subject to the proposed well stimulation treatment  
10 is or will be drilled that is sufficient to characterize the quality of  
11 any aquifer through which the well is or will be drilled.

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

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

18 (iv) A plan that specifies sites for monitoring wells designed to  
19 detect contamination due to operation of the well subject to the  
20 proposed well stimulation treatment until the well is plugged and  
21 abandoned. The plan shall also include provisions for emergency  
22 implementation in the event of well or well casing failure or other  
23 event with the potential to contaminate groundwater.

24 ~~(G) A waste and wastewater disposal plan.~~

25 *(G) The estimated amount of treatment-generated waste*  
26 *materials that are not reported in subparagraph (C) and an*  
27 *identified disposal method for the waste materials.*

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

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

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

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

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

1 boards and to the local planning entity where the well, including  
2 its subsurface portion, is located. The division shall also post the  
3 permit on the publicly accessible portion of its Internet Web site  
4 within five business days of issuing a permit.

5 (5) (A) The division shall provide a copy of the approved well  
6 stimulation treatment permit and information on the water sampling  
7 and testing available through the regional water quality control  
8 board to every tenant of the surface property and every surface  
9 property owner or authorized agent of that owner whose property  
10 line location is one of the following:

- 11 (i) Within a 1,500 foot radius of the wellhead.
- 12 (ii) Within 500 feet from the horizontal projection of all  
13 subsurface portions of the designated well to the surface.

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

17 (6) (A) A property owner notified pursuant to paragraph (5)  
18 may request the regional water quality control board to perform,  
19 and the regional water quality control board or its contractors shall  
20 perform, water quality sampling and testing on any water well  
21 suitable for drinking or irrigation purposes and on any surface  
22 water suitable for drinking or irrigation purposes as follows:

- 23 (i) Baseline measurements prior to the commencement of the  
24 well stimulation treatment.
- 25 (ii) Followup measurements after the well stimulation treatment  
26 on the same schedule as the pressure testing of the well casing of  
27 the treated well.

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

31 (C) A tenant notified pursuant to paragraph (5) shall receive  
32 information on the results of the water testing to the extent  
33 authorized by his or her lease and, where the tenant has lawful use  
34 of the ground or surface water identified in subparagraph (A), the  
35 tenant may independently contract for similar groundwater or  
36 surface water testing.

37 (7) If warranted, the regional water quality control board shall  
38 have the authority to retain an appropriately prepared and stored  
39 baseline sample or samples collected pursuant to paragraph (6) for

1 as long as the planned analytical method or methods would provide  
2 valid results.

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

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

8 (e) The Secretary of the Natural Resources Agency shall notify  
9 the Joint Legislative Budget Committee and the chairs of the  
10 Assembly Natural Resources, Senate Environmental Quality, and  
11 Senate Natural Resources and Water Committees on the progress  
12 of the independent scientific study on well stimulation and related  
13 activities. The first progress report shall be provided to the  
14 Legislature on or before April 1, 2014, and progress reports shall  
15 continue every four months thereafter until the independent study  
16 is completed, including a peer review of the study by independent  
17 scientific experts.

18 (f) If a well stimulation treatment is performed on a well, a  
19 supplier that performs any part of the stimulation or provides  
20 additives directly to the operator for a well stimulation treatment  
21 shall furnish the operator with information needed for the operator  
22 to comply with subdivision (g). If a supplier claims trade secret  
23 protection pursuant to subdivision (j), the supplier shall notify the  
24 operator and provide to the operator substitute information, as  
25 described in subdivision (j), suitable for public disclosure. This  
26 information shall be provided as soon as possible but no later than  
27 30 days following the conclusion of the well stimulation treatment.

28 (g) (1) Within 60 days following cessation of a well stimulation  
29 treatment on a well, the operator shall post or cause to have posted  
30 to an Internet Web site designated or maintained by the division  
31 and accessible to the public, all of the well stimulation fluid  
32 composition and disposition information required to be collected  
33 pursuant to rules and regulations adopted under subdivision (b),  
34 including well identification number and location. This shall  
35 include the collected water quality data, which the operator shall  
36 report electronically to the State Water Resources Control Board.

37 (2) The division's Internet Web site shall be operational on or  
38 before January 1, 2016, and the division may direct reporting to  
39 an alternative Internet Web site developed by the Ground Water  
40 Protection Council and the Interstate Oil and Gas Compact

1 Commission in the interim. The reported information shall be  
2 organized on the division's Internet Web site in a format, such as  
3 a spreadsheet, that allows the public to easily search and aggregate,  
4 to the extent practicable, each type of information required to be  
5 collected pursuant to subdivision (b) using search functions on  
6 that Internet Web site.

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

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

14 (2) For the purposes of this section, the "fracture zone" is  
15 defined as the volume surrounding the well bore where fractures  
16 were created or enhanced by the well stimulation treatment. The  
17 safety factor shall be at least five and may vary depending upon  
18 geologic knowledge.

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

24 (2) If a supplier believes that information regarding a chemical  
25 constituent of a well stimulation fluid is a trade secret, the supplier  
26 shall nevertheless disclose the information to the division in  
27 conjunction with a well stimulation treatment permit application,  
28 if not previously disclosed, within 30 days following cessation of  
29 well stimulation on a well, and shall notify the division in writing  
30 of that belief.

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

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

37 (B) The extent to which the information is known by the  
38 supplier's employees and others involved in the supplier's business,  
39 and whether or not all those individuals are bound by nondisclosure  
40 agreements.

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

4 (D) The estimated value of the information to the supplier and  
5 its competitors.

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

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

14 (G) Copies of, or references to, any pertinent trade secret or  
15 other confidentiality determinations previously made by the  
16 division or other public agencies, including court orders or  
17 decisions.

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

24 (5) If the division determines that the information provided in  
25 support of a request for trade secret protection does not meet the  
26 substantive criteria for trade secret designation, the department  
27 shall notify the supplier by certified mail of its determination. The  
28 division shall release the information to the public, but not earlier  
29 than 60 days after the date of mailing the determination, unless,  
30 prior to the expiration of the 60-day period, the supplier obtains  
31 an action in an appropriate court for a declaratory judgment that  
32 the information is subject to protection or for a preliminary  
33 injunction prohibiting disclosure of the information to the public  
34 and provides notice to the division of the court order. If no order  
35 or declaratory judgment is obtained, the division shall release the  
36 information to the public by revising the information provided  
37 pursuant to subdivision (g).

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

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

4 (8) To comply with the public disclosure requirements of this  
5 section, the supplier shall indicate where trade secret information  
6 has been withheld and provide substitute information for public  
7 disclosure. The substitute information shall be a list, in any order,  
8 of the chemical constituents of the additive, including CAS  
9 identification numbers, whose specific composition is a trade  
10 secret. Information on the relative amounts or concentration of the  
11 constituents of additives whose specific composition is a trade  
12 secret shall not be publicly disclosed. The division shall review  
13 and approve the supplied substitute information.

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

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

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

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

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

35 (12) (A) Except as provided in subparagraph (B) of paragraph  
36 (11), trade secret information is not a public record and shall not  
37 be disclosed to anyone except to an officer or employee of the  
38 division, the state, local governments, including, but not limited  
39 to, local air districts, or the United States, in connection with the  
40 official duties of that officer or employee, to a health professional

1 under any law for the protection of health, or to contractors with  
2 the division or other government entities and their employees if,  
3 in the opinion of the division, disclosure is necessary and required  
4 for the satisfactory performance of a contract, for performance of  
5 work, or to protect health and safety.

6 (B) In order to receive trade secret information, a health  
7 professional shall have a reasonable basis to suspect the  
8 information is needed to diagnose or treat a patient.

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

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

19 (E) Confidentiality of trade secret information from public  
20 disclosure shall be maintained by those who receive trade secret  
21 information pursuant to the provisions of this subdivision, subject  
22 to the enforcement provisions of this division, and any additional  
23 applicable state and federal law.

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

31 (13) (A) The supplier shall provide trade secret information in  
32 order to protect public health to any health professional,  
33 toxicologist, or epidemiologist who is employed in the field of  
34 public health and who provides a written statement of need ~~and~~  
35 ~~confidentiality agreement~~. The written statement of need shall  
36 include the public health purposes and shall explain the reason the  
37 disclosure of the specific chemical and its concentration is required  
38 in lieu of information describing the properties and effects of the  
39 chemical.

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

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

8 ~~(l)~~

9 (k) A well granted confidential status pursuant to Section 3234  
10 shall comply with this section, with the exception of the disclosure  
11 of well stimulation fluids pursuant to subdivision (g) which shall  
12 not be required until the confidential status of the well ceases.

13 ~~(m)~~

14 (l) The division shall perform random periodic spot check  
15 inspections to ensure that the information provided on well  
16 stimulation treatments is accurately reported, including that the  
17 estimates provided prior to the commencement of the well  
18 stimulation treatment are reasonably consistent with the well  
19 history.

20 ~~(n)~~

21 (m) Where the division shares jurisdiction over a well or the  
22 well stimulation treatment on a well with a federal entity, the  
23 division’s rules and regulations shall apply in addition to all  
24 applicable federal law and regulations.

25 ~~(o)~~

26 (n) This article does not relieve the division or any other agency  
27 from complying with any other provision of existing ~~law~~ *laws and*  
28 *regulations*.

29 SEC. 3. Section 3213 of the Public Resources Code is amended  
30 to read:

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

37 SEC. 4. Section 3215 of the Public Resources Code is amended  
38 to read:

39 3215. (a) Within 60 days after the date of cessation of drilling,  
40 rework, well stimulation treatment, or abandonment operations,

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

8 (b) The supervisor shall include information or electronic links  
9 to information provided pursuant to subdivision (g) of Section  
10 3160 on existing publicly accessible maps on the division's Internet  
11 Web site, and make the information available such that well  
12 stimulation treatment and related information are associated with  
13 each specific well. If data is reported on an Internet Web site not  
14 maintained by the division pursuant to paragraph (2) of subdivision  
15 (g) of Section 3160, the division shall provide electronic links to  
16 that Internet Web site. The public shall be able to search and sort  
17 the hydraulic well stimulation and related information by at least  
18 the following 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 well stimulation treatments in the  
30 exploration and production of oil and gas resources in California.  
31 The report shall include aggregated data of all of the information  
32 required to be reported pursuant to Section 3160 reported by the  
33 district, county, and operator. The report also shall include relevant  
34 additional information, as necessary, including, but not limited to,  
35 all of the following:

- 36 (1) Aggregated data detailing the disposition of any produced  
37 water from wells that have undergone well stimulation treatments.
- 38 (2) Aggregated data describing the formations where wells have  
39 received well stimulation treatments including the range of safety  
40 factors used and fracture zone lengths.

1 (3) The number of emergency responses to a spill or release  
2 associated with a well stimulation treatment.

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

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

12 (6) The number of spot check inspections conducted pursuant  
13 to subdivision~~(m)~~ (l) of Section 3160, including the number of  
14 inspections where the composition of well stimulation fluids were  
15 verified and the results of those inspections.

16 (7) The number of well stimulation treatments witnessed by the  
17 division.

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

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

24 SEC. 5. Section 3236.5 of the Public Resources Code is  
25 amended to read:

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

1 pursuant to this section, the supervisor shall consider, in addition  
2 to other relevant circumstances, all of the following:

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

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

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

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

21 3401. (a) The proceeds of charges levied, assessed, and  
22 collected pursuant to this article upon the properties of every person  
23 operating or owning an interest in the production of a well shall  
24 be used exclusively for the support and maintenance of the  
25 department charged with the supervision of oil and gas operations.

26 (b) Notwithstanding subdivision (a), the proceeds of charges  
27 levied, assessed, and collected pursuant to this article upon the  
28 properties of every person operating or owning an interest in the  
29 production of a well undergoing a well stimulation treatment, may  
30 be used by public entities, subject to appropriation by the  
31 Legislature, for all costs associated with both of the following:

32 (1) Well stimulation treatments, including scientific studies  
33 required to evaluate the treatment, inspections, and any air and  
34 water quality sampling, monitoring, and testing performed by  
35 public entities.

36 (2) The development and implementation of the consultation  
37 process and agreements required pursuant to subdivisions (b) and  
38 (c) of Section 3160.

39 SEC. 7. No reimbursement is required by this act pursuant to  
40 Section 6 of Article XIII B of the California Constitution because

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

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