

AMENDED IN ASSEMBLY SEPTEMBER 3, 2013

AMENDED IN ASSEMBLY AUGUST 19, 2013

AMENDED IN ASSEMBLY AUGUST 6, 2013

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~~ *Senators Pavley and Leno*

(Principal coauthor: Assembly Member Gray)

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

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

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, *and to add Section 10783 to the Water 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~~ *provide that* the well stimulation treatment ~~to be completed~~ *within permit expires* 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 require the division, no later than January 1, 2016, to develop an Internet Web site for operators to report specific information regarding well stimulation treatments.* 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, *as specified*, but would, ~~except as specified~~, *with certain exceptions*, 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~~ *costs of the State Water Resources Control Board and the regional water quality control boards in carrying out groundwater monitoring, as specified.*

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.

(4) *Existing law, the Groundwater Quality Monitoring Act of 2001, requires the State Water Resources Control Board to integrate existing monitoring programs and design new program elements, as necessary, to establish a comprehensive monitoring program capable of assessing each groundwater basin in the state through direct and other statistically reliable sampling approaches.*

This bill would require the state board, on or before January 1, 2015, to develop a groundwater monitoring model criteria, as specified, to be implemented either on a well-by-well basis or on a regional scale, on how to conduct appropriate monitoring on individual oil and gas wells subject to a well stimulation treatment in order to protect all waters designated for beneficial uses and prioritize the monitoring of groundwater that is or has the potential to be a source of drinking water.

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
16 related wastes, including from hydraulic fracturing, is of paramount
17 concern.

18 (d) *The public disclosure of chemical information required by*
19 *this act ensures that potential public exposure to, and dose received*
20 *from, well stimulation treatment fluid chemicals can be reasonably*
21 *discerned.*

22 (~~e~~)

23 (e) The Legislature encourages the use or reuse of treated or
24 untreated water and produced water for well stimulation treatments
25 and well stimulation treatment-related activities.

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

Article 3. Well Stimulation

1
2
3 3150. “Additive” means a substance or combination of
4 substances added to a base fluid for purposes of preparing well
5 stimulation treatment fluid which includes, but is not limited to,
6 an acid stimulation treatment fluid or a hydraulic fracturing fluid.
7 An additive may, but is not required to, serve additional purposes
8 beyond the transmission of hydraulic pressure to the geologic
9 formation. An additive may be of any phase and includes
10 proppants.

11 3151. “Base fluid” means the continuous phase fluid used in
12 the makeup of a well stimulation treatment fluid, including, but
13 not limited to, an acid stimulation treatment fluid or a hydraulic
14 fracturing fluid. The continuous phase fluid may include, but is
15 not limited to, water, and may be a liquid or a hydrocarbon or
16 nonhydrocarbon gas. A well stimulation treatment may use more
17 than one base fluid.

18 3152. “Hydraulic fracturing” means a well stimulation
19 treatment that, in whole or in part, includes the pressurized injection
20 of hydraulic fracturing fluid or fluids into an underground geologic
21 formation in order to fracture or with the intent to fracture the
22 formation, thereby causing or enhancing, for the purposes of this
23 division, the production of oil or gas from a well.

24 3153. ~~“Hydraulic fracturing fluid”~~ “*Well stimulation treatment*
25 *fluid*” means a base fluid mixed with physical and chemical
26 additives for the purpose of ~~hydraulic fracturing a well stimulation~~
27 ~~treatment. A hydraulic fracturing well stimulation~~ *treatment*. *Well stimulation treatment fluids include, but are*
28 *not limited to, hydraulic fracturing fluids and acid stimulation*
29 *treatment fluids.*

30
31
32 3154. “Proppants” means materials inserted or injected into
33 the underground geologic formation that are intended to prevent
34 fractures from closing.

35 3155. “Supplier” means an entity performing a well stimulation
36 treatment or an entity supplying an additive or proppant directly
37 to the operator for use in a well stimulation treatment.

38 3156. “Surface property owner” means the owner of real
39 property as shown on the latest equalized assessment roll or, if
40 more recent information than the information contained on the

1 assessment roll is available, the owner of record according to the
2 county assessor or tax collector.

3 3157. For purposes of this article, “well stimulation treatment”
4 means any treatment of a well designed to enhance oil and gas
5 production or recovery. Well stimulation treatments include, but
6 are not limited to, hydraulic fracturing treatments and acid well
7 stimulation treatments. Well stimulation treatments do not include
8 steam flooding, water flooding, or cyclic steaming and do not
9 include routine well cleanout work, routine well maintenance,
10 bottom hole pressure surveys, or routine activities that do not affect
11 the integrity of the well or the formation.

12 3158. “Acid well stimulation treatment” means a well
13 stimulation treatment that uses, in whole or in part, the application
14 of one or more acids to the well or underground geologic formation
15 with the intent to cause or enhance the production of oil or gas
16 from a well. The acid well stimulation treatment may be at any
17 applied pressure and may be used in combination with hydraulic
18 fracturing treatments or other well stimulation treatments.

19 3159. “Flowback fluid” means the fluid recovered from the
20 treated well before the commencement of oil and gas production
21 from that well following a well stimulation treatment. The flowback
22 fluid may include materials of any phase.

23 3160. (a) On or before January 1, 2015, the Secretary of the
24 Natural Resources Agency shall cause to be conducted an
25 independent scientific study on well stimulation treatments,
26 including, but not limited to, hydraulic fracturing and acid well
27 stimulation treatments. The scientific study shall evaluate the
28 hazards and risks and potential hazards and risks that well
29 stimulation treatments pose to natural resources and public,
30 occupational, and environmental health and safety. The scientific
31 study shall do all of the following:

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

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

39 (3) ~~(A)~~ Evaluate all aspects of hydraulic fracturing and effects
40 of well stimulation treatments, including, but not limited to, the

1 ~~hydraulic fracturing~~ *well stimulation* treatment, additive and water
2 transportation to and from the well site, mixing and handling of
3 ~~the hydraulic fracturing well stimulation treatment~~ fluids and
4 additives onsite, the use and potential for use of nontoxic additives
5 and the use or reuse of treated or produced water in ~~hydraulic~~
6 ~~fracturing well stimulation treatment~~ fluids, ~~wastewater flowback~~
7 ~~fluids~~ and ~~waste hydraulic fracturing fluid~~ handling, treatment,
8 and disposal of *flowback fluids and other materials, if any,*
9 *generated by the treatment. Well stimulation treatments include,*
10 *but are not limited to, hydraulic fracturing and acid well*
11 *stimulation treatments.*

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

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

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

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

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

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

11 (B) *The rules and regulations shall additionally include a*
12 *provision for the operator to provide for baseline and followup*
13 *water testing upon request as specified in paragraph (6) of*
14 *subdivision (d).*

15 (2) Full disclosure of the composition and disposition of well
16 stimulation fluids, including, but not limited to, hydraulic fracturing
17 fluids and acid stimulation treatment fluids, shall, at a minimum,
18 include:

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

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

28 (C) The trade name, the supplier, *concentration*, and a brief
29 description of the intended purpose of each additive contained in
30 the well stimulation treatment fluid.

31 (D) The total volume of base fluid used during the well
32 stimulation treatment, and the identification of whether the base
33 fluid is water suitable for irrigation or domestic purposes, water
34 not suitable for irrigation or domestic purposes, or a fluid other
35 than water.

36 (E) The source, volume, and specific composition and
37 disposition of all water, including, but not limited to, all water
38 used as base fluid during the well stimulation treatment and
39 recovered from the well following the well stimulation treatment
40 that is not otherwise reported as produced water pursuant to Section

1 3227. Any repeated reuse of treated or untreated water for well
2 stimulation treatments and well stimulation treatment-related
3 activities shall be identified.

4 (F) The specific composition and disposition of all well
5 stimulation treatment fluids, including waste fluids, other than
6 water.

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

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

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

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

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

1 (3) The agreements under paragraph (2) shall specify the
2 appropriate public entity responsible for air and water quality
3 monitoring and the safe *and lawful* disposal of materials in
4 landfills, include trade secret handling protocols, if necessary, and
5 provide for ready public access to information related to well
6 stimulation treatments and related activities.

7 (4) *Regulations, if necessary, shall be revised appropriately to*
8 *incorporate the agreements under paragraph (2).*

9 (d) (1) Notwithstanding any other law or regulation, prior to
10 performing a well stimulation treatment on a well, the operator
11 shall apply for a permit to perform a well stimulation treatment
12 with the supervisor or district deputy. *At the supervisor's*
13 *discretion, and if applied for concurrently, the well stimulation*
14 *treatment permit described in this section may be combined with*
15 *the well drilling and related operation permit required pursuant*
16 *to Section 3203 into a single combined permit. The time period*
17 *available for approval of the portion of the combined permit*
18 *applicable to well stimulation is subject to the terms of this section,*
19 *not Section 3203.* The well stimulation treatment permit application
20 shall contain the pertinent data the supervisor requires on printed
21 forms supplied by the division or on other forms acceptable to the
22 supervisor. The information provided in the *well stimulation*
23 *treatment* permit application shall include, but is not limited to,
24 the following:

25 (A) The well identification number and location.

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

28 (C) A water management plan that shall include all of the
29 following:

30 (i) An estimate of the amount of water to be used in the
31 treatment. Estimates of water that is recycled or that could be
32 recycled following the well stimulation treatment may be included.

33 (ii) The anticipated source of the water to be used in the
34 treatment.

35 (iii) The disposal method identified for the recovered water used
36 ~~in~~ *in the flowback fluid from* the treatment that is not produced
37 water included in the statement pursuant to Section 3227.

38 (D) A complete list of the names, Chemical Abstract Service
39 (CAS) numbers, and estimated concentrations, in percent by mass,
40 of each and every chemical constituent of the well stimulation

1 fluids anticipated to be used in the treatment. If a CAS number
2 does not exist for a chemical constituent, the well owner or operator
3 may provide another unique identifier, if available. ~~Chemical~~
4 ~~information claimed as a trade secret, pursuant to subdivision (j),~~
5 ~~shall be identified as such and reported as described in subdivision~~
6 ~~(j).~~

7 (E) The planned location of the well stimulation treatment on
8 the well bore, the estimated length, height, and direction of the
9 induced fractures or other planned modification, if any, and the
10 location of existing wells, including plugged and abandoned wells,
11 that may be impacted by these fractures and modifications.

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

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

23 ~~(ii) An estimate of the zone of influence of the well subject to~~
24 ~~the proposed well stimulation treatment.~~

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

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

35 *(F) A groundwater monitoring plan. Required groundwater*
36 *monitoring in the vicinity of the well subject to the well stimulation*
37 *treatment shall be satisfied by one of the following:*

38 *(i) The well is located within the boundaries of an existing oil*
39 *or gas field-specific or regional monitoring program developed*
40 *pursuant to Section 10783 of the Water Code.*

1 (ii) *Through a well-specific monitoring plan implemented by*
2 *the owner or operator meeting the model criteria established*
3 *pursuant to Section 10783 of the Water Code, and submitted to*
4 *the appropriate regional water board for review.*

5 (G) The estimated amount of treatment-generated waste
6 materials that are not reported in subparagraph (C) and an identified
7 disposal method for the waste materials.

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

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

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

16 (3) ~~The well stimulation treatment shall be completed within~~
17 ~~one year of the issuance of the permit shall expire one year from~~
18 ~~the date that the permit is issued.~~

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

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

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

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

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

38 (6) (A) A property owner notified pursuant to paragraph (5)
39 may request ~~the regional water quality control board to perform,~~
40 ~~and the regional water quality control board or its contractors shall~~

1 ~~perform~~, water quality sampling and testing *from a designated*
2 *qualified contractor* on any water well suitable for drinking or
3 irrigation purposes and on any surface water suitable for drinking
4 or irrigation purposes as follows:

5 (i) Baseline measurements prior to the commencement of the
6 well stimulation treatment.

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

10 (B) The regional water quality control board ~~may contract with~~
11 ~~an~~ *shall designate one or more qualified independent third party*
12 *third-party contractor or contractors that adheres adhere* to
13 board-specified standards and protocols to perform the water
14 sampling and testing. *The well owner or operator shall pay for*
15 *the sampling and testing. The sampling and testing performed*
16 *shall be subject to audit and review by the applicable regional*
17 *water quality control board.*

18 (C) *The results of the water testing shall be provided to the*
19 *division, appropriate regional water board, and the property owner*
20 *or authorized agent.* A tenant notified pursuant to paragraph (5)
21 shall receive information on the results of the water testing to the
22 extent authorized by his or her lease and, where the tenant has
23 lawful use of the ground or surface water identified in subparagraph
24 (A), the tenant may independently contract for similar groundwater
25 or surface water testing.

26 ~~(7) If warranted, the regional water quality control board shall~~
27 ~~have the authority to retain an appropriately prepared and stored~~
28 ~~baseline sample or samples collected pursuant to paragraph (6) for~~
29 ~~as long as the planned analytical method or methods would provide~~
30 ~~valid results.~~

31 ~~(8)~~

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

34 ~~(9)~~

35 (8) The operator shall provide notice to the division at least 72
36 hours prior to the actual start of the well stimulation treatment in
37 order for the division to witness the treatment.

38 (e) The Secretary of the Natural Resources Agency shall notify
39 the Joint Legislative Budget Committee and the chairs of the
40 Assembly Natural Resources, Senate Environmental Quality, and

1 Senate Natural Resources and Water Committees on the progress
2 of the independent scientific study on well stimulation and related
3 activities. The first progress report shall be provided to the
4 Legislature on or before April 1, 2014, and progress reports shall
5 continue every four months thereafter until the independent study
6 is completed, including a peer review of the study by independent
7 scientific experts.

8 (f) If a well stimulation treatment is performed on a well, a
9 supplier that performs any part of the stimulation or provides
10 additives directly to the operator for a well stimulation treatment
11 shall furnish the operator with information *suitable for public*
12 *disclosure* needed for the operator to comply with subdivision (g).
13 ~~If a supplier claims trade secret protection pursuant to subdivision~~
14 ~~(j), the supplier shall notify the operator and provide to the operator~~
15 ~~substitute information, as described in subdivision (j), suitable for~~
16 ~~public disclosure.~~ This information shall be provided as soon as
17 possible but no later than 30 days following the conclusion of the
18 well stimulation treatment.

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

28 (2) (A) *The division shall commence the process to develop an*
29 *Internet Web site for operators to report the information required*
30 *under this section. The Internet Web site shall be capable of*
31 *organizing the reported information in a format, such as a*
32 *spreadsheet, that allows the public to easily search and aggregate,*
33 *to the extent practicable, each type of information required to be*
34 *collected pursuant to subdivision (b) using search functions on*
35 *that Internet Web site. The Internet Web site shall be functional*
36 *within two years of the Department of Technology's approval of*
37 *a Feasibility Study Report and appropriation authority to fund the*
38 *development of the Internet Web site, whichever occurs latest, but*
39 *no later than January 1, 2016.*

1 (B) *The division may direct reporting to an alternative Internet*
2 *Web site developed by the Ground Water Protection Council and*
3 *the Interstate Oil and Gas Compact Commission in the interim*
4 *until such time as approval and appropriation authority pursuant*
5 *to subparagraph (A) occur. Prior to the implementation of the*
6 *division's Internet Web site, the division shall obtain the data*
7 *reported by operators to the alternative Internet Web site and make*
8 *it available in an organized electronic format to the public no later*
9 *than 15 days after it is reported to the alternative Web site.*

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

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

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

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

32 (j) (1) ~~The supplier may claim trade secret protection for the~~
33 ~~chemical composition of additives, whose use is not otherwise~~
34 ~~prohibited by law, pursuant to *Public disclosure of well stimulation*~~
35 ~~*treatment fluid information claimed to contain trade secrets is*~~
36 ~~governed by Section 1060 of the Evidence Code, or the Uniform~~
37 ~~Trade Secrets Act (Title 5 (commencing with Section 3426) of~~
38 ~~Part 1 of Division 4 of the Civil Code), and the *California Public*~~
39 ~~*Records Act (Chapter 3.5 (commencing with Section 6250) of*~~
40 ~~*Division 7 of Title 1 of the Government Code).*~~

1 (2) Notwithstanding any other law or regulation, none of the
2 following information shall be protected as a trade secret:

3 (A) The identities of the chemical constituents of additives,
4 including CAS identification numbers.

5 (B) The concentrations of the additives in the well stimulation
6 treatment fluids.

7 (C) Any air or other pollution monitoring data.

8 (D) Health and safety data associated with well stimulation
9 treatment fluids.

10 (E) The chemical composition of the flowback fluid.

11 (3) If a trade secret claim is invalid or invalidated, the division
12 shall release the information to the public by revising the
13 information released pursuant to subdivision (g). The supplier
14 shall notify the division of any change in status within 30 days.

15 ~~(2)~~

16 (4) (A) If a supplier believes that information regarding a
17 chemical constituent of a well stimulation fluid is a trade secret,
18 the supplier shall nevertheless disclose the information to the
19 division in conjunction with a well stimulation treatment permit
20 application, if not previously disclosed, within 30 days following
21 cessation of well stimulation on a well, and shall notify the division
22 in writing of that belief.

23 (B) A trade secret claim shall not be made after initial disclosure
24 of the information to the division.

25 (C) To comply with the public disclosure requirements of this
26 section, the supplier shall indicate where trade secret information
27 has been withheld and provide substitute information for public
28 disclosure. The substitute information shall be a list, in any order,
29 of the chemical constituents of the additive, including CAS
30 identification numbers. The division shall review and approve the
31 supplied substitute information.

32 (D) This subdivision does not permit a supplier to refuse to
33 disclose the information required pursuant to this section to the
34 division.

35 (5) In order to substantiate the trade secret claim, the supplier
36 shall provide information to the division that shows all of the
37 following:

38 (A) The extent to which the trade secret information is known
39 by the supplier's employees, others involved in the supplier's
40 business and outside the supplier's business.

1 (B) *The measures taken by the supplier to guard the secrecy of*
2 *the trade secret information.*

3 (C) *The value of the trade secret information to the supplier*
4 *and its competitors.*

5 (D) *The amount of effort or money the supplier expended*
6 *developing the trade secret information and the ease or difficulty*
7 *with which the trade secret information could be acquired or*
8 *duplicated by others.*

9 ~~(3) In order to substantiate the trade secret claim to the division,~~
10 ~~the supplier shall provide the following information to the division:~~

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

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

19 ~~(C) The extent of measures taken by the supplier to restrict~~
20 ~~access to and guard the secrecy of the information, and whether~~
21 ~~or not the supplier plans to continue utilizing those measures.~~

22 ~~(D) The estimated value of the information to the supplier and~~
23 ~~its competitors.~~

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

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

32 ~~(G) Copies of, or references to, any pertinent trade secret or~~
33 ~~other confidentiality determinations previously made by the~~
34 ~~division or other public agencies, including court orders or~~
35 ~~decisions.~~

36 ~~(4)~~

37 (6) If the division determines that the information provided in
38 support of a request for trade secret protection pursuant to
39 paragraph ~~(3)~~ (5) is incomplete, the division shall notify the
40 supplier and the supplier shall have 30 days to complete the

1 submission. An incomplete submission does not meet the
2 substantive criteria for trade secret designation.

3 ~~(5)~~

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

18 ~~(6)~~

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

21 ~~(7) This subdivision does not permit a supplier to refuse to
22 disclose the information required pursuant to this section to the
23 division:~~

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

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

37 ~~(10) The supplier shall notify the division in writing within 30
38 days of any changes to information provided to the division to
39 support a trade secret claim, including if the information is no
40 longer a trade secret.~~

1 ~~(11)~~
 2 (9) Upon receipt of a request for the release of *trade secret*
 3 information to the public, ~~which includes information the supplier~~
 4 ~~has notified the division is a trade secret and is not a public record,~~
 5 the following procedure applies:

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

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

16 (10) *The division shall develop a timely procedure to provide*
 17 *trade secret information in the following circumstances:*

18 (A) *To an officer or employee of the division, the state, local*
 19 *governments, including, but not limited to, local air districts, or*
 20 *the United States, in connection with the official duties of that*
 21 *officer or employee, to a health professional under any law for the*
 22 *protection of health, or to contractors with the division or other*
 23 *government entities and their employees if, in the opinion of the*
 24 *division, disclosure is necessary and required for the satisfactory*
 25 *performance of a contract, for performance of work, or to protect*
 26 *health and safety.*

27 (B) *To a health professional in the event of an emergency or to*
 28 *diagnose or treat a patient.*

29 (C) *In order to protect public health, to any health professional,*
 30 *toxicologist, or epidemiologist who is employed in the field of*
 31 *public health and who provides a written statement of need. The*
 32 *written statement of need shall include the public health purposes*
 33 *of the disclosure and shall explain the reason the disclosure of the*
 34 *specific chemical and its concentration is required.*

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)~~

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

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

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

25 ~~(F)~~

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

33 (F) *A person in possession of, or access to, confidential trade
34 secret information pursuant to the provisions of this subdivision
35 may disclose this information to any person who is authorized to
36 receive it. A written confidentiality agreement shall not be required.*

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

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

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

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

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

24 (n) This article does not relieve the division or any other agency
25 from complying with any other provision of existing laws and
26 regulations.

27 (o) *Well stimulation treatments used for routine maintenance
28 of wells associated with underground storage facilities where
29 natural gas is injected into and withdrawn from depleted or
30 partially depleted oil or gas reservoirs pursuant to subdivision (a)
31 of Section 3403.5 are not subject to this section.*

32 SEC. 3. Section 3213 of the Public Resources Code is amended
33 to read:

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

1 SEC. 4. Section 3215 of the Public Resources Code is amended
2 to read:

3 3215. (a) Within 60 days after the date of cessation of drilling,
4 rework, well stimulation treatment, or abandonment operations,
5 or the date of suspension of operations, the operator shall file with
6 the district deputy, in a form approved by the supervisor, true
7 copies of the log, core record, and history of work performed, and,
8 if made, true and reproducible copies of all electrical, physical, or
9 chemical logs, tests, or surveys. Upon a showing of hardship, the
10 supervisor may extend the time within which to comply with this
11 section for a period not to exceed 60 additional days.

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

- 23 (1) Geographic area.
- 24 (2) Additive.
- 25 (3) Chemical constituent.
- 26 (4) Chemical Abstract Service number.
- 27 (5) Time period.
- 28 (6) Operator.

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

1 (1) Aggregated data detailing the disposition of any produced
2 water from wells that have undergone well stimulation treatments.

3 (2) Aggregated data describing the formations where wells have
4 received well stimulation treatments including the range of safety
5 factors used and fracture zone lengths.

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

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

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

17 (6) The number of spot check inspections conducted pursuant
18 to subdivision (l) of Section 3160, including the number of
19 inspections where the composition of well stimulation fluids were
20 verified and the results of those inspections.

21 (7) The number of well stimulation treatments witnessed by the
22 division.

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

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

29 SEC. 5. Section 3236.5 of the Public Resources Code is
30 amended to read:

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

1 determination that a violation has been committed by the person
2 charged. The imposition of a civil penalty under this section shall
3 be in addition to any other penalty provided by law for the
4 violation. When establishing the amount of the civil penalty
5 pursuant to this section, the supervisor shall consider, in addition
6 to other relevant circumstances, all of the following:

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

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

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

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

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

30 (b) Notwithstanding subdivision (a), the proceeds of charges
31 levied, assessed, and collected pursuant to this article upon the
32 properties of every person operating or owning an interest in the
33 production of a well undergoing a well stimulation treatment, may
34 be used by public entities, subject to appropriation by the
35 Legislature, for all costs associated with ~~both of the following:~~
36 *well stimulation treatments including rulemaking and scientific*
37 *studies required to evaluate the treatment, inspections, any air*
38 *and water quality sampling, monitoring, and testing performed by*
39 *public entities and the costs of the State Water Resources Control*
40 *Board and the regional water quality control boards in carrying*

1 *out their responsibilities pursuant to Section 10783 of the Water*
2 *Code.*

3 ~~(1) Well stimulation treatments, including scientific studies~~
4 ~~required to evaluate the treatment, inspections, and any air and~~
5 ~~water quality sampling, monitoring, and testing performed by~~
6 ~~public entities.~~

7 ~~(2) The development and implementation of the consultation~~
8 ~~process and agreements required pursuant to subdivisions (b) and~~
9 ~~(e) of Section 3160.~~

10 *SEC. 7. Section 10783 is added to the Water Code, to read:*

11 *10783. (a) The Legislature finds and declares that protecting*
12 *the state's groundwater for beneficial use, particularly sources*
13 *and potential sources of drinking water, is of paramount concern.*

14 *(b) The Legislature further finds and declares that strategic,*
15 *scientifically based groundwater monitoring of the state's oil and*
16 *gas fields is critical to allaying the public's concerns regarding*
17 *well stimulation treatments of oil and gas wells.*

18 *(c) On or before January 1, 2015, in order to assess the potential*
19 *effects of well stimulation treatments, as defined in Article 3*
20 *(commencing with Section 3150) of Chapter 1 of Division 3 of the*
21 *Public Resources Code, on the state's groundwater resources in*
22 *a systematic way, the state board shall develop model groundwater*
23 *monitoring criteria to be implemented either on a well-by-well*
24 *basis for a well subject to well stimulation treatment, or on a*
25 *regional scale. The model criteria shall address a range of spatial*
26 *sampling scales from methods for conducting appropriate*
27 *monitoring on individual oil and gas wells subject to a well*
28 *stimulation treatment, to methods for conducting a regional*
29 *groundwater monitoring program. The state board shall take into*
30 *consideration the recommendations received pursuant to*
31 *subdivision (d) and shall include in the model criteria, at a*
32 *minimum, the components identified in subdivision (e). The state*
33 *board shall prioritize monitoring of groundwater that is or has*
34 *the potential to be a source of drinking water, but shall protect all*
35 *waters designated for any beneficial use.*

36 *(d) The state board, in consultation with the Department of*
37 *Conservation, Division of Oil, Gas, and Geothermal Resources,*
38 *shall seek the advice of experts on the design of the model*
39 *groundwater monitoring criteria. The experts shall assess and*
40 *make recommendations to the state board on the model criteria.*

1 *These recommendations shall prioritize implementation of regional*
2 *groundwater monitoring programs statewide, as warranted, based*
3 *upon the prevalence of well stimulation treatments of oil and gas*
4 *wells and groundwater suitable as a source of drinking water.*

5 *(e) The scope and nature of the model groundwater monitoring*
6 *criteria shall include the determination of all of the following:*

7 *(1) An assessment of the areas to conduct groundwater quality*
8 *monitoring and their appropriate boundaries.*

9 *(2) A list of the constituents to measure and assess water quality.*

10 *(3) The location, depth, and number of monitoring wells*
11 *necessary to detect groundwater contamination at spatial scales*
12 *ranging from an individual oil and gas well to a regional*
13 *groundwater basin including one or more oil and gas fields.*

14 *(4) The frequency and duration of the monitoring.*

15 *(5) A threshold criteria indicating a transition from well-by-well*
16 *monitoring to a regional monitoring program.*

17 *(6) Data collection and reporting protocols.*

18 *(7) Public access to the collected data under paragraph (6).*

19 *(f) Factors to consider in addressing subdivision (e) shall*
20 *include, but are not limited to, all of the following:*

21 *(1) The existing quality and potential use of the groundwater.*

22 *(2) Groundwater that is not a source of drinking water consistent*
23 *with the United States Environmental Protection Agency's*
24 *definition of an Underground Source of Drinking Water as*
25 *containing less than 10,000 milligrams per liter total dissolved*
26 *solids in groundwater (40 C.F.R. 144.3), including exempt aquifers*
27 *pursuant to Section 146.4 of Title 40 of the Code of Federal*
28 *Regulations.*

29 *(3) Proximity to human population, public water service wells,*
30 *and private groundwater use, if known.*

31 *(4) The presence of existing oil and gas production fields,*
32 *including the distribution, physical attributes, and operational*
33 *status of oil and gas wells therein.*

34 *(5) Events, including well stimulation treatments and oil and*
35 *gas well failures, among others, that have the potential to*
36 *contaminate groundwater, appropriate monitoring to evaluate*
37 *whether groundwater contamination can be attributable to a*
38 *particular event, and any monitoring changes necessary if*
39 *groundwater contamination is observed.*

1 (g) On or before January 1, 2016, the state board or appropriate
2 regional board shall begin implementation of the regional
3 groundwater monitoring programs based upon the developed
4 criteria under subdivision (c).

5 (h) The model criteria for either a well-by-well basis for a well
6 subject to well stimulation treatment, or for a regional groundwater
7 monitoring program, shall be used to satisfy the permitting
8 requirements for well stimulation treatments on oil and gas wells
9 pursuant to Section 3160 of the Public Resources Code. The model
10 criteria used on a well-by-well basis for a well subject to a well
11 stimulation treatment shall be used where no regional groundwater
12 monitoring plan approved by the state or regional board, if
13 applicable, exists.

14 (i) The model criteria shall accommodate monitoring where
15 surface access is limited. Monitoring is not required for oil and
16 gas wells where the wells do not penetrate groundwater of
17 beneficial use, as determined by a regional water quality control
18 board.

19 (j) The model criteria and groundwater monitoring programs
20 shall be reviewed and updated periodically, as needed.

21 (k) All groundwater quality data collected pursuant to
22 subparagraph (F) of paragraph (1) of subdivision (d) of Section
23 3160 of the Public Resources Code shall be submitted to the state
24 board in an electronic format that is compatible with the state
25 board’s GeoTracker database, following the guidelines detailed
26 in Chapter 30 (commencing with Section 3890) of Division 3 of
27 Title 23 of the California Code of Regulations.

28 ~~SEC. 7.~~

29 SEC. 8. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.

O