

AMENDED IN SENATE MARCH 27, 2014

SENATE BILL

No. 1132

Introduced by Senators Mitchell and Leno

(Principal coauthor: Assembly Member Ammiano)

(Coauthor: Assembly Member Stone)

(Principal coauthors: Assembly Members Ammiano and Levine)

(Coauthors: **Senators DeSaulnier, Jackson, Lieu, and Wolk**)

(Coauthors: Assembly Members Bloom, Chesbro, Gordon, Stone, and Williams)

February 20, 2014

An act to amend ~~Section~~ *Sections 3157 and 3160* of, to add ~~Sections 3160.1 and 3160.2~~ to, and to ~~add and~~ repeal *and add* Section 3161 of, the Public Resources Code, relating to oil and gas.

LEGISLATIVE COUNSEL'S DIGEST

SB 1132, as amended, Mitchell. Oil and gas: well stimulation treatments.

Under existing law, the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation regulates the drilling, operation, maintenance, stimulation, and abandonment of oil and gas wells in the state. The State Oil and Gas Supervisor, or supervisor, supervises the drilling, operation, maintenance, stimulation, 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, prior to performing a well stimulating treatment, *as defined*, on a well, to obtain approval from the supervisor or district deputy. Under existing law, a person who violates any

prohibition specific to the regulation of oil or gas operations is guilty of a misdemeanor.

Existing law requires the Secretary of the Natural Resources Agency, on or before January 1, 2015, to cause to be conducted, and completed, an independent scientific study on well stimulation treatments, including acid well stimulation and hydraulic fracturing treatments.

This bill *would revise the definition of “well stimulation treatment.”* The bill would require the scientific study to consider additional elements, including, among other things, evaluating various potential direct, indirect, and cumulative health and environmental effects of onshore and offshore well stimulation and well stimulation treatment-related activities, as specified. The bill would also prohibit all well stimulation treatments until the Secretary of the Natural Resources Agency convenes a committee to review the scientific study, as specified, the Governor issues findings that specific measures are in place to ensure that well stimulation treatments do not pose a risk to, or impairment of, the public health and welfare or to the environmental and economic sustainability of the state, and, if applicable, those findings are affirmed by judicial review, as specified. ~~The bill would also require the division to adopt a formal process to resolve any claims with respect to vested rights, as specified.~~ *The bill would require a person claiming a vested right to perform a well stimulation treatment to seek a determination from the Secretary of the Natural Resources Agency before performing the well stimulation treatment during the time period in which the prohibition is in effect.* Because a violation of the bill’s requirements would be a crime, the bill would impose a state-mandated local program.

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. (a) The Legislature finds and declares all of the
2 following:

1 ~~(a) It is the intent of the Legislature in enacting this act to protect~~
2 ~~the public health and welfare of the state.~~

3 ~~(b)~~

4 ~~(1) The actual and potential risks of well stimulation are~~
5 ~~currently unknown because the state has failed to appropriately~~
6 ~~monitor or track well stimulation activity and to study its effects.~~

7 ~~(c)~~

8 ~~(2) Well stimulation and well stimulation-related activities~~
9 ~~release harmful air pollutants, including methanol, crystalline~~
10 ~~silica dust, hydrochloric and hydrofluoric acid, xylene,~~
11 ~~2-butoxyethanol, naphthalene, ethylbenzene, 2-propanol, volatile~~
12 ~~organic compounds, and particulate matter, which have an adverse~~
13 ~~impact on the state's air quality, water quality and supply, soil~~
14 ~~quality, land use patterns, greenhouse gas emissions, seismicity,~~
15 ~~worker safety, social instability, economic instability, and public~~
16 ~~health and safety. quality and are detrimental to public health and~~
17 ~~safety. Many parts of California already suffer from poor air~~
18 ~~quality.~~

19 ~~(3) Well stimulation and well stimulation-related activities~~
20 ~~involve the use of hundreds of chemicals, many of which are known~~
21 ~~to be carcinogenic or are otherwise harmful to human health.~~
22 ~~These chemicals, along with dangerous chemicals present in the~~
23 ~~oil and gas formation, threaten to contaminate groundwater and~~
24 ~~surface water resources through numerous potential pathways.~~

25 ~~(4) Exposure to the chemicals used in well stimulation and well~~
26 ~~stimulation-related activities poses a widespread and significant~~
27 ~~risk to public health and safety and the environment. Studies have~~
28 ~~shown an increase in birth defects and illnesses in communities~~
29 ~~located close to well stimulation operations.~~

30 ~~(5) Well stimulation and well stimulation-related activities~~
31 ~~involve the use of substantial amounts of freshwater, which cannot~~
32 ~~be reused for other purposes once it is mixed with well stimulation~~
33 ~~fluid chemicals. California is currently experiencing one of the~~
34 ~~worst droughts in the state's history and faces a scarcity of~~
35 ~~freshwater resources.~~

36 ~~(6) Well stimulation and well stimulation-related activities result~~
37 ~~in the emission of a substantial amount of greenhouse gases, such~~
38 ~~as carbon dioxide and methane. The construction, drilling,~~
39 ~~extraction, refinement, and end-use combustion of oil and gas~~
40 ~~produces vast amounts of greenhouse gas; furthermore, well~~

1 stimulation and well stimulation-related activities may lead to a
2 dramatic increase in the overall amount of recoverable oil and
3 gas in the state. The expansion of oil and gas activity and the
4 process of well stimulation both threaten to undermine the state's
5 goal of reducing greenhouse gas emissions.

6 (7) The disposal of wastewater resulting from well stimulation
7 and well stimulation-related activities in other states has been
8 linked to increased earthquake activity.

9 (8) Fracking and other forms of well stimulation occur
10 disproportionately near communities consisting largely of people
11 of color, low-income households, non-English speaking households,
12 and persons already experiencing high levels of water or air
13 pollution or water scarcity.

14 (9) Well stimulation and well stimulation-related activities
15 directly and indirectly harm wildlife, including species that are
16 protected under federal and state endangered species laws.

17 (b) It is the intent of the Legislature in enacting this act to
18 protect the public health and welfare of the state.

19 SEC. 2. Section 3157 of the Public Resources Code is amended
20 to read:

21 3157. (a) For purposes of this article, "well stimulation
22 treatment" means any treatment of a well designed to enhance oil
23 and gas production or recovery by increasing the permeability of
24 the ~~formation.~~ formation or the flow of fluid through the well. Well
25 stimulation treatments include, but are not limited to, hydraulic
26 fracturing treatments and acid well stimulation treatments.

27 (b) Well stimulation treatments do not include steam flooding,
28 water flooding, or cyclic steaming and do not include routine well
29 cleanout work, routine well maintenance, routine removal of
30 formation damage due to drilling, bottom hole pressure surveys,
31 or routine activities that do not affect the integrity of the well or
32 the formation.

33 (c) Well stimulation treatments do not include gas storage
34 projects that are subject to Section 1742.9 of Title 14 of the
35 California Code of Regulations, but shall include well stimulation
36 treatments applied to gas storage projects to increase the flow of
37 gas.

38 ~~SEC. 2.~~

39 SEC. 3. Section 3160 of the Public Resources Code is amended
40 to read:

1 3160. (a) The Secretary of the Natural Resources Agency shall
2 cause to be conducted, and completed, an independent scientific
3 study on well stimulation treatments, including, but not limited to,
4 hydraulic fracturing and acid well stimulation treatments. The
5 scientific study shall evaluate the hazards and risks and potential
6 hazards and risks that well stimulation treatments and well
7 stimulation treatment-related activities pose to natural resources
8 and public, occupational, and environmental health and safety.
9 The scientific study shall do all of the following:

10 (1) Follow the well-established standard protocols of the
11 scientific profession, including, but not limited to, the use of
12 recognized experts, peer review, and publication. The study shall
13 be based solely on the best available scientific, health,
14 environmental, and statistical information.

15 (2) (A) Identify all onshore areas with existing and potential
16 conventional and unconventional oil and gas reserves *and gas*
17 *storage projects* where well stimulation treatments are likely to
18 spur or enable oil and gas exploration and ~~production~~ *production,*
19 *or gas storage.*

20 (B) Identify offshore areas, within the jurisdiction of the
21 division, with existing and potential conventional and
22 unconventional oil and gas reserves where well stimulation
23 treatments are likely to spur or enable oil and gas exploration and
24 production.

25 (3) (A) Evaluate all aspects and effects of well stimulation
26 treatments, including, but not limited to, the well stimulation
27 treatment, additive and water transportation to and from the well
28 site, mixing, storage, and handling of the well stimulation treatment
29 fluids and additives onsite, the use and potential for use of nontoxic
30 additives and the use or reuse of treated or produced water in well
31 stimulation treatment fluids, and flowback fluids and the handling,
32 treatment, and disposal of flowback fluids and other materials, if
33 any, generated by the treatment. Specifically, the potential for the
34 use of recycled water in well stimulation treatments, including
35 appropriate water quality requirements and available treatment
36 technologies, shall be evaluated. Well stimulation treatments
37 include, but are not limited to, hydraulic fracturing and acid well
38 stimulation treatments.

39 (B) Review and evaluate acid matrix stimulation treatments,
40 including the range of acid volumes applied per treated foot and

1 total acid volumes used in treatments, types of acids, acid
2 concentration, and other chemicals used in the treatments.

3 (C) Evaluate all potential direct, indirect, and cumulative health
4 and environmental effects of onshore well stimulation treatments
5 and well stimulation treatment-related activities.

6 (D) Evaluate all potential direct, indirect, and cumulative health
7 and environmental effects of offshore well stimulation treatments
8 and well stimulation treatment-related activities that are within the
9 jurisdiction of the division.

10 (E) Evaluate all direct, indirect, and cumulative health and
11 environmental effects of the full lifecycle of oil and gas
12 exploration, development, and production, including flowback
13 fluids and other byproducts that would result from allowing well
14 stimulation treatments within the state.

15 (F) Evaluate the extent of the increase in oil and gas
16 development, refining processes, and end-use combustion that
17 would result from allowing well stimulation treatments within the
18 state.

19 (4) (A) Consider potential water contamination, including
20 groundwater and surface water, potential depletion of water
21 resources, potential effects on water sustainability, and the ultimate
22 disposition, transport, transformation, and toxicology of well
23 stimulation treatments, including acid well stimulation fluids,
24 hydraulic fracturing fluids, and waste hydraulic fracturing fluids,
25 and acid well stimulation in the environment.

26 (B) Consider surface contamination, potential noise and light
27 pollution, as well as actual and potential induced seismicity.

28 (C) Consider atmospheric emissions, including potential
29 greenhouse gas emissions, the potential degradation of air quality,
30 and the potential impacts of well stimulation and increased oil and
31 gas activity on the state's efforts to meet its greenhouse gas
32 reduction targets under the California Global Warming Solutions
33 Act of 2006 (Division 25.5 (commencing with Section 38500) of
34 the Health and Safety Code).

35 (5) Identify and evaluate the geologic features present in the
36 vicinity of a well, including the well bore, that should be taken
37 into consideration in the design of a proposed well stimulation
38 treatment.

39 (6) Identify and evaluate all of the following:

- 1 (A) The potential impacts of well stimulation treatments on
2 ~~private property and land use~~, *property*, including home values
3 and direct damage to property and land.
- 4 (B) The potential human health risk for each chemical used in
5 well stimulation treatments.
- 6 (C) The potential economic costs and harms of increased oil
7 and gas operations in the state as a result of well stimulation
8 treatments, including, but not limited to, the resulting economic
9 costs to the agricultural sector and the tourism industry.
- 10 (D) The potential effects on communities most likely to be
11 negatively affected by the impacts of well stimulation, including,
12 but not limited to, all of the following:
- 13 (i) Communities consisting largely of people of color.
 - 14 (ii) Communities consisting largely of low-income individuals.
 - 15 (iii) Communities consisting largely of non-English-speaking
16 households.
 - 17 (iv) Communities already experiencing high levels of water or
18 air pollution, or water scarcity.
- 19 (E) Potential harm to the public health and welfare of the state's
20 residents and the state's environment, both cumulatively and
21 specific to each region where well stimulation treatments may
22 occur.
- 23 (F) The potential effect of increased traffic due to increased oil
24 and gas activity as a result of well stimulation treatments, including
25 air emissions from vehicle traffic, and road expansion and
26 deterioration.
- 27 (G) The potential effect on pipeline infrastructure due to
28 increased oil and gas activity as a result of well stimulation
29 treatments, including potential pipeline leakage.
- 30 (H) Potential impacts on wildlife, including harm to endangered
31 or threatened species, native plants, and habitat, including habitat
32 fragmentation.
- 33 (I) Whether existing emergency planning, procedures, and
34 resources adequately and fully ensure public safety in the event
35 of an emergency.
- 36 (J) Potential risks to worker safety.
- 37 (7) Include a hazard assessment and risk analysis addressing
38 occupational and environmental exposures to well stimulation
39 treatments, including hydraulic fracturing treatments, hydraulic
40 fracturing treatment-related processes, acid well stimulation

1 treatments, acid well stimulation treatment-related processes, and
2 the corresponding impacts on public health and safety with the
3 participation of the Office of Environmental Health Hazard
4 Assessment.

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

7 (b) (1) Prior to the issuance of the final scientific study, the
8 division shall conduct public hearings throughout the state to obtain
9 additional public comment. Public notice of a ~~hearings~~ *hearing*
10 shall be provided at least 30 days prior to any hearing.

11 (2) All relevant notices and hearing documents shall be made
12 available in non-English languages necessary to inform the public
13 of the opportunity to comment and to accommodate public
14 participation.

15 (c) The Secretary of the Natural Resources Agency shall notify
16 the Joint Legislative Budget Committee and the chairs of the
17 Assembly Natural Resources, Senate Environmental Quality, and
18 Senate Natural Resources and Water Committees on the progress
19 of the independent scientific study on well stimulation and related
20 activities. The first progress report shall be provided to the
21 Legislature on or before April 1, 2014, and progress reports shall
22 continue every four months thereafter until the independent study
23 is completed, including a peer review of the study by independent
24 scientific experts.

25 (d) (1) (A) *On or before January 1, 2015, the division, in*
26 *consultation with the Department of Toxic Substances Control,*
27 *the State Air Resources Board, the State Water Resources Control*
28 *Board, the Department of Resources Recycling and Recovery, and*
29 *any local air districts and regional water quality control boards*
30 *in areas where well stimulation treatments, including acid well*
31 *stimulation treatments and hydraulic fracturing treatments may*
32 *occur, shall adopt rules and regulations specific to well stimulation*
33 *treatments. The rules and regulations shall include, but are not*
34 *limited to, revisions, as needed, to the rules and regulations*
35 *governing construction of wells and well casings to ensure integrity*
36 *of wells, well casings, and the geologic and hydrologic isolation*
37 *of the oil and gas formation during and following well stimulation*
38 *treatments, and full disclosure of the composition and disposition*
39 *of well stimulation fluids, including, but not limited to, hydraulic*
40 *fracturing fluids, acid well stimulation fluids, and flowback fluids.*

1 (B) *The rules and regulations shall additionally include*
2 *provisions for an independent entity or person to perform the*
3 *notification requirements pursuant to paragraph (6) of subdivision*
4 *(f), for the operator to provide for baseline and followup water*
5 *testing upon request as specified in paragraph (7) of subdivision*
6 *(f).*

7 (C) (i) *In order to identify the acid matrix stimulation treatments*
8 *that are subject to this section, the rules and regulations shall*
9 *establish threshold values for acid volume applied per treated foot*
10 *of any individual stage of the well or for total acid volume of the*
11 *treatment, or both, based upon a quantitative assessment of the*
12 *risks posed by acid matrix stimulation treatments that exceed the*
13 *specified threshold value or values in order to prevent, as far as*
14 *possible, damage to life, health, property, and natural resources*
15 *pursuant to Section 3106.*

16 (ii) *On or before January 1, 2020, the division shall review and*
17 *evaluate the threshold values for acid volume applied per treated*
18 *foot and total acid volume of the treatment, based upon data*
19 *collected in the state, for acid matrix stimulation treatments. The*
20 *division shall revise the values through the regulatory process, if*
21 *necessary, based upon the best available scientific information,*
22 *including the results of the independent scientific study pursuant*
23 *to subparagraph (B) of paragraph (3) of subdivision (a).*

24 (2) *Full disclosure of the composition and disposition of well*
25 *stimulation fluids, including, but not limited to, hydraulic fracturing*
26 *fluids and acid stimulation treatment fluids, shall, at a minimum,*
27 *include:*

28 (A) *The date of the well stimulation treatment.*

29 (B) *A complete list of the names, Chemical Abstract Service*
30 *(CAS) numbers, and maximum concentration, in percent by mass,*
31 *of each and every chemical constituent of the well stimulation*
32 *treatment fluids used. If a CAS number does not exist for a*
33 *chemical constituent, the well owner or operator may provide*
34 *another unique identifier, if available.*

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

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

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

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

10 *(F) The specific composition and disposition of all well*
11 *stimulation treatment fluids, including waste fluids, other than*
12 *water.*

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

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

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

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

35 *(2) On or before January 1, 2015, the division shall enter into*
36 *formal agreements with the Department of Toxic Substances*
37 *Control, the State Air Resources Board, any local air districts*
38 *where well stimulation treatments may occur, the State Water*
39 *Resources Control Board, the Department of Resources Recycling*
40 *and Recovery, and any regional water quality control board where*

1 *well stimulation treatments may occur, clearly delineating*
2 *respective authority, responsibility, and notification and reporting*
3 *requirements associated with well stimulation treatments and well*
4 *stimulation treatment-related activities, including air and water*
5 *quality monitoring, in order to promote regulatory transparency*
6 *and accountability.*

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

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

15 *(f) (1) Notwithstanding any other law or regulation, prior to*
16 *performing a well stimulation treatment, the operator shall apply*
17 *for a permit to perform a well stimulation treatment with the*
18 *supervisor or district deputy. The well stimulation treatment permit*
19 *application shall contain the pertinent data the supervisor requires*
20 *on printed forms supplied by the division or on other forms*
21 *acceptable to the supervisor. The information provided in the well*
22 *stimulation treatment permit application shall include, but is not*
23 *limited to, the following:*

24 *(A) The well identification number and location.*

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

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

29 *(i) An estimate of the amount of water to be used in the*
30 *treatment. Estimates of water to be recycled following the well*
31 *stimulation treatment may be included.*

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

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

37 *(D) A complete list of the names, Chemical Abstract Service*
38 *(CAS) numbers, and estimated concentrations, in percent by mass,*
39 *of each and every chemical constituent of the well stimulation*
40 *fluids anticipated to be used in the treatment. If a CAS number*

1 does not exist for a chemical constituent, the well owner or
2 operator may provide another unique identifier, if available.

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

8 (F) A groundwater monitoring plan. Required groundwater
9 monitoring in the vicinity of the well subject to the well stimulation
10 treatment shall be satisfied by one of the following:

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

14 (ii) The well is located within the boundaries of an existing oil
15 or gas field-specific or regional monitoring program developed
16 and implemented by the well owner or operator meeting the model
17 criteria established pursuant to Section 10783 of the Water Code.

18 (iii) Through a well-specific monitoring plan implemented by
19 the owner or operator meeting the model criteria established
20 pursuant to Section 10783 of the Water Code, and submitted to
21 the appropriate regional water board for review.

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

25 (2) (A) At the supervisor's discretion, and if applied for
26 concurrently, the well stimulation treatment permit described in
27 this section may be combined with the well drilling and related
28 operation notice of intent required pursuant to Section 3203 into
29 a single combined authorization. The portion of the combined
30 authorization applicable to well stimulation shall meet all of the
31 requirements of a well stimulation treatment permit pursuant to
32 this section.

33 (B) Where the supervisor determines that the activities proposed
34 in the well stimulation treatment permit or the combined
35 authorization have met all of the requirements of Division 13
36 (commencing with Section 21000), and have been fully described,
37 analyzed, evaluated, and mitigated, no additional review or
38 mitigation shall be required.

1 (C) *The time period available for approval of the portion of the*
2 *combined authorization applicable to well stimulation is subject*
3 *to the terms of this section, and not Section 3203.*

4 (3) (A) *The supervisor or district deputy shall review the well*
5 *stimulation treatment permit application and may approve the*
6 *permit if the application is complete. An incomplete application*
7 *shall not be approved.*

8 (B) *A well stimulation treatment or repeat well stimulation*
9 *treatment shall not be performed on any well without a valid permit*
10 *that the supervisor or district deputy has approved.*

11 (C) *In considering the permit application, the supervisor or*
12 *district deputy shall evaluate the quantifiable risk of the well*
13 *stimulation treatment.*

14 (4) *The well stimulation treatment permit shall expire one year*
15 *from the date that the permit is issued.*

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

23 (6) (A) *It is the policy of the state that a copy of the approved*
24 *well stimulation treatment permit and information on the available*
25 *water sampling and testing be provided to every tenant of the*
26 *surface property and every surface property owner or authorized*
27 *agent of that owner whose property line location is one of the*
28 *following:*

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

30 (ii) *Within 500 feet from the horizontal projection of all*
31 *subsurface portions of the designated well to the surface.*

32 (B) (i) *The well owner or operator shall identify the area*
33 *requiring notification and shall contract with an independent entity*
34 *or person who is responsible for, and shall perform, the notification*
35 *required pursuant to subparagraph (A).*

36 (ii) *The independent entity or person shall identify the*
37 *individuals notified, the method of notification, the date of the*
38 *notification, and a list of those notified, and shall provide this*
39 *information to the division.*

- 1 (iii) *The performance of the independent entity or person shall*
2 *be subject to review and audit by the division.*
- 3 (C) *A well stimulation treatment shall not commence before 30*
4 *calendar days after the permit copies pursuant to subparagraph*
5 *(A) are provided.*
- 6 (7) (A) *A property owner notified pursuant to paragraph (6)*
7 *may request water quality sampling and testing from a designated*
8 *qualified contractor on any water well suitable for drinking or*
9 *irrigation purposes and on any surface water suitable for drinking*
10 *or irrigation purposes as follows:*
- 11 (i) *Baseline measurements prior to the commencement of the*
12 *well stimulation treatment.*
- 13 (ii) *Followup measurements after the well stimulation treatment*
14 *on the same schedule as the pressure testing of the well casing of*
15 *the treated well.*
- 16 (B) *The State Water Resources Control Board shall designate*
17 *one or more qualified independent third-party contractor or*
18 *contractors that adhere to board-specified standards and protocols*
19 *to perform the water sampling and testing. The well owner or*
20 *operator shall pay for the sampling and testing. The sampling and*
21 *testing performed shall be subject to audit and review by the State*
22 *Water Resources Control Board or an applicable regional water*
23 *quality control board, as appropriate.*
- 24 (C) *The results of the water testing shall be provided to the*
25 *division, appropriate regional water quality control board, and*
26 *the property owner or authorized agent. A tenant notified pursuant*
27 *to paragraph (6) shall receive information on the results of the*
28 *water testing to the extent authorized by his or her lease and, where*
29 *the tenant has lawful use of the groundwater or surface water*
30 *identified in subparagraph (A), the tenant may independently*
31 *contract for similar groundwater or surface water testing.*
- 32 (8) *The division shall retain a list of the entities and property*
33 *owners notified pursuant to paragraphs (5) and (6).*
- 34 (9) *The operator shall provide notice to the division at least 72*
35 *hours prior to the actual start of the well stimulation treatment in*
36 *order for the division to witness the treatment.*
- 37 (g) *If a well stimulation treatment is performed, a supplier that*
38 *performs any part of the treatment or provides additives directly*
39 *to the operator for a well stimulation treatment shall furnish the*
40 *operator with information suitable for public disclosure needed*

1 *for the operator to comply with subdivision (h). This information*
2 *shall be provided as soon as possible but no later than 30 days*
3 *following the conclusion of the well stimulation treatment.*

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

13 *(2) (A) The division shall develop an Internet Web site for*
14 *operators to report the information required under this section.*
15 *The Internet Web site shall be capable of organizing the reported*
16 *information in a format, such as a spreadsheet, that allows the*
17 *public to easily search and aggregate, to the extent practicable,*
18 *each type of information required to be collected pursuant to*
19 *subdivision (d) using search functions on that Internet Web site.*
20 *The Internet Web site shall be functional within two years of the*
21 *Department of Technology's approval of a feasibility study report*
22 *or appropriation authority to fund the development of the Internet*
23 *Web site, whichever occurs latest, but no later than January 1,*
24 *2016.*

25 *(B) The division may direct reporting to an alternative Internet*
26 *Web site developed by the Ground Water Protection Council and*
27 *the Interstate Oil and Gas Compact Commission in the interim*
28 *until approval or appropriate authority pursuant to subparagraph*
29 *(A) occur. Prior to the implementation of the division's Internet*
30 *Web site, the division shall obtain the data reported by operators*
31 *to the alternative Internet Web site and make it available in an*
32 *organized electronic format to the public no later than 15 days*
33 *after it is reported to the alternative Internet Web site.*

34 *(i) The operator is responsible for compliance with this section.*

35 *(j) (1) All geologic features within a distance reflecting an*
36 *appropriate safety factor of the fracture zone for well stimulation*
37 *treatments that fracture the formation and that have the potential*
38 *to either limit or facilitate the migration of fluids outside of the*
39 *fracture zone shall be identified and added to the well history.*

1 *Geologic features include seismic faults identified by the California*
2 *Geologic Survey.*

3 (2) *For the purposes of this section, the “fracture zone” is*
4 *defined as the volume surrounding the well bore where fractures*
5 *were created or enhanced by the well stimulation treatment. The*
6 *safety factor shall be at least five and may vary depending upon*
7 *geologic knowledge.*

8 (3) *The division shall review the geologic features important to*
9 *assessing well stimulation treatments identified in the independent*
10 *study pursuant to paragraph (5) of subdivision (a). Upon*
11 *completion of the review, the division shall revise the regulations*
12 *governing the reporting of geologic features pursuant to this*
13 *subdivision accordingly.*

14 (k) (1) *Public disclosure of well stimulation treatment fluid*
15 *information claimed to contain trade secrets is governed by Section*
16 *1060 of the Evidence Code, or the Uniform Trade Secrets Act (Title*
17 *5 (commencing with Section 3426) of Part 1 of Division 4 of the*
18 *Civil Code), and the California Public Records Act (Chapter 3.5*
19 *(commencing with Section 6250) of Division 7 of Title 1 of the*
20 *Government Code).*

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

23 (A) *The identities of the chemical constituents of additives,*
24 *including CAS identification numbers.*

25 (B) *The concentrations of the additives in the well stimulation*
26 *treatment fluids.*

27 (C) *Any air or other pollution monitoring data.*

28 (D) *Health and safety data associated with well stimulation*
29 *treatment fluids.*

30 (E) *The chemical composition of the flowback fluid.*

31 (3) *If a trade secret claim is invalid or invalidated, the division*
32 *shall release the information to the public by revising the*
33 *information released pursuant to subdivision (h). The supplier*
34 *shall notify the division of any change in status within 30 days.*

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

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

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

5 (C) To comply with the public disclosure requirements of this
6 section, the supplier shall indicate where the trade secret
7 information has been withheld and provide substitute information
8 for public disclosure. The substitute information shall be a list, in
9 any order, of the chemical constituents of the additive, including
10 CAS identification numbers. The division shall review and approve
11 the supplied substitute information.

12 (D) This subdivision does not permit a supplier to refuse to
13 disclose the information required pursuant to this section to the
14 division.

15 (5) In order to substantiate the trade secret claim, the supplier
16 shall provide information to the division that shows all of the
17 following:

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

21 (B) The measures taken by the supplier to guard the secrecy of
22 the trade secret information.

23 (C) The value of the trade secret information to the supplier
24 and its competitors.

25 (D) The amount of effort or money the supplier expended
26 developing the trade secret information and the ease or difficulty
27 with which the trade secret information could be acquired or
28 duplicated by others.

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

35 (7) If the division determines that the information provided in
36 support of a request for trade secret protection does not meet the
37 substantive criteria for trade secret designation, the department
38 shall notify the supplier by certified mail of its determination. The
39 division shall release the information to the public, but not earlier
40 than 60 days after the date of mailing the determination, unless,

1 prior to the expiration of the 60-day period, the supplier obtains
2 an action in an appropriate court for a declaratory judgment that
3 the information is subject to protection or for a preliminary
4 injunction prohibiting disclosure of the information to the public
5 and provides notice to the division of the court order.

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

8 (9) Upon receipt of a request for the release of trade secret
9 information to the public, the following procedure applies:

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

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

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

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

31 (B) To a health professional in the event of an emergency or to
32 diagnose or treat a patient.

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

39 (D) A health professional may share trade secret information
40 with other persons as may be professionally necessary, in order

1 to diagnose or treat a patient, including, but not limited to, the
2 patient and other health professionals, subject to state and federal
3 laws restricting disclosure of medical records including, but not
4 limited to, Chapter 2 (commencing with Section 56.10) of Part 2.6
5 of Division 1 of the Civil Code.

6 (E) For purposes of this paragraph, “health professional”
7 means any person licensed or certified pursuant to Division 2
8 (commencing with Section 500) of the Business and Professions
9 Code, the Osteopathic Initiative Act, the Chiropractic Initiative
10 Act, or the Emergency Medical Services System and the Prehospital
11 Emergency Medical Care Personnel Act (Division 2.5 (commencing
12 with Section 1797) of the Health and Safety Code).

13 (F) A person in possession of, or with access to, confidential
14 trade secret information pursuant to the provisions of this
15 subdivision may disclose this information to any person who is
16 authorized to receive it. A written confidentiality agreement shall
17 not be required.

18 (I) A well granted confidential status pursuant to Section 3234
19 shall not be required to disclose well stimulation treatment fluid
20 information pursuant to subdivision (h) until the confidential status
21 of the well ceases. Notwithstanding the confidential status of a
22 well, it is public information that a well will be or has been subject
23 to a well stimulation treatment.

24 (m) The division shall perform random periodic spot check
25 inspections to ensure that the information provided on well
26 stimulation treatments is accurately reported, including that the
27 estimates provided prior to the commencement of the well
28 stimulation treatment are reasonably consistent with the well
29 history.

30 (n) Where the division shares jurisdiction over a well or the
31 well stimulation treatment on a well with a federal entity, the
32 division’s rules and regulations shall apply in addition to all
33 applicable federal laws and regulations.

34 (o) This article does not relieve the division or any other agency
35 from complying with any other provision of existing laws,
36 regulations, and orders.

37 (p) Well stimulation treatments used for routine maintenance
38 of wells associated with underground storage facilities where
39 natural gas is injected into and withdrawn from depleted or

1 *partially depleted oil or gas reservoirs pursuant to subdivision (a)*
2 *of Section 3403.5 are not subject to this section.*

3 ~~SEC. 3.—Section 3160.1 is added to the Public Resources Code,~~
4 ~~to read:~~

5 ~~3160.1. (a) (1) (A) On or before January 1, 2015, the division,~~
6 ~~in consultation with the Department of Toxic Substances Control,~~
7 ~~the State Air Resources Board, the State Water Resources Control~~
8 ~~Board, the Department of Resources Recycling and Recovery, and~~
9 ~~any local air districts and regional water quality control boards in~~
10 ~~areas where well stimulation treatments, including acid well~~
11 ~~stimulation treatments and hydraulic fracturing treatments may~~
12 ~~occur, shall adopt rules and regulations specific to well stimulation~~
13 ~~treatments. The rules and regulations shall include, but are not~~
14 ~~limited to, revisions, as needed, to the rules and regulations~~
15 ~~governing construction of wells and well casings to ensure integrity~~
16 ~~of wells, well casings, and the geologic and hydrologic isolation~~
17 ~~of the oil and gas formation during and following well stimulation~~
18 ~~treatments, and full disclosure of the composition and disposition~~
19 ~~of well stimulation fluids, including, but not limited to, hydraulic~~
20 ~~fracturing fluids, acid well stimulation fluids, and flowback fluids.~~

21 ~~(B) The rules and regulations shall additionally include~~
22 ~~provisions for an independent entity or person to perform the~~
23 ~~notification requirements pursuant to paragraph (6) of subdivision~~
24 ~~(a) of Section 3160.2, for the operator to provide for baseline and~~
25 ~~followup water testing upon request as specified in paragraph (7)~~
26 ~~of subdivision (a) of Section 3160.2.~~

27 ~~(C) (i) In order to identify the acid matrix stimulation treatments~~
28 ~~that are subject to this section, the rules and regulations shall~~
29 ~~establish threshold values for acid volume applied per treated foot~~
30 ~~of any individual stage of the well or for total acid volume of the~~
31 ~~treatment, or both, based upon a quantitative assessment of the~~
32 ~~risks posed by acid matrix stimulation treatments that exceed the~~
33 ~~specified threshold value or values in order to prevent, as far as~~
34 ~~possible, damage to life, health, property, and natural resources~~
35 ~~pursuant to Section 3106.~~

36 ~~(ii) On or before January 1, 2020, the division shall review and~~
37 ~~evaluate the threshold values for acid volume applied per treated~~
38 ~~foot and total acid volume of the treatment, based upon data~~
39 ~~collected in the state, for acid matrix stimulation treatments. The~~
40 ~~division shall revise the values through the regulatory process, if~~

1 necessary, based upon the best available scientific information,
2 including the results of the independent scientific study pursuant
3 to subparagraph (B) of paragraph (3) of subdivision (a) of Section
4 3160.

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

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

10 (B) A complete list of the names, Chemical Abstract Service
11 (CAS) numbers, and maximum concentration, in percent by mass,
12 of each and every chemical constituent of the well stimulation
13 treatment fluids used. If a CAS number does not exist for a
14 chemical constituent, the well owner or operator may provide
15 another unique identifier, if available.

16 (C) The trade name, the supplier, concentration, and a brief
17 description of the intended purpose of each additive contained in
18 the well stimulation treatment fluid.

19 (D) The total volume of base fluid used during the well
20 stimulation treatment, and the identification of whether the base
21 fluid is water suitable for irrigation or domestic purposes, water
22 not suitable for irrigation or domestic purposes, or a fluid other
23 than water.

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

32 (F) The specific composition and disposition of all well
33 stimulation treatment fluids, including waste fluids, other than
34 water.

35 (G) Any radiological components or tracers injected into the
36 well as part of, or in order to evaluate, the well stimulation
37 treatment, a description of the recovery method, if any, for those
38 components or tracers, the recovery rate, and specific disposal
39 information for recovered components or tracers.

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

1 ~~(f) The location of the portion of the well subject to the well~~
2 ~~stimulation treatment and the extent of the fracturing or other~~
3 ~~modification, if any, surrounding the well induced by the treatment.~~

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

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

29 ~~(3) The agreements under paragraph (2) shall specify the~~
30 ~~appropriate public entity responsible for air and water quality~~
31 ~~monitoring and the safe and lawful disposal of materials in~~
32 ~~landfills, include trade secret handling protocols, if necessary, and~~
33 ~~provide for ready public access to information related to well~~
34 ~~stimulation treatments and related activities.~~

35 ~~(4) Regulations, if necessary, shall be revised appropriately to~~
36 ~~incorporate the agreements under paragraph (2).~~

37 ~~SEC. 4. Section 3160.2 is added to the Public Resources Code,~~
38 ~~to read:~~

39 ~~3160.2. (a) (1) Notwithstanding any other law or regulation,~~
40 ~~prior to performing a well stimulation treatment, the operator shall~~

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

- 8 (A) The well identification number and location.
- 9 (B) The time period during which the well stimulation treatment
10 is planned to occur.
- 11 (C) A water management plan that shall include all of the
12 following:
 - 13 (i) An estimate of the amount of water to be used in the
14 treatment. Estimates of water to be recycled following the well
15 stimulation treatment may be included.
 - 16 (ii) The anticipated source of the water to be used in the
17 treatment.
 - 18 (iii) The disposal method identified for the recovered water in
19 the flowback fluid from the treatment that is not produced water
20 included in the statement pursuant to Section 3227.
- 21 (D) A complete list of the names, Chemical Abstract Service
22 (CAS) numbers, and estimated concentrations, in percent by mass,
23 of each and every chemical constituent of the well stimulation
24 fluids anticipated to be used in the treatment. If a CAS number
25 does not exist for a chemical constituent, the well owner or operator
26 may provide another unique identifier, if available.
- 27 (E) The planned location of the well stimulation treatment on
28 the well bore, the estimated length, height, and direction of the
29 induced fractures or other planned modification, if any, and the
30 location of existing wells, including plugged and abandoned wells,
31 that may be impacted by these fractures and modifications.
- 32 (F) A groundwater monitoring plan. Required groundwater
33 monitoring in the vicinity of the well subject to the well stimulation
34 treatment shall be satisfied by one of the following:
 - 35 (i) The well is located within the boundaries of an existing oil
36 or gas field-specific or regional monitoring program developed
37 pursuant to Section 10783 of the Water Code.
 - 38 (ii) The well is located within the boundaries of an existing oil
39 or gas field-specific or regional monitoring program developed

1 and implemented by the well owner or operator meeting the model
2 criteria established pursuant to Section 10783 of the Water Code.

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

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

10 (2) (A) At the supervisor's discretion, and if applied for
11 concurrently, the well stimulation treatment permit described in
12 this section may be combined with the well drilling and related
13 operation notice of intent required pursuant to Section 3203 into
14 a single combined authorization. The portion of the combined
15 authorization applicable to well stimulation shall meet all of the
16 requirements of a well stimulation treatment permit pursuant to
17 this section.

18 (B) Where the supervisor determines that the activities proposed
19 in the well stimulation treatment permit or the combined
20 authorization have met all of the requirements of Division 13
21 (commencing with Section 21000), and have been fully described,
22 analyzed, evaluated, and mitigated, no additional review or
23 mitigation shall be required.

24 (C) The time period available for approval of the portion of the
25 combined authorization applicable to well stimulation is subject
26 to the terms of this section, and not Section 3203.

27 (3) (A) The supervisor or district deputy shall review the well
28 stimulation treatment permit application and may approve the
29 permit if the application is complete. An incomplete application
30 shall not be approved.

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) In considering the permit application, the supervisor shall
35 evaluate the quantifiable risk of the well stimulation treatment.

36 (4) The well stimulation treatment permit shall expire one year
37 from the date that the permit is issued.

38 (5) 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 (6) (A) It is the policy of the state that a copy of the approved
6 well stimulation treatment permit and information on the available
7 water sampling and testing be provided to every tenant of the
8 surface property and every surface property owner or authorized
9 agent of that owner whose property line location is one of the
10 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) (i) The well owner or operator shall identify the area
15 requiring notification and shall contract with an independent entity
16 or person who is responsible for, and shall perform, the notification
17 required pursuant to subparagraph (A).

18 (ii) The independent entity or person shall identify the
19 individuals notified, the method of notification, the date of the
20 notification, a list of those notified, and shall provide a list of this
21 information to the division.

22 (iii) The performance of the independent entity or persons shall
23 be subject to review and audit by the division.

24 (C) A well stimulation treatment shall not commence before 30
25 calendar days after the permit copies pursuant to subparagraph (A)
26 are provided.

27 (7) (A) A property owner notified pursuant to paragraph (6)
28 may request water quality sampling and testing from a designated
29 qualified contractor on any water well suitable for drinking or
30 irrigation purposes and on any surface water suitable for drinking
31 or irrigation purposes as follows:

32 (i) Baseline measurements prior to the commencement of the
33 well stimulation treatment.

34 (ii) Followup measurements after the well stimulation treatment
35 on the same schedule as the pressure testing of the well casing of
36 the treated well.

37 (B) The State Water Resources Control Board shall designate
38 one or more qualified independent third-party contractor or
39 contractors that adhere to board-specified standards and protocols
40 to perform the water sampling and testing. The well owner or

1 operator shall pay for the sampling and testing. The sampling and
2 testing performed shall be subject to audit and review by the State
3 Water Resources Control Board or applicable regional water quality
4 control board, as appropriate.

5 (C) The results of the water testing shall be provided to the
6 division, appropriate regional water board, and the property owner
7 or authorized agent. A tenant notified pursuant to paragraph (6)
8 shall receive information on the results of the water testing to the
9 extent authorized by his or her lease and, where the tenant has
10 lawful use of the ground or surface water identified in subparagraph
11 (A), the tenant may independently contract for similar groundwater
12 or surface water testing.

13 (8) The division shall retain a list of the entities and property
14 owners notified pursuant to paragraphs (5) and (6).

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

18 (b) If a well stimulation treatment is performed, a supplier that
19 performs any part of the treatment or provides additives directly
20 to the operator for a well stimulation treatment shall furnish the
21 operator with information suitable for public disclosure needed
22 for the operator to comply with subdivision (c). This information
23 shall be provided as soon as possible but no later than 30 days
24 following the conclusion of the well stimulation treatment.

25 (c) (1) Within 60 days following cessation of a well stimulation
26 treatment, the operator shall post or cause to be posted to an
27 Internet Web site designated or maintained by the division and
28 accessible to the public all of the well stimulation fluid composition
29 and disposition information required to be collected pursuant to
30 rules and regulations adopted under subdivision (a) of Section
31 3160.1, including well identification number and location. This
32 shall include the collected water quality data, which the operator
33 shall report electronically to the State Water Resources Control
34 Board.

35 (2) (A) The division shall commence the process to develop
36 an Internet Web site for operators to report the information required
37 under this section. The Internet Web site shall be capable of
38 organizing the reported information in a format, such as a
39 spreadsheet, that allows the public to easily search and aggregate,
40 to the extent practicable, each type of information required to be

1 collected pursuant to subdivision (a) of Section 3160.1 using search
2 functions on that Internet Web site. The Internet Web site shall be
3 functional within two years of the Department of Technology's
4 approval of a Feasibility Study Report or appropriation authority
5 to fund the development of the Internet Web site, whichever occurs
6 latest, but no later than January 1, 2016.

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

16 (d) The operator is responsible for compliance with this section.

17 (e) (1) All geologic features within a distance reflecting an
18 appropriate safety factor of the fracture zone for well stimulation
19 treatments that fracture the formation and that have the potential
20 to either limit or facilitate the migration of fluids outside of the
21 fracture zone shall be identified and added to the well history.
22 Geologic features include seismic faults identified by the California
23 Geologic Survey.

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

29 (3) The division shall review the geologic features important to
30 assessing well stimulation treatments identified in the independent
31 study pursuant to paragraph (5) of subdivision (a) of Section 3160.
32 Upon completion of the review, the division shall revise the
33 regulations governing the reporting of geologic features pursuant
34 to this subdivision accordingly.

35 (f) (1) Public disclosure of well stimulation treatment fluid
36 information claimed to contain trade secrets is governed by Section
37 1060 of the Evidence Code, or the Uniform Trade Secrets Act
38 (Title 5 (commencing with Section 3426) of Part 1 of Division 4
39 of the Civil Code), and the California Public Records Act (Chapter

1 ~~3.5 (commencing with Section 6250) of Division 7 of Title 1 of~~
2 ~~the Government Code):~~

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

5 ~~(A) The identities of the chemical constituents of additives,~~
6 ~~including CAS identification numbers.~~

7 ~~(B) The concentrations of the additives in the well stimulation~~
8 ~~treatment fluids.~~

9 ~~(C) Any air or other pollution monitoring data.~~

10 ~~(D) Health and safety data associated with well stimulation~~
11 ~~treatment fluids.~~

12 ~~(E) The chemical composition of the flowback fluid.~~

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

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

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

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

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

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

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

4 (B) The measures taken by the supplier to guard the secrecy of
5 the trade secret information.

6 (C) The value of the trade secret information to the supplier and
7 its competitors.

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

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

18 (7) If the division determines that the information provided in
19 support of a request for trade secret protection does not meet the
20 substantive criteria for trade secret designation, the department
21 shall notify the supplier by certified mail of its determination. The
22 division shall release the information to the public, but not earlier
23 than 60 days after the date of mailing the determination, unless,
24 prior to the expiration of the 60-day period, the supplier obtains
25 an action in an appropriate court for a declaratory judgment that
26 the information is subject to protection or for a preliminary
27 injunction prohibiting disclosure of the information to the public
28 and provides notice to the division of the court order.

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

31 (9) Upon receipt of a request for the release of trade secret
32 information to the public, the following procedure applies:

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

35 (B) The division shall release the information to the public, but
36 not earlier than 60 days after the date of mailing the notice of the
37 request for information, unless, prior to the expiration of the 60-day
38 period, the supplier obtains an action in an appropriate court for a
39 declaratory judgment that the information is subject to protection
40 or for a preliminary injunction prohibiting disclosure of the

1 information to the public and provides notice to the division of
2 that action.

3 (10) ~~The division shall develop a timely procedure to provide~~
4 ~~trade secret information in the following circumstances:~~

5 (A) ~~To an officer or employee of the division, the state, local~~
6 ~~governments, including, but not limited to, local air districts, or~~
7 ~~the United States, in connection with the official duties of that~~
8 ~~officer or employee, to a health professional under any law for the~~
9 ~~protection of health, or to contractors with the division or other~~
10 ~~government entities and their employees if, in the opinion of the~~
11 ~~division, disclosure is necessary and required for the satisfactory~~
12 ~~performance of a contract, for performance of work, or to protect~~
13 ~~health and safety.~~

14 (B) ~~To a health professional in the event of an emergency or to~~
15 ~~diagnose or treat a patient.~~

16 (C) ~~In order to protect public health, to any health professional,~~
17 ~~toxicologist, or epidemiologist who is employed in the field of~~
18 ~~public health and who provides a written statement of need. The~~
19 ~~written statement of need shall include the public health purposes~~
20 ~~of the disclosure and shall explain the reason the disclosure of the~~
21 ~~specific chemical and its concentration is required.~~

22 (D) ~~A health professional may share trade secret information~~
23 ~~with other persons as may be professionally necessary, in order to~~
24 ~~diagnose or treat a patient, including, but not limited to, the patient~~
25 ~~and other health professionals, subject to state and federal laws~~
26 ~~restricting disclosure of medical records including, but not limited~~
27 ~~to, Chapter 2 (commencing with Section 56.10) of Part 2.6 of~~
28 ~~Division 1 of the Civil Code.~~

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

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

1 ~~(g) A well granted confidential status pursuant to Section 3234~~
2 ~~shall not be required to disclose well stimulation treatment fluid~~
3 ~~information pursuant to subdivision (c) until the confidential status~~
4 ~~of the well ceases. Notwithstanding the confidential status of a~~
5 ~~well, it is public information that a well will be or has been subject~~
6 ~~to a well stimulation treatment.~~

7 ~~(h) The division shall perform random periodic spot check~~
8 ~~inspections to ensure that the information provided on well~~
9 ~~stimulation treatments is accurately reported, including that the~~
10 ~~estimates provided prior to the commencement of the well~~
11 ~~stimulation treatment are reasonably consistent with the well~~
12 ~~history.~~

13 ~~(i) Where the division shares jurisdiction over a well or the well~~
14 ~~stimulation treatment on a well with a federal entity, the division's~~
15 ~~rules and regulations shall apply in addition to all applicable federal~~
16 ~~laws and regulations.~~

17 ~~(j) This article does not relieve the division or any other agency~~
18 ~~from complying with any other provision of existing laws,~~
19 ~~regulations, and orders.~~

20 ~~(k) Well stimulation treatments used for routine maintenance~~
21 ~~of wells associated with underground storage facilities where~~
22 ~~natural gas is injected into and withdrawn from depleted or partially~~
23 ~~depleted oil or gas reservoirs pursuant to subdivision (a) of Section~~
24 ~~3403.5 are not subject to this section.~~

25 ~~SEC. 5.~~

26 ~~SEC. 4.~~ Section 3161 of the Public Resources Code is repealed.

27 ~~SEC. 6.~~

28 ~~SEC. 5.~~ Section 3161 is added to the Public Resources Code,
29 to read:

30 3161. (a) All well stimulation treatments shall be prohibited
31 until the scientific study pursuant to Section 3160 is completed
32 and all of the requirements of this section are met.

33 (b) No later than six months after the scientific study is
34 complete, the Secretary of the Natural Resources Agency shall
35 convene a committee to review the scientific study. The committee
36 shall include a representative from all of *the* following:

- 37 (1) The Natural Resources Agency.
- 38 (2) The California Environmental Protection Agency.
- 39 (3) The State Air Resources Control Board.
- 40 (4) The State Water Resources Control Board.

1 (5) The State Department of Public Health.

2 (c) (1) After reviewing the scientific study as required under
3 subdivision (b), the committee shall issue a tentative report,
4 available to the public, evaluating the scientific study using the
5 best scientific, health, environmental, and statistical information
6 available, that shall include, but is not limited to, all of the
7 following findings:

8 (A) Whether the scientific study is based solely on the best
9 scientific, health, environmental, and statistical information
10 available, and meets all of the requirements of subdivision (a) of
11 Section 3160.

12 (B) Whether the regulations adopted pursuant to *subdivision*
13 *(d) of Section 3160* ~~3160~~ are sufficient to ensure that the damage
14 and risks associated with well stimulation treatments, and the
15 increased oil and gas development as a result of these treatments,
16 do not pose a risk to, or impairment of, the public health and
17 welfare or the environmental and economic sustainability of the
18 state.

19 (C) Whether there are measures in place to ensure that well
20 stimulation treatments, and the increased oil and gas development
21 as a result of these treatments, will not impede progress for
22 achieving the greenhouse gas reduction targets under the California
23 Global Warming Solutions Act of 2006 (Division 25.5
24 (commencing with Section 38500) of the Health and Safety Code).

25 (D) Whether other specific measures are in place to ensure that
26 well stimulation treatments within the state do not pose a risk to,
27 or impairment of, the public health and welfare or the
28 environmental and economic sustainability of the state.

29 (2) The public shall have 60 days to submit comments to the
30 committee regarding the tentative report and the committee shall
31 give full consideration to all of the comments received.

32 (3) (A) If the findings in the report conclude that well
33 stimulation treatments pose a risk to, or impairment of, the public
34 health and welfare or to the environmental and economic
35 sustainability of the state, the committee may require an additional
36 study to address any areas of concern and the prohibition on well
37 stimulation treatments pursuant to subdivision (a) shall remain in
38 effect.

39 (B) If the findings in the report conclude that well stimulation
40 treatments do not pose a risk to, or impairment of, the public health

1 and welfare or to the environmental and economic sustainability
2 of the state, the committee shall certify the report as final.

3 (d) Upon certification by the committee, the report shall be
4 provided to the Governor and the appropriate committees of the
5 Legislature.

6 (e) (1) Upon receipt of the report, the Governor shall determine
7 whether specific measures are in place to ensure that well
8 stimulation treatments within the state do not pose a risk to, or
9 impairment of, the public health and welfare or to the
10 environmental and economic sustainability of the state, and shall
11 provide specific findings of this determination to the Legislature.

12 (2) If the Governor's findings conclude that there are not specific
13 measures in place as described in paragraph (1), the prohibition
14 on well stimulation treatments pursuant to subdivision (a) shall
15 remain in effect.

16 (3) If the Governor's findings conclude that there are specific
17 measures in place as described in paragraph (1), the prohibition
18 of well stimulation treatments pursuant to subdivision (a) shall
19 end on the date provided in subdivision (f).

20 (4) A person who submitted comments to the committee or
21 provided testimony at a hearing held by the division pursuant to
22 ~~paragraph (9) of subdivision (a) (b)~~ of Section 3160 may seek
23 judicial review of the Governor's findings within 90 days after the
24 date that the findings are issued. The Governor's findings shall be
25 considered final when all pending legal challenges are resolved
26 and the Governor's findings based on clear and convincing
27 ~~evidene~~, *evidence* are affirmed.

28 (f) (1) This section shall become inoperative 90 days after the
29 date the Governor issues the findings pursuant to paragraph (3) of
30 subdivision (e) or, if judicial review pursuant to paragraph (4) of
31 subdivision (e) is requested, on the date the ~~Governor's findings~~
32 *are judicial decision affirming the Governor's findings is*
33 considered ~~final~~. *final and nonappealable*.

34 (2) This section shall be repealed on January 1 immediately
35 following the date it becomes inoperative under paragraph (1).

36 (g) (1) This section shall not be interpreted to impair or infringe
37 any vested right to conduct or continue to conduct a well
38 stimulation treatment.

1 ~~(2) The division shall adopt a formal process to determine~~
2 ~~whether a person has a vested right to perform a well stimulation~~
3 ~~treatment.~~

4 ~~(3)~~

5 (2) A person claiming a vested right to perform a well
6 stimulation treatment has the burden of proof, by clear and
7 convincing evidence, that he or she had a vested right ~~and may~~
8 ~~request a public hearing with the division.~~ *to perform a well*
9 *stimulation before January 1, 2015. The past or current ownership*
10 *or operation of an existing well does not create a vested right for*
11 *future well stimulation. The occurrence of past well stimulation*
12 *events does not create a vested right for future well stimulation.*
13 *The claimant shall submit to the Secretary of the Natural Resources*
14 *Agency all necessary evidence to demonstrate a vested right,*
15 *including, at minimum, all of the following:*

16 (A) *All necessary discretionary permits have been obtained and*
17 *the activity will not result in an intensification or expansion of the*
18 *permitted activity.*

19 (B) *The completion of substantial construction work in*
20 *preparation for well stimulation.*

21 (C) *The incurrence of substantial costs and liabilities in good*
22 *faith reliance on the division's approval granted before January*
23 *1, 2015.*

24 (D) *Any other information deemed necessary by the secretary*
25 *to determine whether a vested right exists.*

26 (3) *A person claiming a vested right may request a public*
27 *hearing before the Secretary of the Natural Resources Agency.*

28 (4) *If a hearing is requested, the Natural Resources Agency*
29 *shall notify affected local governments and all known interested*
30 *parties of the date, time, and location of the public hearing and*
31 *post the same information to a publicly accessible part of the*
32 *agency's Internet Web site at least 20 days in advance of the*
33 *hearing. Any member of the public may submit comments or*
34 *evidence regarding the existence of a vested right.*

35 ~~(4)~~

36 (5) A person claiming a vested right shall not perform a well
37 stimulation treatment until the ~~division~~ *Secretary of the Natural*
38 *Resources Agency makes a final determination that the person has*
39 *a vested right.*

1 (6) *If the Secretary of the Natural Resources Agency determines,*
2 *by clear and convincing evidence, that a vested right exists, the*
3 *prohibition on well stimulation with respect to the claimant shall*
4 *apply after a reasonable amortization period, to be determined by*
5 *the secretary. If the secretary determines that there is no clear and*
6 *convincing evidence that a vested right exists, the secretary shall*
7 *deny the claim.*

8 (7) (A) *Any interested party may challenge the Secretary of the*
9 *Natural Resources Agency’s determination that a vested right*
10 *exists in superior court.*

11 (B) *The well owner or operator may challenge the secretary’s*
12 *determination that a vested right does not exist in the superior*
13 *court.*

14 (h) *The division shall not approve as complete any Interim Well*
15 *Stimulation Treatment Notice forms, or make any other approval*
16 *to authorize a well stimulation treatment, on or after January 1,*
17 *2015.*

18 (i) *This section does not preempt local government’s land use*
19 *authority to regulate or prohibit oil and gas operations, including*
20 *well stimulation treatments and related activities.*

21 ~~SEC. 7.~~

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