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AMENDED IN SENATE APRIL 21, 2014
AMENDED IN SENATE APRIL 10, 2014
AMENDED IN SENATE MARCH 27, 2014

SENATE BILL

No. 1132

Introduced by Senators Mitchell and Leno

(Principal coauthors: Assembly Members Ammiano and Levine)

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

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

February 20, 2014

An act to amend Sections 3157 and 3160 of, and to 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. *Existing law requires the division to finalize and implement regulations regulating well stimulation treatments by January 1, 2015.*

This bill would revise the definition of “well stimulation treatment.” The bill would require the scientific study to be conducted and completed no later than June 30, 2016, and 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 (1) the Secretary of the Natural Resources Agency convenes a committee to review the scientific study, as specified, (2) the Governor issues ~~findings~~ *a determination* that specific measures are in place to ensure that well stimulation treatments do not contribute to the deterioration of environmental conditions in a way that threatens public health and welfare or to the environmental and economic sustainability of the state, and (3) the division prepares an environmental impact report, as provided. Because a violation of the bill’s requirements would be a crime, the bill would impose a state-mandated local program. *This bill would require the division to finalize the regulations regulating well stimulation treatments by June 30, 2015.*

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 (1) The state has *historically* failed to appropriately monitor or
2 track well stimulation activity and to study its effects.
- 3 (2) Well stimulation and well stimulation-related activities *may*
4 ~~release harmful air pollutants,~~ *chemicals*, including methanol,
5 crystalline silica dust, hydrochloric and hydrofluoric acid, xylene,
6 2-butoxyethanol, naphthalene, ethylbenzene, 2-propanol, volatile
7 organic compounds, and particulate ~~matter,~~ *which matter. These*
8 *materials may be released at levels that are harmful and may* have
9 an adverse impact on the state’s air quality and ~~are detrimental to~~
10 public health and safety. Many parts of California already suffer
11 from poor air quality.
- 12 (3) Well stimulation and well stimulation-related activities *can*
13 involve the use of hundreds of chemicals, ~~many~~ *some* of which
14 are known to be carcinogenic or ~~are~~ *could* otherwise *be* harmful
15 to human health. ~~These chemicals, along with dangerous chemicals~~
16 ~~present in the oil and gas formation, threaten to contaminate~~
17 ~~groundwater and surface water resources through numerous~~
18 ~~potential pathways.~~
- 19 (4) Exposure to the chemicals used in well stimulation and well
20 stimulation-related activities ~~poses~~ *may pose* a widespread and
21 significant risk to public health and safety and the environment.
22 ~~Studies have shown an increase in birth defects and illnesses in~~
23 ~~communities located close to well stimulation operations.~~
- 24 (5) Well stimulation and well stimulation-related activities *may*
25 involve the use of substantial amounts of ~~freshwater, which cannot~~
26 ~~be reused for other purposes once it is mixed with well stimulation~~
27 ~~fluid chemicals.~~ *freshwater.* California is currently experiencing
28 one of the worst droughts in the state’s history and faces a scarcity
29 of freshwater resources.
- 30 (6) Well stimulation and well stimulation-related activities *may*
31 result in the emission of ~~a substantial amount of~~ greenhouse gases,
32 such as carbon dioxide and methane. ~~The construction, drilling,~~
33 ~~extraction, refinement, and end-use combustion of oil and gas~~
34 ~~produce vast amounts of greenhouse gas.~~ Furthermore, well
35 stimulation and well stimulation-related activities may lead to a
36 dramatic increase in the overall amount of recoverable oil and gas
37 in the state. The expansion of oil and gas activity and the process
38 of well stimulation both *could* threaten to undermine the state’s
39 goal of reducing greenhouse gas emissions.

1 (7) The disposal of wastewater resulting from well stimulation
2 and well stimulation-related activities *into underground injection*
3 *wells* in other states has been linked to increased earthquake
4 activity.

5 (8) Fracking and other forms of well stimulation ~~occur~~ *have*
6 *occurred* disproportionately near communities consisting largely
7 of people of color, low-income households, non-English-speaking
8 households, and persons already experiencing high levels of water
9 or air pollution or water scarcity.

10 (9) Well stimulation and well stimulation-related activities
11 ~~directly and indirectly~~ *may* harm wildlife, including species that
12 are protected under federal and state endangered species laws.

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

15 SEC. 2. Section 3157 of the Public Resources Code is amended
16 to read:

17 3157. (a) For purposes of this article, “well stimulation
18 treatment” means any treatment of a well designed to enhance oil
19 and gas production or recovery by increasing the permeability of
20 the formation or the flow of fluid through the well. Well stimulation
21 treatments include, but are not limited to, hydraulic fracturing
22 treatments and acid well stimulation treatments.

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

29 (c) Well stimulation treatments do not include gas storage
30 projects that are subject to Section 1724.9 of Title 14 of the
31 California Code of Regulations.

32 SEC. 3. Section 3160 of the Public Resources Code is amended
33 to read:

34 3160. (a) The Secretary of the Natural Resources Agency shall
35 cause to be conducted, and completed, no later than June 30, 2016,
36 an independent scientific study on well stimulation treatments,
37 including, but not limited to, hydraulic fracturing and acid well
38 stimulation treatments. The scientific study shall evaluate the
39 hazards and risks and potential hazards and risks that well
40 stimulation treatments and well stimulation treatment-related

1 activities pose to natural resources and public, occupational, and
2 environmental health and safety. The scientific study shall do all
3 of the following:

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

9 (2) (A) Identify all onshore areas with existing and potential
10 conventional and unconventional oil and gas reserves and gas
11 storage projects where well stimulation treatments are likely to
12 spur or enable oil and gas exploration and production, or gas
13 storage.

14 (B) Identify offshore areas, within the jurisdiction of the
15 division, with existing and potential conventional and
16 unconventional oil and gas reserves where well stimulation
17 treatments are likely to spur or enable oil and gas exploration and
18 production.

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

33 (B) Review and evaluate acid matrix stimulation treatments,
34 including the range of acid volumes applied per treated foot and
35 total acid volumes used in treatments, types of acids, acid
36 concentration, and other chemicals used in the treatments.

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

1 (D) Evaluate all potential direct, indirect, and cumulative health
2 and environmental effects of offshore well stimulation treatments
3 and well stimulation treatment-related activities that are within the
4 jurisdiction of the division.

5 (E) Evaluate all direct, indirect, and cumulative health and
6 environmental effects of the full lifecycle of oil and gas
7 exploration, development, and production, including flowback
8 fluids and other byproducts that would result from allowing well
9 stimulation treatments within the state.

10 (F) Evaluate the extent of the increase in oil and gas
11 development, refining processes, and end-use combustion that
12 would result from allowing well stimulation treatments within the
13 state.

14 (4) (A) Consider potential water contamination, including
15 groundwater and surface water, potential depletion of water
16 resources, potential effects on water sustainability, and the ultimate
17 disposition, transport, transformation, and toxicology of well
18 stimulation treatments, including acid well stimulation fluids,
19 hydraulic fracturing fluids, and waste hydraulic fracturing fluids,
20 and acid well stimulation in the environment.

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

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

30 (5) Identify and evaluate the geologic features present in the
31 vicinity of a well, including the well bore, that should be taken
32 into consideration in the design of a proposed well stimulation
33 treatment.

34 (6) Identify and evaluate all of the following, as they relate to
35 well stimulation:

36 (A) The potential impacts of well stimulation treatments on
37 private property, including home values and direct damage to
38 property and land.

39 (B) The potential human health risk for each chemical used in
40 well stimulation treatments.

1 (C) The potential economic costs and harms of increased oil
2 and gas operations in the state as a result of well stimulation
3 treatments, including, but not limited to, the resulting economic
4 costs to the agricultural sector and the tourism industry.

5 (D) The potential effects on communities most likely to be
6 negatively affected by the impacts of well stimulation, including,
7 but not limited to, all of the following:

- 8 (i) Communities consisting largely of people of color.
- 9 (ii) Communities consisting largely of low-income individuals.
- 10 (iii) Communities consisting largely of non-English-speaking
11 households.
- 12 (iv) Communities already experiencing high levels of water or
13 air pollution, or water scarcity.

14 (E) Potential harm to the public health and welfare of the state's
15 residents and the state's environment, both cumulatively and
16 specific to each region where well stimulation treatments may
17 occur.

18 (F) The potential effect of increased traffic due to increased oil
19 and gas activity as a result of well stimulation treatments, including
20 air emissions from vehicle traffic, and road expansion and
21 deterioration.

22 (G) The potential effect on pipeline infrastructure due to
23 increased oil and gas activity as a result of well stimulation
24 treatments, including potential pipeline leakage.

25 (H) Potential impacts on wildlife, including harm to endangered
26 or threatened species, native plants, and habitat, including habitat
27 fragmentation.

28 (I) Whether existing emergency planning, procedures, and
29 resources adequately and fully ensure public safety in the event
30 of an emergency.

31 (J) Potential risks to worker safety.

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

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

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

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

29 (B) The rules and regulations shall additionally include
30 provisions for an independent entity or person to perform the
31 notification requirements pursuant to paragraph (6) of subdivision
32 (e), for the operator to provide for baseline and followup water
33 testing upon request as specified in paragraph (7) of subdivision
34 (e).

35 (C) (i) In order to identify the acid matrix stimulation treatments
36 that are subject to this section, the rules and regulations shall
37 establish threshold values for acid volume applied per treated foot
38 of any individual stage of the well or for total acid volume of the
39 treatment, or both, based upon a quantitative assessment of the
40 risks posed by acid matrix stimulation treatments that exceed the

1 specified threshold value or values in order to prevent, as far as
2 possible, damage to life, health, property, and natural resources
3 pursuant to Section 3106.

4 (ii) On or before January 1, 2020, the division shall review and
5 evaluate the threshold values for acid volume applied per treated
6 foot and total acid volume of the treatment, based upon data
7 collected in the state, for acid matrix stimulation treatments. The
8 division shall revise the values through the regulatory process, if
9 necessary, based upon the best available scientific information,
10 including the results of the independent scientific study pursuant
11 to subparagraph (B) of paragraph (3) of subdivision (a).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (A) The well identification number and location.

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

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

20 (i) An estimate of the amount of water to be used in the
21 treatment. Estimates of water to be recycled following the well
22 stimulation treatment may be included.

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

25 (iii) The disposal method identified for the recovered water in
26 the flowback fluid from the treatment that is not produced water
27 included in the statement pursuant to Section 3227.

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

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

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

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

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

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

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

18 (2) (A) At the supervisor's discretion, and if applied for
19 concurrently, the well stimulation treatment permit described in
20 this section may be combined with the well drilling and related
21 operation notice of intent required pursuant to Section 3203 into
22 a single combined authorization. The portion of the combined
23 authorization applicable to well stimulation shall meet all of the
24 requirements of a well stimulation treatment permit pursuant to
25 this section.

26 (B) Where the supervisor determines that the activities proposed
27 in the well stimulation treatment permit or the combined
28 authorization have met all of the requirements of Division 13
29 (commencing with Section 21000), and have been fully described,
30 analyzed, evaluated, and mitigated, no additional review or
31 mitigation shall be required.

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

35 (3) (A) The supervisor or district deputy shall review the well
36 stimulation treatment permit application and may approve the
37 permit if the application is complete. An incomplete application
38 shall not be approved.

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

4 (C) In considering the permit application, the supervisor or
5 district deputy shall evaluate the quantifiable risk of the well
6 stimulation treatment.

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

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

16 (6) (A) It is the policy of the state that a copy of the approved
17 well stimulation treatment permit and information on the available
18 water sampling and testing be provided to every tenant of the
19 surface property and every surface property owner or authorized
20 agent of that owner whose property line location is one of the
21 following:

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

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

25 (B) (i) The well owner or operator shall identify the area
26 requiring notification and shall contract with an independent entity
27 or person who is responsible for, and shall perform, the notification
28 required pursuant to subparagraph (A).

29 (ii) The independent entity or person shall identify the
30 individuals notified, the method of notification, the date of the
31 notification, and a list of those notified, and shall provide this
32 information to the division.

33 (iii) The performance of the independent entity or person shall
34 be subject to review and audit by the division.

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

38 (7) (A) A property owner notified pursuant to paragraph (6)
39 may request water quality sampling and testing from a designated
40 qualified contractor on any water well suitable for drinking or

1 irrigation purposes and on any surface water suitable for drinking
2 or irrigation purposes as follows:

3 (i) Baseline measurements prior to the commencement of the
4 well stimulation treatment.

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

8 (B) The State Water Resources Control Board shall designate
9 one or more qualified independent third-party contractor or
10 contractors that adhere to board-specified standards and protocols
11 to perform the water sampling and testing. The well owner or
12 operator shall pay for the sampling and testing. The sampling and
13 testing performed shall be subject to audit and review by the State
14 Water Resources Control Board or an applicable regional water
15 quality control board, as appropriate.

16 (C) The results of the water testing shall be provided to the
17 division, appropriate regional water quality control board, and the
18 property owner or authorized agent. A tenant notified pursuant to
19 paragraph (6) shall receive information on the results of the water
20 testing to the extent authorized by his or her lease and, where the
21 tenant has lawful use of the groundwater or surface water identified
22 in subparagraph (A), the tenant may independently contract for
23 similar groundwater or surface water testing.

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

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

29 (f) If a well stimulation treatment is performed, a supplier that
30 performs any part of the treatment or provides additives directly
31 to the operator for a well stimulation treatment shall furnish the
32 operator with information suitable for public disclosure needed
33 for the operator to comply with subdivision (g). This information
34 shall be provided as soon as possible but no later than 30 days
35 following the conclusion of the well stimulation treatment.

36 (g) (1) Within 60 days following cessation of a well stimulation
37 treatment, the operator shall post or cause to be posted to an
38 Internet Web site, designated or maintained by the division and
39 accessible to the public, all of the well stimulation fluid
40 composition and disposition information required to be collected

1 pursuant to the rules and regulations adopted under subdivision
2 (c), including well identification number and location. This shall
3 include the collected water quality data, which the operator shall
4 report electronically to the State Water Resources Control Board.

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

17 (B) The division may direct reporting to an alternative Internet
18 Web site developed by the Ground Water Protection Council and
19 the Interstate Oil and Gas Compact Commission in the interim
20 until approval or appropriate authority pursuant to subparagraph
21 (A) occur. Prior to the implementation of the division's Internet
22 Web site, the division shall obtain the data reported by operators
23 to the alternative Internet Web site and make it available in an
24 organized electronic format to the public no later than 15 days
25 after it is reported to the alternative Internet Web site.

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

27 (i) (1) All geologic features within a distance reflecting an
28 appropriate safety factor of the fracture zone for well stimulation
29 treatments that fracture the formation and that have the potential
30 to either limit or facilitate the migration of fluids outside of the
31 fracture zone shall be identified and added to the well history.
32 Geologic features include seismic faults identified by the California
33 Geologic Survey.

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

39 (3) The division shall review the geologic features important to
40 assessing well stimulation treatments identified in the independent

1 study pursuant to paragraph (5) of subdivision (a). Upon
2 completion of the review, the division shall revise the regulations
3 governing the reporting of geologic features pursuant to this
4 subdivision accordingly.

5 (j) (1) Public disclosure of well stimulation treatment fluid
6 information claimed to contain trade secrets is governed by Section
7 1060 of the Evidence Code, or the Uniform Trade Secrets Act
8 (Title 5 (commencing with Section 3426) of Part 1 of Division 4
9 of the Civil Code), and the California Public Records Act (Chapter
10 3.5 (commencing with Section 6250) of Division 7 of Title 1 of
11 the Government Code).

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

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

16 (B) The concentrations of the additives in the well stimulation
17 treatment fluids.

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

19 (D) Health and safety data associated with well stimulation
20 treatment fluids.

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

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

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

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

35 (C) To comply with the public disclosure requirements of this
36 section, the supplier shall indicate where the trade secret
37 information has been withheld and provide substitute information
38 for public disclosure. The substitute information shall be a list, in
39 any order, of the chemical constituents of the additive, including

1 CAS identification numbers. The division shall review and approve
2 the supplied substitute information.

3 (D) This subdivision does not permit a supplier to refuse to
4 disclose the information required pursuant to this section to the
5 division.

6 (5) In order to substantiate the trade secret claim, the supplier
7 shall provide information to the division that shows all of the
8 following:

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

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

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

16 (D) The amount of effort or money the supplier expended
17 developing the trade secret information and the ease or difficulty
18 with which the trade secret information could be acquired or
19 duplicated by others.

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

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

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

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

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

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

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

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

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

24 (C) In order to protect public health, to any health professional,
25 toxicologist, or epidemiologist who is employed in the field of
26 public health and who provides a written statement of need. The
27 written statement of need shall include the public health purposes
28 of the disclosure and shall explain the reason the disclosure of the
29 specific chemical and its concentration is required.

30 (D) A health professional may share trade secret information
31 with other persons as may be professionally necessary, in order to
32 diagnose or treat a patient, including, but not limited to, the patient
33 and other health professionals, subject to state and federal laws
34 restricting disclosure of medical records including, but not limited
35 to, Chapter 2 (commencing with Section 56.10) of Part 2.6 of
36 Division 1 of the Civil Code.

37 (E) For purposes of this paragraph, “health professional” means
38 any person licensed or certified pursuant to Division 2
39 (commencing with Section 500) of the Business and Professions
40 Code, the Osteopathic Initiative Act, the Chiropractic Initiative

1 Act, or the Emergency Medical Services System and the
2 Prehospital Emergency Medical Care Personnel Act (Division 2.5
3 (commencing with Section 1797) of the Health and Safety Code).

4 (F) A person in possession of, or with access to, confidential
5 trade secret information pursuant to the provisions of this
6 subdivision may disclose this information to any person who is
7 authorized to receive it. A written confidentiality agreement shall
8 not be required.

9 (k) A well granted confidential status pursuant to Section 3234
10 shall not be required to disclose well stimulation treatment fluid
11 information pursuant to subdivision (g) until the confidential status
12 of the well ceases. Notwithstanding the confidential status of a
13 well, it is public information that a well will be or has been subject
14 to a well stimulation treatment.

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

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

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

28 (o) Well stimulation treatments used for routine maintenance
29 of wells associated with underground storage facilities where
30 natural gas is injected into and withdrawn from depleted or partially
31 depleted oil or gas reservoirs pursuant to subdivision (a) of Section
32 3403.5 are not subject to this section.

33 (p) *The division shall finalize the regulations governing this*
34 *article on or before June 30, 2015.*

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

36 SEC. 5. Section 3161 is added to the Public Resources Code,
37 to read:

38 3161. (a) All well stimulation treatments shall be prohibited
39 until the scientific study pursuant to Section 3160 is completed
40 and all of the requirements of this section are met.

1 (b) No later than six months after the scientific study is
2 complete, the Secretary of the Natural Resources Agency shall
3 convene a committee to review the scientific study. The committee
4 shall include a representative from all of the following:

- 5 (1) The Natural Resources Agency.
- 6 (2) The California Environmental Protection Agency.
- 7 (3) The State Air Resources Board.
- 8 (4) The State Water Resources Control Board.
- 9 (5) The State Department of Public Health.

10 (c) (1) After reviewing the scientific study as required under
11 subdivision (b), the committee shall issue a tentative report,
12 available to the public, evaluating the scientific study using the
13 best scientific, health, environmental, and statistical information
14 available, that shall include, but is not limited to, all of the
15 following findings:

16 (A) Whether the scientific study is based solely on the best
17 scientific, health, environmental, and statistical information
18 available, and meets all of the requirements of subdivision (a) of
19 Section 3160.

20 (B) Whether the regulations adopted pursuant to subdivision
21 (c) of Section 3160 are sufficient to ensure that the damage and
22 risks associated with well stimulation treatments, and the increased
23 oil and gas development as a result of these treatments, do not
24 contribute to the deterioration of environmental conditions in a
25 way that threatens public health and welfare or the environmental
26 and economic sustainability of the state.

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

33 (D) Whether other specific measures are in place to ensure that
34 well stimulation treatments within the state do not contribute to
35 the deterioration of environmental conditions in a way that
36 threatens public health and welfare or the environmental and
37 economic sustainability of the state.

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

1 (3) (A) If the findings in the report conclude that well
2 stimulation treatments contribute to the deterioration of
3 environmental conditions in a way that threatens public health and
4 welfare or to the environmental and economic sustainability of the
5 state, the committee may require an additional study to address
6 any areas of concern and the prohibition on well stimulation
7 treatments pursuant to subdivision (a) shall remain in effect.

8 (B) If the findings in the report conclude that well stimulation
9 treatments do not contribute to the deterioration of environmental
10 conditions in a way that threatens public health and welfare or to
11 the environmental and economic sustainability of the state, the
12 committee shall certify the report as final.

13 (d) Upon certification by the committee, the report shall be
14 provided to the Governor and the appropriate committees of the
15 Legislature.

16 (e) (1) Upon receipt of the report, the Governor shall ~~determine~~
17 *make a determination as to* whether specific measures are in place
18 to ensure that well stimulation treatments within the state do not
19 contribute to the deterioration of environmental conditions in a
20 way that threatens public health and welfare or to the environmental
21 and economic sustainability of the state, and shall provide specific
22 findings of this determination to the Legislature.

23 (2) If the Governor's ~~findings conclude~~ *determination concludes*
24 that there are not specific measures in place as described in
25 paragraph (1), the prohibition on well stimulation treatments
26 pursuant to subdivision (a) shall remain in effect.

27 (3) If the Governor's ~~findings conclude~~ *determination concludes*
28 that there are specific measures in place as described in paragraph
29 (1), the prohibition of well stimulation treatments pursuant to
30 subdivision (a) shall end on the date provided in subdivision (g).

31 ~~(4) The Governor's findings shall be considered final when all~~
32 ~~pending legal challenges are resolved and the Governor's findings~~
33 ~~based on clear and convincing evidence are affirmed.~~

34 (f) (1) The division shall prepare an environmental impact
35 report (EIR) pursuant to the California Environmental Quality Act
36 (Division 13 (commencing with Section 21000)), in order to
37 provide the public with detailed information regarding any potential
38 environmental impacts of well stimulation in the state.

39 (2) Any environmental review conducted by the division shall
40 fully comply with all of the following requirements:

1 (A) The EIR shall be certified by the division as the lead agency,
2 no later than July 1, 2015.

3 (B) The EIR shall address the issue of activities that may be
4 conducted as defined in Section 3157 and that may occur at oil
5 wells in the state existing prior to, and after, the effective date of
6 this section.

7 (C) The EIR shall not conflict with an EIR conducted by a local
8 lead agency that is certified on or before July 1, 2015. This
9 subparagraph does not prohibit a local lead agency from conducting
10 its own EIR.

11 (g) (1) This section shall become inoperative 90 days after the
12 date the Governor issues ~~the findings~~ *a determination* pursuant to
13 paragraph (3) of subdivision (e) ~~or, if a judicial review is requested,~~
14 ~~on the date the judicial decision affirming the Governor's findings~~
15 ~~is considered final and nonappealable.~~ (e).

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

18 (h) This section does not impair or infringe any existing property
19 rights or interests.

20 (i) The division shall not approve as complete any Interim Well
21 Stimulation Treatment Notice forms, or make any other approval
22 to authorize a well stimulation treatment, on or after January 1,
23 2015.

24 (j) This section does not preempt *a* local government's land use
25 authority to regulate or prohibit oil and gas operations, including
26 well stimulation treatments and related activities.

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