

AMENDED IN ASSEMBLY JULY 1, 2015

AMENDED IN SENATE JUNE 1, 2015

AMENDED IN SENATE MAY 5, 2015

AMENDED IN SENATE APRIL 6, 2015

**SENATE BILL**

**No. 248**

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**Introduced by Senator Pavley**

February 18, 2015

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An act to amend Sections 3108, 3213, and 3227 of, to add Sections 3011, 3106.3, 3113, 3114, 3213.5, and 3227.2 to, and to add Article 2.5 2.7 (commencing with Section ~~3130~~ 3140) to Chapter 1 of Division 3 of, the Public Resources Code, relating to oil and gas.

LEGISLATIVE COUNSEL'S DIGEST

SB 248, as amended, Pavley. Oil and gas.

(1) Existing law requires the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation to regulate the drilling, operation, maintenance, and abandonment of wells and the operation, maintenance, and removal or abandonment of tanks and facilities attendant to oil and gas production. Existing law requires the State Oil and Gas Supervisor, on or before the first day of October of each year, to make public a report on specified information.

This bill would require the supervisor to establish an inspection program for all activities regulated pursuant to these provisions and would require the total number of inspections and results of the inspections to be included in the above-referenced report. The bill would require the division's regulations, field rules, notices, manuals, and other requirements to be reviewed and revised, as needed, through a public process at least once every 10 years.

The bill would require the ~~division to develop and implement a data management plan on or before January 1 of an unspecified year, division, as part of the Oil and Gas Data Management System developed pursuant to the Budget Act of 2015,~~ to ensure that required well data and well-related submissions are retained and readily available to the public and that publicly available data are machine readable. ~~As part of the data management plan,~~ *Unless otherwise incorporated in the Oil and Gas Data Management System,* the bill would require the division to post certain information that it receives on its Internet Web site.

The bill would define “enhanced oil recovery” for purposes of provisions relating to the regulation of oil and gas.

(2) Existing law requires an owner or operator of a well to keep, or cause to be kept, and requires the operator to file with the district deputy at specified times, a careful and accurate log, core record, and history of the drilling of the well. Existing law requires the well history to show the location and amount of sidetracked casings, tools, or other material, the depth and quantity of cement in cement plugs, the shots of dynamite or other explosives, acid treatment data, the results of production and other tests during drilling operations, and all data on well stimulation treatments. Existing law requires the owner of any well to file with the supervisor a monthly statement that provides certain information relating to the well, including the amount of water produced from each well. Existing law provides that a person who fails to comply with specific laws relating to the regulation of oil or gas operations, including failing to furnish a report or record, is guilty of a misdemeanor.

This bill would, in addition, require all operations on or in the well of any form to be systematically, completely, and accurately described and recorded in the well history. The bill would require any fluid injected or emplaced in the well to be fully characterized and reported as part of the history. The bill would require the monthly statement to the supervisor to include the full characterization of the chemical composition of water produced from each well. The bill would also require the operator of a waste disposal well to provide to the supervisor each quarter certain information regarding waste disposal injections. Because a violation of these requirements would be a crime, the bill would impose a state-mandated local program.

(3) The federal Safe Drinking Water Act regulates certain wells as Class II wells. Under existing federal law, the authority to regulate Class II wells in California is delegated to the Division of Oil, Gas, and Geothermal Resources. Under existing regulations, a well operator is

required to obtain approval from the supervisor or a district deputy for a subsurface injection or disposal project, including Class II wells, or any change in a project, as provided.

This bill would require the division, on or before January 1 of an unspecified year, 1, 2018, to update and revise these regulations according to specified criteria and would require the division to consult with independent experts and stakeholders in the development and review of the regulations. The bill would require the regulations to include certain requirements, including reporting requirements. The bill would require these provisions to be liberally construed in order to meet specified requirements and to provide public transparency. The bill would provide that where the division shares jurisdiction over an injection well with a federal entity, the division’s rules and regulations are to apply in addition to all applicable federal laws and regulations. The bill would require an injection well subject to specified emergency regulations of the division regarding aquifer exemptions to immediately cease injection operations, *other than those required for plugging and abandonment operations*, if the well is not in compliance with *those emergency regulations* by the applicable regulatory deadline. Because a violation of these requirements would be a crime, the bill would impose a state-mandated local program. The bill would require specified existing injection wells and well projects *existing as of January 1, 2017*, to be brought into compliance with these regulations on or before January 1 of an unspecified year, 1, 2020.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) A 2011 audit of the Division of Oil, Gas, and Geothermal
- 4 Resources’ injection well program commissioned by the United
- 5 State— *States* Environmental Protection Agency highlighted
- 6 numerous problems with the program.

1 (b) The division has repeatedly acknowledged that it has failed  
2 to follow applicable regulations in permitting injection wells and  
3 that its injection well regulations are out of date. Among other  
4 reasons, the division has cited antiquated data management  
5 practices.

6 (c) The division’s ability to regulate depends upon full  
7 understanding and knowledge of practices occurring under its  
8 jurisdiction.

9 (d) Public transparency and regulatory accountability are  
10 necessary to restore the public’s confidence in the division.

11 SEC. 2. Section 3011 is added to the Public Resources Code,  
12 to read:

13 3011. “Enhanced oil recovery” means any process to enhance  
14 the displacement of oil or other hydrocarbons from a reservoir,  
15 including, but not limited to, the injection or subsurface  
16 emplacement of fluids or other materials into the productive strata,  
17 the application of pressure, heat, or other means for the reduction  
18 of viscosity of the hydrocarbons, and the supplying of additional  
19 motive force.

20 SEC. 3. Section 3106.3 is added to the Public Resources Code,  
21 to read:

22 3106.3. (a) The supervisor shall establish an inspection  
23 program for all activities regulated pursuant to Section 3106.

24 (b) In establishing the inspection program, the supervisor shall  
25 do, but is not limited to doing, all of the following:

- 26 (1) Identify activities subject to inspection.
- 27 (2) Create forms or checklists associated with each type of  
28 inspection.
- 29 (3) Establish the time or time period in which each inspection  
30 shall be performed.
- 31 (4) Establish procedures for how an inspection shall be  
32 conducted.

33 (c) The inspection program shall be available to the public on  
34 the division’s Internet Web site.

35 SEC. 4. Section 3108 of the Public Resources Code is amended  
36 to read:

37 3108. (a) On or before the first day of October of each year  
38 the supervisor shall make public, for the benefit of all interested  
39 persons, a report in writing containing all of the following:

1 (1) The total amounts of oil and gas produced in each county  
2 in the state during the previous calendar year.

3 (2) The total cost of the division for the previous fiscal year.

4 (3) The total amount delinquent and uncollected from any  
5 assessments or charges levied pursuant to this chapter.

6 (4) The total number of inspections and the results of the  
7 inspections.

8 (b) The report shall also include other information as the  
9 supervisor deems advisable.

10 SEC. 5. Section 3113 is added to the Public Resources Code,  
11 to read:

12 3113. (a) It is the policy of the state that the division regularly  
13 review and update its regulations, field rules, notices, manuals,  
14 and other requirements to ensure that technological advances and  
15 other changes in the exploration, development, and production of  
16 oil and gas are incorporated in order to ensure that life, health,  
17 property, and natural resources are protected pursuant to Section  
18 3106.

19 (b) The division's regulations, field rules, notices, manuals, and  
20 other requirements shall be reviewed and revised, as needed,  
21 through a public process. The regulations, field rules, notices,  
22 manuals, and other requirements need not be reviewed all at once,  
23 but each of them shall be reviewed at least once every 10 years.  
24 A revision is not required pursuant to this section if the supervisor  
25 makes a public written finding indicating that the existing  
26 regulation, field rule, manual, or other requirement is appropriate  
27 and reflects best management practices.

28 (c) The supervisor shall prepare and transmit reports to the  
29 Legislature describing the results of the reviews required by this  
30 section and any revisions made or planned to the division's  
31 regulations, field rules, notices, manuals, and other requirements.  
32 A report required by this subdivision shall be submitted in  
33 compliance with Section 9795 of the Government Code.

34 (d) The division shall develop and disseminate in a timely  
35 manner training materials related to any revisions made pursuant  
36 to this section.

37 SEC. 6. Section 3114 is added to the Public Resources Code,  
38 to read:

39 3114. (a) ~~On or before January 1, \_\_\_\_\_, the division shall~~  
40 ~~develop and implement a data management plan to~~ *The division*

1 shall, as part of the Oil and Gas Data Management System  
 2 developed pursuant to the Budget Act of 2015 (Chapter 10 of the  
 3 Statutes of 2015), ensure that required well data and well-related  
 4 submissions are retained and readily available to the public and  
 5 that publicly available data are machine readable. ~~As part of the~~  
 6 ~~data management plan,~~ Unless otherwise incorporated in the Oil  
 7 and Gas Data Management System, the division shall make  
 8 available to the public on its Internet Web site at least all of the  
 9 following:

10 (1) Any notice received pursuant to Section 3203 within five  
 11 days of receipt.

12 (2) Any changes in status of any notice received pursuant to  
 13 Section 3203 within five days of the change.

14 (3) The log, history, and core record of a well within 10 days  
 15 of receipt.

16 (b) The division shall consult with local, state, and federal  
 17 regulators in the development of the data management plan to  
 18 facilitate timely sharing of data.

19 SEC. 7. Article ~~2.5~~ 2.7 (commencing with Section ~~3130~~ 3140)  
 20 is added to Chapter 1 of Division 3 of the Public Resources Code,  
 21 to read:

22  
 23 Article ~~2.5~~ 2.7. Injection Wells

24  
 25 ~~3130.~~

26 3140. (a) On or before January 1,       , 2018, the division  
 27 shall update and revise its regulations for all injection wells and  
 28 well projects for which the division has received primacy from the  
 29 United States Environmental Protection Agency pursuant to Section  
 30 1425 of the federal Safe Drinking Water Act (42 U.S.C. Sec.  
 31 300h-4).

32 (b) In adopting regulations pursuant to this section, the division  
 33 shall, in consultation with independent experts and stakeholders  
 34 through a public process, do all of the following:

35 (1) Develop best management practices for injection wells and  
 36 well projects.

37 (2) Review cement and cementing requirements, including  
 38 factors influencing the aging of cement.

39 (3) Review and identify impacts of injection on the geologic  
 40 formation specific to each type of enhanced oil recovery, waste

1 disposal, and other well-related processes, including when  
2 fracturing of the formation occurs.

3 ~~3131.~~

4 ~~3141.~~ The regulations developed pursuant to Section ~~3130~~  
5 ~~3140~~ shall ensure that the integrity of the well, wellbore, and  
6 formation are maintained. In order to accomplish this requirement,  
7 the regulations shall do both of the following:

8 (a) Be specific to each type of injection well and well project  
9 used for any purpose, including, but not limited to, enhanced oil  
10 recovery and waste disposal.

11 (b) Include any operation, treatment, process, and activity  
12 performed to enhance oil recovery on, in, or in the vicinity of, any  
13 well, wellbore, or hydrocarbon-bearing formation.

14 ~~3132.~~

15 ~~3142.~~ The regulations developed pursuant to Section ~~3130~~  
16 ~~3140~~ shall include, but are not limited to, the following:

17 (a) An opportunity for public participation in the well and well  
18 project review process.

19 (b) Full and complete geologic and hydrologic characterization  
20 and reporting of the formation surrounding the well, including the  
21 fracture pressure.

22 (c) Full and complete characterization and reporting of all well  
23 operations with appropriate monitoring, including of surface  
24 movement and seismic activity.

25 (d) Establishment of limits on operations, and procedures to  
26 follow in the event of surface movement and seismic activity.

27 ~~3133.~~

28 ~~3143.~~ Injection wells and well projects existing as of December  
29 31, ~~\_\_\_\_\_~~, 2017, shall be brought into compliance with the  
30 regulations developed pursuant to Section ~~3130~~ ~~3140~~ on or before  
31 January 1, ~~\_\_\_\_\_~~, 2020.

32 ~~3134.~~

33 ~~3144.~~ This article shall be liberally construed pursuant to  
34 Section 3013 in order to meet the requirements of Section 3106  
35 and to provide public transparency.

36 ~~3135.~~

37 ~~3145.~~ Where the division shares jurisdiction over an injection  
38 well with a federal entity, the division's rules and regulations shall  
39 apply in addition to all applicable federal laws and regulations.

1     ~~3136.~~

2     3146. An injection well subject to the division's emergency  
3 regulations regarding aquifer exemptions (Sections 1760.1 and  
4 1779.1 of Title 14 of the California Code of Regulations, effective  
5 on April 20, 2015) shall immediately cease injection operations  
6 *other than those required for plugging or abandonment operations*  
7 if the well is not in compliance *with those regulations* by the  
8 applicable regulatory deadline.

9     SEC. 8. Section 3213 of the Public Resources Code is amended  
10 to read:

11     3213. (a) The history shall show the location and amount of  
12 sidetracked casings, tools, or other material, the depth and quantity  
13 of cement in cement plugs, the shots of dynamite or other  
14 explosives, all acid treatment data of any amount and concentration,  
15 and the results of production and other tests during drilling  
16 operations. All operations on or in the well of any form, including,  
17 but not limited to, the injection or emplacement of any material in  
18 the well for any purpose during the drilling, operation,  
19 maintenance, or abandonment of the well shall be systematically,  
20 completely, and accurately described and recorded in the history.  
21 All data on well stimulation treatments pursuant to Section 3160  
22 shall be recorded in the history.

23     (b) The well history reporting requirements shall not be waived.

24     SEC. 9. Section 3213.5 is added to the Public Resources Code,  
25 to read:

26     3213.5. The chemical composition of any fluid injected or  
27 emplaced in the well shall be fully characterized and reported as  
28 part of the history. The chemical composition shall include any  
29 phase present as part of, or suspended in, the fluid. The analytical  
30 method used in the determination shall also be reported. Analytical  
31 methods established by the United States Environmental Protection  
32 Agency to determine chemical composition shall be used where  
33 applicable. For purposes of this section, fluid means a liquid or  
34 gas of any chemical composition. Subdivision (j) of Section 3160  
35 shall apply to any claim of trade secret protection for information  
36 described in this section.

37     SEC. 10. Section 3227 of the Public Resources Code is  
38 amended to read:

39     3227. (a) The owner of any well shall file with the supervisor,  
40 on or before the last day of each month, for the last preceding

1 calendar month, a statement, in the form designated by the  
2 supervisor, showing all of the following:

3 (1) (A) The amount of oil and gas produced from each well  
4 during the period indicated, together with the gravity of the oil,  
5 the amount of water produced from each well, estimated in  
6 accordance with methods approved by the supervisor, and the  
7 number of days during which fluid was produced from each well.

8 (B) The full characterization of the chemical composition of  
9 water produced from each well, based on a representative sample,  
10 which shall include any phase present as part of, or suspended in,  
11 the water, and the analytical method used in making the  
12 characterization. Analytical methods established by the United  
13 States Environmental Protection Agency to determine chemical  
14 composition shall be used where applicable.

15 (2) The number of wells drilling, producing, injecting, or idle,  
16 that are owned or operated by the person.

17 (3) What disposition was made of the gas produced from each  
18 field, including the names of persons, if any, to whom the gas was  
19 delivered, and any other information regarding the gas and its  
20 disposition that the supervisor may require.

21 (4) What disposition was made of water produced from each  
22 field and the amount of fluid or gas injected into each well used  
23 for enhanced recovery, underground storage of hydrocarbons, or  
24 wastewater disposal, and any other information regarding those  
25 wells that the supervisor may require.

26 (5) The source of water, and volume of any water, reported in  
27 paragraph (4), including the water used to generate or make up the  
28 composition of any injected fluid or gas. Water volumes shall be  
29 reported by water source if more than one water source is used.  
30 The volume of untreated water suitable for domestic or irrigation  
31 purposes shall be reported. Commingled water shall be  
32 proportionally assigned to individual wells, as appropriate.

33 (6) The treatment of water and the use of treated or recycled  
34 water in oil and gas field activities, including, but not limited to,  
35 exploration, development, and production.

36 (7) (A) The specific disposition of all water used in or generated  
37 by oil and gas field activities, including water produced from each  
38 well reported pursuant to paragraph (1). Water volumes shall be  
39 reported by disposition method if more than one disposition method

1 is used. Commingled water shall be proportionally assigned to  
2 individual wells, as appropriate.

3 (B) This information shall also include the temporary onsite  
4 storage of water, as or if appropriate, and the ultimate specific use,  
5 disposal method or method of recycling, or reuse of this water.

6 (b) Any operator that produces oil by the application of mining  
7 or other unconventional techniques shall file a report with the  
8 supervisor, on or before March 1 of each year, showing the amount  
9 of oil produced by those techniques in the preceding calendar year.

10 (c) (1) Upon request and making a satisfactory showing  
11 therefor, a longer filing period may be established by the supervisor  
12 for any particular owner or operator.

13 (2) Notwithstanding subdivision (a), the owner of any well shall  
14 file with the supervisor, on a quarterly basis, a statement containing  
15 the information required to be reported pursuant to paragraphs (5),  
16 (6), and (7) of subdivision (a) in the form designated by the  
17 supervisor.

18 (d) The division shall use a standardized form or format to  
19 facilitate reporting required pursuant to this section.

20 (e) The division shall use noncustom software, as feasible, to  
21 implement online reporting by the operator of the information  
22 required pursuant to paragraphs (5), (6), and (7) of subdivision  
23 (a). This information may be reported separately from other  
24 information required to be reported pursuant to this section.

25 (f) For purposes of this section, the following terms have the  
26 following meanings:

27 (1) “Source of water” or “water source” means any of the  
28 following:

29 (A) The well or wells, if commingled, from which the water  
30 was produced or extracted.

31 (B) The water supplier, if purchased or obtained from a supplier.

32 (C) The point of diversion of surface water.

33 (2) “Specific disposition of all water” means the identification  
34 of the ultimate specific use, disposal method or method of  
35 recycling, or reuse of the water. This includes, but is not limited  
36 to, the identification of any treatment or recycling method used,  
37 injection of the water into specific injection or disposal well or  
38 wells, if commingled, discharge of the water to surface water or  
39 sumps, and sale or transfer of the water to a named entity.

1 SEC. 11. Section 3227.2 is added to the Public Resources Code,  
2 to read:

3 3227.2. (a) The operator of a waste disposal well shall provide  
4 to the supervisor each quarter information described in subdivision  
5 (b) from the preceding quarter that is specific to each waste disposal  
6 injection performed at the well and that fully characterizes each  
7 waste disposal injection performed at the well. The information  
8 shall be reported in a machine-readable format.

9 (b) The information to be provided shall include, but is not  
10 limited to, the date and time of the injection, the duration of the  
11 injection, the volume of material injected, the rate of injection,  
12 and the applied pressure of the injection.

13 SEC. 12. No reimbursement is required by this act pursuant to  
14 Section 6 of Article XIII B of the California Constitution because  
15 the only costs that may be incurred by a local agency or school  
16 district will be incurred because this act creates a new crime or  
17 infraction, eliminates a crime or infraction, or changes the penalty  
18 for a crime or infraction, within the meaning of Section 17556 of  
19 the Government Code, or changes the definition of a crime within  
20 the meaning of Section 6 of Article XIII B of the California  
21 Constitution.