

Introduced by Senators Mitchell and Leno
(Principal coauthor: Assembly Member Ammiano)
(Coauthor: Assembly Member Stone)

February 20, 2014

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1132, as introduced, 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 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 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. 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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) It is the intent of the Legislature in enacting this act to protect
- 4 the public health and welfare of the state.
- 5 (b) The actual and potential risks of well stimulation are
- 6 currently unknown because the state has failed to appropriately
- 7 monitor or track well stimulation activity and to study its effects.
- 8 (c) Well stimulation and well stimulation-related activities have
- 9 an impact on the state's air quality, water quality and supply, soil
- 10 quality, land use patterns, greenhouse gas emissions, seismicity,
- 11 worker safety, social instability, economic instability, and public
- 12 health and safety.
- 13 SEC. 2. Section 3160 of the Public Resources Code is amended
- 14 to read:

1 3160. (a) ~~On or before January 1, 2015, the~~ *The* Secretary of
2 the Natural Resources Agency shall cause to be conducted, and
3 completed, an independent scientific study on well stimulation
4 treatments, including, but not limited to, hydraulic fracturing and
5 acid well stimulation treatments. The scientific study shall evaluate
6 the hazards and risks and potential hazards and risks that well
7 stimulation treatments *and well stimulation treatment-related*
8 *activities* pose to natural resources and public, occupational, and
9 environmental health and safety. The scientific study shall do all
10 of the following:

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

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

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

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

38 (B) Review and evaluate acid matrix stimulation treatments,
39 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*
9 *the 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 exploration,*
12 *development, and production, including flowback fluids and other*
13 *byproducts that would result from allowing well stimulation*
14 *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, ~~at a minimum, atmospheric emissions,~~
20 ~~including potential greenhouse gas emissions, the potential~~
21 ~~degradation of air quality, potential impacts on wildlife, native~~
22 ~~plants, and habitat, including habitat fragmentation, potential water~~
23 ~~and surface contamination, potential noise pollution, induced~~
24 ~~seismicity, contamination, including groundwater and surface~~
25 ~~water, potential depletion of water resources, potential effects on~~
26 ~~water sustainability, and the ultimate disposition, transport,~~
27 ~~transformation, and toxicology of well stimulation treatments,~~
28 ~~including acid well stimulation fluids, hydraulic fracturing fluids,~~
29 ~~and waste hydraulic fracturing fluids, and acid well stimulation in~~
30 ~~the environment.~~

31 *(B) Consider surface contamination, potential noise and light*
32 *pollution, as well as actual and potential induced seismicity.*

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

1 (5) Identify and evaluate the geologic features present in the
2 vicinity of a well, including the well bore, that should be taken
3 into consideration in the design of a proposed well stimulation
4 treatment.

5 (6) *Identify and evaluate all of the following:*

6 (A) *The potential impacts of well stimulation treatments on*
7 *private property and land use, including home values and direct*
8 *damage to property and land.*

9 (B) *The potential human health risk for each chemical used in*
10 *well stimulation treatments.*

11 (C) *The potential economic costs and harms of increased oil*
12 *and gas operations in the state as a result of well stimulation*
13 *treatments, including, but not limited to, the resulting economic*
14 *costs to the agricultural sector and the tourism industry.*

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

18 (i) *Communities consisting largely of people of color.*

19 (ii) *Communities consisting largely of low-income individuals.*

20 (iii) *Communities consisting largely of non-English-speaking*
21 *households.*

22 (iv) *Communities already experiencing high levels of water or*
23 *air pollution, or water scarcity.*

24 (E) *Potential harm to the public health and welfare of the state's*
25 *residents and the state's environment, both cumulatively and*
26 *specific to each region where well stimulation treatments may*
27 *occur.*

28 (F) *The potential effect of increased traffic due to increased oil*
29 *and gas activity as a result of well stimulation treatments, including*
30 *air emissions from vehicle traffic, and road expansion and*
31 *deterioration.*

32 (G) *The potential effect on pipeline infrastructure due to*
33 *increased oil and gas activity as a result of well stimulation*
34 *treatments, including potential pipeline leakage.*

35 (H) *Potential impacts on wildlife, including harm to endangered*
36 *or threatened species, native plants, and habitat, including habitat*
37 *fragmentation.*

38 (I) *Whether existing emergency planning, procedures, and*
39 *resources adequately and fully ensure public safety in the event*
40 *of an emergency.*

1 (J) *Potential risks to worker safety.*

2 ~~(6)~~

3 (7) Include a hazard assessment and risk analysis addressing
4 occupational and environmental exposures to well stimulation
5 treatments, including hydraulic fracturing treatments, hydraulic
6 fracturing treatment-related processes, acid well stimulation
7 treatments, acid well stimulation treatment-related processes, and
8 the corresponding impacts on public health and safety with the
9 participation of the Office of Environmental Health Hazard
10 Assessment.

11 ~~(7)~~

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

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

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

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

1 risks posed by acid matrix stimulation treatments that exceed the
2 specified threshold value or values in order to prevent, as far as
3 possible, damage to life, health, property, and natural resources
4 pursuant to Section 3106.

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

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

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

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

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

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

32 (E) The source, volume, and specific composition and
33 disposition of all water, including, but not limited to, all water
34 used as base fluid during the well stimulation treatment and
35 recovered from the well following the well stimulation treatment
36 that is not otherwise reported as produced water pursuant to Section
37 3227. Any repeated reuse of treated or untreated water for well
38 stimulation treatments and well stimulation treatment-related
39 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 ~~(e) (1) Through the consultation process described in paragraph~~
14 ~~(1) of subdivision (b), the division shall collaboratively identify~~
15 ~~and delineate the existing statutory authority and regulatory~~
16 ~~responsibility relating to well stimulation treatments and well~~
17 ~~stimulation treatment-related activities of the Department of Toxic~~
18 ~~Substances Control, the State Air Resources Board, any local air~~
19 ~~districts, the State Water Resources Control Board, the Department~~
20 ~~of Resources Recycling and Recovery, any regional water quality~~
21 ~~control board, and other public entities, as applicable. This shall~~
22 ~~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 (d) (1) Notwithstanding any other law or regulation, prior to
7 performing a well stimulation treatment on a well, the operator
8 shall apply for a permit to perform a well stimulation treatment
9 with the supervisor or district deputy. The well stimulation
10 treatment permit application shall contain the pertinent data the
11 supervisor requires on printed forms supplied by the division or
12 on other forms acceptable to the supervisor. The information
13 provided in the well stimulation treatment permit application shall
14 include, but is not 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 shall~~
5 ~~evaluate the quantifiable risk of the well stimulation treatment.~~

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

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

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

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

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

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

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

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

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

37 ~~(7) (A) A property owner notified pursuant to paragraph (6)~~
38 ~~may request water quality sampling and testing from a designated~~
39 ~~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 applicable regional water quality
15 control board, as appropriate.

16 (C) The results of the water testing shall be provided to the
17 division, appropriate regional water board, and the property owner
18 or authorized agent. A tenant notified pursuant to paragraph (6)
19 shall receive information on the results of the water testing to the
20 extent authorized by his or her lease and, where the tenant has
21 lawful use of the ground or surface water identified in subparagraph
22 (A), the tenant may independently contract for similar groundwater
23 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 (b) (1) *Prior to the issuance of the final scientific study, the*
30 *division shall conduct public hearings throughout the state to*
31 *obtain additional public comment. Public notice of a hearings*
32 *shall be provided at least 30 days prior to any hearing.*

33 (2) *All relevant notices and hearing documents shall be made*
34 *available in non-English languages necessary to inform the public*
35 *of the opportunity to comment and to accommodate public*
36 *participation.*

37 (e)

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

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

8 ~~(f) If a well stimulation treatment is performed on a well, a
9 supplier that performs any part of the stimulation or provides
10 additives directly to the operator for a well stimulation treatment
11 shall furnish the operator with information suitable for public
12 disclosure needed for the operator to comply with subdivision (g).
13 This information shall be provided as soon as possible but no later
14 than 30 days following the conclusion of the well stimulation
15 treatment.~~

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

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

37 ~~(B) The division may direct reporting to an alternative Internet
38 Web site developed by the Ground Water Protection Council and
39 the Interstate Oil and Gas Compact Commission in the interim
40 until such time as approval or appropriation authority pursuant to~~

1 subparagraph (A) occur. Prior to the implementation of the
2 division's Internet Web site, the division shall obtain the data
3 reported by operators to the alternative Internet Web site and make
4 it available in an organized electronic format to the public no later
5 than 15 days after it is reported to the alternative Web site.

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

7 ~~(i) (1) All geologic features within a distance reflecting an
8 appropriate safety factor of the fracture zone for well stimulation
9 treatments that fracture the formation and that have the potential
10 to either limit or facilitate the migration of fluids outside of the
11 fracture zone shall be identified and added to the well history.
12 Geologic features include seismic faults identified by the California
13 Geologic Survey.~~

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

19 ~~(3) The division shall review the geologic features important to
20 assessing well stimulation treatments identified in the independent
21 study pursuant to paragraph (5) of subdivision (a). Upon
22 completion of the review, the division shall revise the regulations
23 governing the reporting of geologic features pursuant to this
24 subdivision accordingly.~~

25 ~~(j) (1) Public disclosure of well stimulation treatment fluid
26 information claimed to contain trade secrets is governed by Section
27 1060 of the Evidence Code, or the Uniform Trade Secrets Act
28 (Title 5 (commencing with Section 3426) of Part 1 of Division 4
29 of the Civil Code), and the California Public Records Act (Chapter
30 3.5 (commencing with Section 6250) of Division 7 of Title 1 of
31 the Government Code).~~

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

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

36 ~~(B) The concentrations of the additives in the well stimulation
37 treatment fluids.~~

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

39 ~~(D) Health and safety data associated with well stimulation
40 treatment fluids.~~

- 1 ~~(E) The chemical composition of the flowback fluid.~~
- 2 ~~(3) If a trade secret claim is invalid or invalidated, the division~~
- 3 ~~shall release the information to the public by revising the~~
- 4 ~~information released pursuant to subdivision (g). The supplier shall~~
- 5 ~~notify the division of any change in status within 30 days.~~
- 6 ~~(4) (A) If a supplier believes that information regarding a~~
- 7 ~~chemical constituent of a well stimulation fluid is a trade secret,~~
- 8 ~~the supplier shall nevertheless disclose the information to the~~
- 9 ~~division in conjunction with a well stimulation treatment permit~~
- 10 ~~application, if not previously disclosed, within 30 days following~~
- 11 ~~cessation of well stimulation on a well, and shall notify the division~~
- 12 ~~in writing of that belief.~~
- 13 ~~(B) A trade secret claim shall not be made after initial disclosure~~
- 14 ~~of the information to the division.~~
- 15 ~~(C) To comply with the public disclosure requirements of this~~
- 16 ~~section, the supplier shall indicate where trade secret information~~
- 17 ~~has been withheld and provide substitute information for public~~
- 18 ~~disclosure. The substitute information shall be a list, in any order,~~
- 19 ~~of the chemical constituents of the additive, including CAS~~
- 20 ~~identification numbers. The division shall review and approve the~~
- 21 ~~supplied substitute information.~~
- 22 ~~(D) This subdivision does not permit a supplier to refuse to~~
- 23 ~~disclose the information required pursuant to this section to the~~
- 24 ~~division.~~
- 25 ~~(5) In order to substantiate the trade secret claim, the supplier~~
- 26 ~~shall provide information to the division that shows all of the~~
- 27 ~~following:~~
- 28 ~~(A) The extent to which the trade secret information is known~~
- 29 ~~by the supplier's employees, others involved in the supplier's~~
- 30 ~~business and outside the supplier's business.~~
- 31 ~~(B) The measures taken by the supplier to guard the secrecy of~~
- 32 ~~the trade secret information.~~
- 33 ~~(C) The value of the trade secret information to the supplier and~~
- 34 ~~its competitors.~~
- 35 ~~(D) The amount of effort or money the supplier expended~~
- 36 ~~developing the trade secret information and the ease or difficulty~~
- 37 ~~with which the trade secret information could be acquired or~~
- 38 ~~duplicated by others.~~
- 39 ~~(6) If the division determines that the information provided in~~
- 40 ~~support of a request for trade secret protection pursuant to~~

1 paragraph (5) is incomplete, the division shall notify the supplier
2 and the supplier shall have 30 days to complete the submission.
3 An incomplete submission does not meet the substantive criteria
4 for trade secret designation.

5 (7) If the division determines that the information provided in
6 support of a request for trade secret protection does not meet the
7 substantive criteria for trade secret designation, the department
8 shall notify the supplier by certified mail of its determination. The
9 division shall release the information to the public, but not earlier
10 than 60 days after the date of mailing the determination, unless,
11 prior to the expiration of the 60-day period, the supplier obtains
12 an action in an appropriate court for a declaratory judgment that
13 the information is subject to protection or for a preliminary
14 injunction prohibiting disclosure of the information to the public
15 and provides notice to the division of the court order.

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

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

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

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

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

32 (A) To an officer or employee of the division, the state, local
33 governments, including, but not limited to, local air districts, or
34 the United States, in connection with the official duties of that
35 officer or employee, to a health professional under any law for the
36 protection of health, or to contractors with the division or other
37 government entities and their employees if, in the opinion of the
38 division, disclosure is necessary and required for the satisfactory
39 performance of a contract, for performance of work, or to protect
40 health and safety.

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

3 ~~(C) In order to protect public health, to any health professional,~~
4 ~~toxicologist, or epidemiologist who is employed in the field of~~
5 ~~public health and who provides a written statement of need. The~~
6 ~~written statement of need shall include the public health purposes~~
7 ~~of the disclosure and shall explain the reason the disclosure of the~~
8 ~~specific chemical and its concentration is required.~~

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

16 ~~(E) For purposes of this paragraph, “health professional” means~~
17 ~~any person licensed or certified pursuant to Division 2~~
18 ~~(commencing with Section 500) of the Business and Professions~~
19 ~~Code, the Osteopathic Initiative Act, the Chiropractic Initiative~~
20 ~~Act, or the Emergency Medical Services System and the~~
21 ~~Prehospital Emergency Medical Care Personnel Act (Division 2.5~~
22 ~~(commencing with Section 1797) of the Health and Safety Code).~~

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

27 ~~(k) A well granted confidential status pursuant to Section 3234~~
28 ~~shall not be required to disclose well stimulation treatment fluid~~
29 ~~information pursuant to subdivision (g) until the confidential status~~
30 ~~of the well ceases. Notwithstanding the confidential status of a~~
31 ~~well, it is public information that a well will be or has been subject~~
32 ~~to a well stimulation treatment.~~

33 ~~(l) The division shall perform random periodic spot check~~
34 ~~inspections to ensure that the information provided on well~~
35 ~~stimulation treatments is accurately reported, including that the~~
36 ~~estimates provided prior to the commencement of the well~~
37 ~~stimulation treatment are reasonably consistent with the well~~
38 ~~history.~~

39 ~~(m) Where the division shares jurisdiction over a well or the~~
40 ~~well stimulation treatment on a well with a federal entity, the~~

1 ~~division's rules and regulations shall apply in addition to all~~
2 ~~applicable federal laws and regulations.~~

3 ~~(n) This article does not relieve the division or any other agency~~
4 ~~from complying with any other provision of existing laws,~~
5 ~~regulations, and orders.~~

6 ~~(o) Well stimulation treatments used for routine maintenance~~
7 ~~of wells associated with underground storage facilities where~~
8 ~~natural gas is injected into and withdrawn from depleted or partially~~
9 ~~depleted oil or gas reservoirs pursuant to subdivision (a) of Section~~
10 ~~3403.5 are not subject to this section.~~

11 SEC. 3. Section 3160.1 is added to the Public Resources Code,
12 to read:

13 3160.1. (a) (1) (A) On or before January 1, 2015, the division,
14 in 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 (a) of Section 3160.2, for the operator to provide for baseline and
33 followup water testing upon request as specified in paragraph (7)
34 of subdivision (a) of Section 3160.2.

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) of Section
12 3160.

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

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

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

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

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

32 (E) The source, volume, and specific composition and
33 disposition of all water, including, but not limited to, all water
34 used as base fluid during the well stimulation treatment and
35 recovered from the well following the well stimulation treatment
36 that is not otherwise reported as produced water pursuant to Section
37 3227. Any repeated reuse of treated or untreated water for well
38 stimulation treatments and well stimulation treatment-related
39 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 (b) (1) Through the consultation process described in paragraph
14 (1) of subdivision (a), 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 SEC. 4. Section 3160.2 is added to the Public Resources Code,
7 to read:

8 3160.2. (a) (1) Notwithstanding any other law or regulation,
9 prior to performing a well stimulation treatment, the operator shall
10 apply for a permit to perform a well stimulation treatment with
11 the supervisor or district deputy. The well stimulation treatment
12 permit application shall contain the pertinent data the supervisor
13 requires on printed forms supplied by the division or on other
14 forms acceptable to the supervisor. The information provided in
15 the well stimulation treatment permit application shall include, but
16 is not limited to, the following:

17 (A) The well identification number and location.

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

20 (C) A water management plan that shall include all of the
21 following:

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

25 (ii) The anticipated source of the water to be used in the
26 treatment.

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

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

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

1 (F) A groundwater monitoring plan. 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 shall
5 evaluate the quantifiable risk of the well stimulation treatment.

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

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

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

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

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

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

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

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

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

37 (7) (A) A property owner notified pursuant to paragraph (6)
38 may request water quality sampling and testing from a designated
39 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 applicable regional water quality
15 control board, as appropriate.

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

1 rules and regulations adopted under subdivision (a) of Section
2 3160.1, including well identification number and location. This
3 shall include the collected water quality data, which the operator
4 shall report electronically to the State Water Resources Control
5 Board.

6 (2) (A) The division shall commence the process to develop
7 an Internet Web site for operators to report the information required
8 under this section. The Internet Web site shall be capable of
9 organizing the reported information in a format, such as a
10 spreadsheet, that allows the public to easily search and aggregate,
11 to the extent practicable, each type of information required to be
12 collected pursuant to subdivision (a) of Section 3160.1 using search
13 functions on that Internet Web site. The Internet Web site shall be
14 functional within two years of the Department of Technology's
15 approval of a Feasibility Study Report or appropriation authority
16 to fund the development of the Internet Web site, whichever occurs
17 latest, but no later than January 1, 2016.

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

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

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

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

1 (3) The division shall review the geologic features important to
2 assessing well stimulation treatments identified in the independent
3 study pursuant to paragraph (5) of subdivision (a) of Section 3160.
4 Upon completion of the review, the division shall revise the
5 regulations governing the reporting of geologic features pursuant
6 to this subdivision accordingly.

7 (f) (1) Public disclosure of well stimulation treatment fluid
8 information claimed to contain trade secrets is governed by Section
9 1060 of the Evidence Code, or the Uniform Trade Secrets Act
10 (Title 5 (commencing with Section 3426) of Part 1 of Division 4
11 of the Civil Code), and the California Public Records Act (Chapter
12 3.5 (commencing with Section 6250) of Division 7 of Title 1 of
13 the Government Code).

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

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

18 (B) The concentrations of the additives in the well stimulation
19 treatment fluids.

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

21 (D) Health and safety data associated with well stimulation
22 treatment fluids.

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

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

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

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

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

1 of the chemical constituents of the additive, including CAS
2 identification numbers. The division shall review and approve the
3 supplied substitute information.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (E) For purposes of this paragraph, “health professional” means
40 any person licensed or certified pursuant to Division 2

1 (commencing with Section 500) of the Business and Professions
2 Code, the Osteopathic Initiative Act, the Chiropractic Initiative
3 Act, or the Emergency Medical Services System and the
4 Prehospital Emergency Medical Care Personnel Act (Division 2.5
5 (commencing with Section 1797) of the Health and Safety Code).

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

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

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

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

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

29 (k) Well stimulation treatments used for routine maintenance
30 of wells associated with underground storage facilities where
31 natural gas is injected into and withdrawn from depleted or partially
32 depleted oil or gas reservoirs pursuant to subdivision (a) of Section
33 3403.5 are not subject to this section.

34 SEC. 5. Section 3161 of the Public Resources Code is repealed.

35 ~~3161. (a) The division shall finalize and implement the~~
36 ~~regulations governing this article on or before January 1, 2015.~~

37 ~~(b) The division shall allow, until regulations governing this~~
38 ~~article are finalized and implemented, and upon written notification~~
39 ~~by an operator, all of the activities defined in Section 3157,~~
40 ~~provided all of the following conditions are met:~~

1 ~~(1) The owner or operator certifies compliance with subdivision~~
2 ~~(b) of, subparagraphs (A) to (F), inclusive, of paragraph (1) and~~
3 ~~paragraphs (6) and (7) of subdivision (d) of, and subdivision (g)~~
4 ~~of, Section 3160.~~

5 ~~(2) The owner or operator provides a complete well history,~~
6 ~~incorporating the information required by Section 3160, to the~~
7 ~~division on or before March 1, 2015.~~

8 ~~(3) The division conducts an environmental impact report (EIR)~~
9 ~~pursuant to the California Environmental Quality Act (Division~~
10 ~~13 (commencing with Section 21000)), in order to provide the~~
11 ~~public with detailed information regarding any potential~~
12 ~~environmental impacts of well stimulation in the state.~~

13 ~~(4) Any environmental review conducted by the division shall~~
14 ~~fully comply with all of the following requirements:~~

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

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

21 ~~(C) The EIR shall not conflict with an EIR conducted by a local~~
22 ~~lead agency that is certified on or before July 1, 2015. Nothing in~~
23 ~~this section prohibits a local lead agency from conducting its own~~
24 ~~EIR.~~

25 ~~(5) The division ensures that all activities pursuant to this section~~
26 ~~fully conform with this article and other applicable provisions of~~
27 ~~law on or before December 31, 2015, through a permitting process.~~

28 ~~(6) The division has the emergency regulatory authority to~~
29 ~~implement the purposes of this section.~~

30 SEC. 6. Section 3161 is added to the Public Resources Code,
31 to read:

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

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

39 (1) The Natural Resources Agency.

40 (2) The California Environmental Protection Agency.

1 (3) The State Air Resources Control Board.

2 (4) The State Water Resources Control Board.

3 (5) The State Department of Public Health.

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

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

14 (B) Whether the regulations adopted pursuant to Section 3160.1
15 are sufficient to ensure that the damage and risks associated with
16 well stimulation treatments, and the increased oil and gas
17 development as a result of these treatments, do not pose a risk to,
18 or impairment of, the public health and welfare or the
19 environmental and economic sustainability of the state.

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

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

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

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

1 (B) If the findings in the report conclude that well stimulation
2 treatments do not pose a risk to, or impairment of, the public health
3 and welfare or to the environmental and economic sustainability
4 of the state, the committee shall certify the report as final.

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

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

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

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

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

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

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

37 (g) (1) This section shall not be interpreted to impair or infringe
38 any vested right to conduct or continue to conduct a well
39 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) A person claiming a vested right to perform a well
5 stimulation treatment has the burden of proof, by clear and
6 convincing evidence, that he or she had a vested right and may
7 request a public hearing with the division.

8 (4) A person claiming a vested right shall not perform a well
9 stimulation treatment until the division makes a final determination
10 that the person has a vested right.

11 SEC. 7. No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section 17556 of
17 the Government Code, or changes the definition of a crime within
18 the meaning of Section 6 of Article XIII B of the California
19 Constitution.

20
21 _____
22 **CORRECTIONS:**
23 **Text—Pages 2, 5, 12, and 31.**
24 _____