

AMENDED IN SENATE MAY 5, 2015
AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 248

Introduced by Senator Pavley

February 18, 2015

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 (commencing with Section 3130) 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 protocol and schedule of 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, 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, 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, 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 if the well is not in compliance 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 to be brought into compliance with these regulations on or before January 1 of an unspecified year.

(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 Environmental Protection Agency highlighted numerous
6 problems with the program.
7 (b) The division has repeatedly acknowledged that it has failed
8 to follow applicable regulations in permitting injection wells and
9 that its injection well regulations are out of date. Among other
10 reasons, the division has cited antiquated data management
11 practices.

1 (c) The division's ability to regulate depends upon full
2 understanding and knowledge of practices occurring under its
3 jurisdiction.

4 (d) Public transparency and regulatory accountability are
5 necessary to restore the public's confidence in the division.

6 SEC. 2. Section 3011 is added to the Public Resources Code,
7 to read:

8 3011. "Enhanced oil recovery" means any process to enhance
9 the displacement of oil or other hydrocarbons from a ~~reservoir~~
10 ~~other than primary recovery and includes the use of an immiscible,~~
11 ~~miscible, chemical, thermal, biological, or physical process or any~~
12 ~~combination thereof. For purposes of this section, "primary~~
13 ~~recovery" means oil or other hydrocarbon production that uses~~
14 ~~natural reservoir energy to displace hydrocarbons from the reservoir~~
15 ~~into the wellbore and up to the surface. *reservoir, including, but*~~
16 ~~*not limited to, the injection or subsurface emplacement of fluids*~~
17 ~~*or other materials into the productive strata, the application of*~~
18 ~~*pressure, heat, or other means for the reduction of viscosity of the*~~
19 ~~*hydrocarbons, and the supplying of additional motive force.*~~

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

22 3106.3. The supervisor shall establish an inspection protocol
23 and schedule for all activities regulated pursuant to Section 3106.
24 The inspection protocol and schedule shall be available to the
25 public on the division's Internet Web site.

26 SEC. 4. Section 3108 of the Public Resources Code is amended
27 to read:

28 3108. (a) On or before the first day of October of each year
29 the supervisor shall make public, for the benefit of all interested
30 persons, a report in writing showing:

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

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

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

36 (4) The total number of inspections and the results of the
37 inspections.

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

1 SEC. 5. Section 3113 is added to the Public Resources Code,
2 to read:

3 3113. (a) It is the policy of the state that the division regularly
4 review and update its regulations, field rules, notices, manuals,
5 and other requirements to ensure that technological advances and
6 other changes in the exploration, development, and production of
7 oil and gas are incorporated in order to ensure that life, health,
8 property, and natural resources are protected pursuant to Section
9 3106.

10 (b) The division's regulations, field rules, notices, manuals, and
11 other requirements shall be reviewed and revised, as needed,
12 through a public process at least once every 10 years.

13 (c) The supervisor shall prepare and transmit reports to the
14 Legislature describing the results of the reviews required by this
15 section and any changes made or planned to the division's
16 regulations, field rules, notices, manuals, and other requirements.
17 A report required by this subdivision shall be submitted in
18 compliance with Section 9795 of the Government Code.

19 (d) The division shall develop and disseminate in a timely
20 manner training materials related to any changes made pursuant
21 to this section.

22 SEC. 6. Section 3114 is added to the Public Resources Code,
23 to read:

24 3114. (a) On or before January 1, _____, the division shall
25 develop and implement a data management plan to ensure that
26 required well data and well-related submissions are retained and
27 readily available to the public and that publicly available data are
28 machine readable. As part of the data management plan, the
29 division shall make available to the public on its Internet Web site
30 all of the following:

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

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

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

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

1 SEC. 7. Article 2.5 (commencing with Section 3130) is added
2 to Chapter 1 of Division 3 of the Public Resources Code, to read:

3
4 Article 2.5. Injection Wells

5
6 3130. (a) On or before January 1, _____, the division shall
7 update and revise its regulations for all injection wells and well
8 projects for which the division has received primacy from the
9 United States Environmental Protection Agency pursuant to Section
10 1425 of the federal Safe Drinking Water Act (42 U.S.C. Sec.
11 300h-4).

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

15 (1) Develop best management practices for injection wells and
16 well projects.

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

19 (3) Review and identify impacts of injection on the geologic
20 formation specific to each type of enhanced oil recovery, waste
21 disposal, and other well-related processes, including when
22 fracturing of the formation occurs.

23 3131. The regulations developed pursuant to Section 3130 shall
24 ensure that the integrity of the well, wellbore, and formation are
25 maintained. In order to accomplish this requirement, the regulations
26 shall do both of the following:

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

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

33 3132. The regulations developed pursuant to Section 3130 shall
34 include, but are not limited to, the following:

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

37 (b) Full and complete geologic and hydrologic characterization
38 and reporting of the formation surrounding the well, including the
39 fracture pressure.

1 (c) Full and complete characterization and reporting of all well
2 operations with appropriate monitoring, including of surface
3 movement and seismic activity.

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

6 3133. Injection wells and well projects existing as of December
7 31, ____, shall be brought into compliance with the regulations
8 developed pursuant to Section 3130 on or before January 1, ____.

9 *3134. This article shall be liberally construed pursuant to*
10 *Section 3013 in order to meet the requirements of Section 3106*
11 *and to provide public transparency.*

12 *3135. Where the division shares jurisdiction over an injection*
13 *well with a federal entity, the division's rules and regulations shall*
14 *apply in addition to all applicable federal laws and regulations.*

15 *3136. An injection well subject to the division's emergency*
16 *regulations regarding aquifer exemptions (Sections 1760.1 and*
17 *1779.1 of Title 14 of the California Code of Regulations, effective*
18 *on April 20, 2015) shall immediately cease injection operations if*
19 *the well is not in compliance by the applicable regulatory deadline.*

20 SEC. 8. Section 3213 of the Public Resources Code is amended
21 to read:

22 3213. (a) The history shall show the location and amount of
23 sidetracked casings, tools, or other material, the depth and quantity
24 of cement in cement plugs, the shots of dynamite or other
25 explosives, all acid treatment data of any amount and concentration,
26 and the results of production and other tests during drilling
27 operations. All operations on or in the well of any form, including,
28 but not limited to, the injection or emplacement of any material in
29 the well for any purpose during the drilling, operation,
30 maintenance, or abandonment of the well shall be systematically,
31 completely, and accurately described and recorded in the history.
32 All data on well stimulation treatments pursuant to Section 3160
33 shall be recorded in the history.

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

35 SEC. 9. Section 3213.5 is added to the Public Resources Code,
36 to read:

37 3213.5. The chemical composition of any fluid injected or
38 emplaced in the well shall be fully characterized and reported as
39 part of the history. The chemical composition shall include any
40 phase present as part of, or suspended in, the fluid. The analytical

1 method used in the determination shall also be reported. Analytical
2 methods established by the United States Environmental Protection
3 Agency to determine chemical composition shall be used where
4 applicable. For purposes of this section, fluid means a liquid or
5 gas of any chemical composition. Subdivision (j) of Section 3160
6 shall apply to any claim of trade secret protection for information
7 described in this section.

8 SEC. 10. Section 3227 of the Public Resources Code is
9 amended to read:

10 3227. (a) The owner of any well shall file with the supervisor,
11 on or before the last day of each month, for the last preceding
12 calendar month, a statement, in the form designated by the
13 supervisor, showing all of the following:

14 (1) (A) The amount of oil and gas produced from each well
15 during the period indicated, together with the gravity of the oil,
16 the amount of water produced from each well, estimated in
17 accordance with methods approved by the supervisor, and the
18 number of days during which fluid was produced from each well.

19 (B) The full characterization of the chemical composition of
20 water produced from each well, based on a representative sample,
21 which shall include any phase present as part of, or suspended in,
22 the water, and the analytical method used in making the
23 characterization. Analytical methods established by the United
24 States Environmental Protection Agency to determine chemical
25 composition shall be used where applicable.

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

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

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

37 (5) The source of water, and volume of any water, reported in
38 paragraph (4), including the water used to generate or make up the
39 composition of any injected fluid or gas. Water volumes shall be
40 reported by water source if more than one water source is used.

1 The volume of untreated water suitable for domestic or irrigation
2 purposes shall be reported. Commingled water shall be
3 proportionally assigned to individual wells, as appropriate.

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

7 (7) (A) The specific disposition of all water used in or generated
8 by oil and gas field activities, including water produced from each
9 well reported pursuant to paragraph (1). Water volumes shall be
10 reported by disposition method if more than one disposition method
11 is used. Commingled water shall be proportionally assigned to
12 individual wells, as appropriate.

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

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

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

23 (2) Notwithstanding subdivision (a), the owner of any well shall
24 file with the supervisor, on a quarterly basis, a statement containing
25 the information required to be reported pursuant to paragraphs (5),
26 (6), and (7) of subdivision (a) in the form designated by the
27 supervisor.

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

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

35 (f) For purposes of this section, the following terms have the
36 following meanings:

37 (1) “Source of water” or “water source” means any of the
38 following:

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

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

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

3 (2) “Specific disposition of all water” means the identification
4 of the ultimate specific use, disposal method or method of
5 recycling, or reuse of the water. This includes, but is not limited
6 to, the identification of any treatment or recycling method used,
7 injection of the water into specific injection or disposal well or
8 wells, if commingled, discharge of the water to surface water or
9 sumps, and sale or transfer of the water to a named entity.

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

12 3227.2. (a) The operator of a waste disposal well shall provide
13 to the supervisor each quarter information described in subdivision
14 (b) from the preceding quarter that is specific to each waste disposal
15 injection performed at the well and that fully characterizes each
16 waste disposal injection performed at the well. The information
17 shall be reported in a machine-readable format.

18 (b) The information to be provided shall include, but is not
19 limited to, the date and time of the injection, the duration of the
20 injection, the volume of material injected, the rate of injection,
21 and the applied pressure of the injection.

22 SEC. 12. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.