

AMENDED IN ASSEMBLY JULY 16, 2015

AMENDED IN ASSEMBLY JULY 1, 2015

AMENDED IN SENATE JUNE 1, 2015

AMENDED IN SENATE MAY 5, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 248

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 2.7 (commencing with Section 3140) to Chapter 1 of Division 3 of, the Public Resources Code, relating to oil and gas.

LEGISLATIVE COUNSEL'S DIGEST

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

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

This bill would require the supervisor to establish an inspection program for all activities regulated pursuant to these provisions and would require the total number of inspections and results of the inspections to be included in the above-referenced report. The bill would require the division's regulations, field rules, notices, manuals, and

other requirements to be reviewed and revised, as needed, through a public process at least once every 10 years.

The bill would require the division, as part of the Oil and Gas Data Management System developed pursuant to the Budget Act of 2015, to ensure that required well data and well-related submissions are retained and readily available to the public and that publicly available data are machine readable. Unless otherwise incorporated in the Oil and Gas Data Management System, the bill would require the division to post certain information that it receives on its Internet Web site.

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

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

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

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

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

This bill would require the division, on or before January 1, 2018, to update and revise these ~~regulations~~ *regulations, except as specified*, 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 injection wells and well projects existing as of December 31, 2017, to be brought into compliance with these regulations on or before January 1, 2020.* 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~~ *regulations, or any successor regulations*, of the division regarding aquifer exemptions to immediately cease injection operations, other than those required for plugging and abandonment operations, if the well is not in compliance with those ~~emergency~~ regulations by the applicable regulatory deadline. Because a violation of these requirements would be a crime, the bill would impose a state-mandated local program. ~~The bill would require specified injection wells and well projects existing as of January 1, 2017, to be brought into compliance with these regulations on or before January 1, 2020.~~

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

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

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

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

1 (a) A 2011 audit of the Division of Oil, Gas, and Geothermal
2 Resources’ injection well program commissioned by the United
3 States Environmental Protection Agency highlighted numerous
4 problems with the program.

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

10 (c) The division’s ability to regulate depends upon full
11 understanding and knowledge of practices occurring under its
12 jurisdiction.

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

15 SEC. 2. Section 3011 is added to the Public Resources Code,
16 to read:

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

24 SEC. 3. Section 3106.3 is added to the Public Resources Code,
25 to read:

26 3106.3. (a) The supervisor shall establish an inspection
27 program for all activities regulated pursuant to Section 3106.

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

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

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

39 SEC. 4. Section 3108 of the Public Resources Code is amended
40 to read:

1 3108. (a) On or before the first day of October of each year
2 the supervisor shall make public, for the benefit of all interested
3 persons, a report in writing containing all of the following:

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

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

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

9 (4) The total number of inspections and the results of the
10 inspections.

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

13 SEC. 5. Section 3113 is added to the Public Resources Code,
14 to read:

15 3113. (a) It is the policy of the state that the division regularly
16 review and update its regulations, field rules, notices, manuals,
17 and other requirements to ensure that technological advances and
18 other changes in the exploration, development, and production of
19 oil and gas are incorporated ~~in order~~ to ensure that life, health,
20 property, and natural resources are protected pursuant to Section
21 3106.

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

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

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

1 SEC. 6. Section 3114 is added to the Public Resources Code,
2 to read:

3 3114. (a) The division shall, as part of the Oil and Gas Data
4 Management System developed pursuant to the Budget Act of
5 2015 (Chapter 10 of the Statutes of 2015), ensure that required
6 well data and well-related submissions are retained and readily
7 available to the public and that publicly available data are machine
8 readable. Unless otherwise incorporated in the Oil and Gas Data
9 Management System, the division shall make available to the
10 public on its Internet Web site at least all of the following:

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

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

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

17 (b) The division shall consult with local, state, and federal
18 regulators in the development of the ~~data management plan~~ *Oil*
19 *and Gas Data Management System* to facilitate timely sharing of
20 data.

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

23
24
25

Article 2.7. Injection Wells

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

32 (2) *Injection well and well project regulations that the division*
33 *is in the process of adopting as of January 1, 2016, and that*
34 *address issues identified in subdivision (c), shall not be subject to*
35 *update and revision pursuant to this section.*

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

39 (1) Develop best management practices for injection wells and
40 well projects.

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

3 (3) ~~Review and identify~~ *Identify the impacts and potential*
4 *impacts of injection on the geologic formation specific to each*
5 *type of enhanced oil recovery, waste disposal, and other*
6 ~~well-related processes, including~~ *formations in which injection*
7 *wells are located to ensure that well and formation integrity is*
8 *maintained and groundwater with a beneficial use is protected,*
9 *consider the range of injection practices for different purposes,*
10 *including, but not limited to, waste disposal, cyclic steam injection,*
11 *steam flooding, and water flooding, and clearly identify when*
12 ~~fracturing of the formation occurs.~~ *is deemed to occur or is likely*
13 *to occur that may result in surface movement, including, the*
14 *development of sinkholes and the loss of well and formation*
15 *integrity.*

16 (c) *Injection well and well project regulations adopted pursuant*
17 *to this section may do one or more of the following:*

18 (1) *Clarify standards for ensuring zonal isolation of injection*
19 *projects.*

20 (2) *Expressly define the quality of water to be protected when*
21 *constructing wells.*

22 (3) *Codify best practices for well construction.*

23 (4) *Establish permitting and regulatory requirements specific*
24 *to cyclic steam operations.*

25 (5) *Establish requirements specific to cyclic steam in diatomite,*
26 *including a regulatory framework for responding to surface*
27 *expressions and provide clarification regarding injection above*
28 *fracture gradient.*

29 (6) *Clarify the process and standards for establishing maximum*
30 *allowable surface pressure for injection operations.*

31 3141. The regulations ~~developed~~ *adopted* pursuant to Section
32 3140 shall ensure that the integrity of the well, wellbore, and
33 formation are maintained. In order to accomplish this requirement,
34 the regulations shall do both of the following:

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

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

1 3142. ~~The~~ (a) *It is the intent of this section to provide specific*
 2 *direction to the division to include certain components in the*
 3 *development of the regulations required by this article in order to*
 4 *promote public transparency and regulatory accountability, and*
 5 *address public concerns about potential seismicity, surface*
 6 *instability, and the fracturing of the formation induced by injection*
 7 *wells and their operation. Additional state and federal law and*
 8 *regulations apply.*

9 (b) ~~The regulations developed~~ *adopted* pursuant to Section 3140
 10 shall include, but are not limited to, the following:

11 ~~(a)~~

12 (1) ~~An opportunity for public participation in the well and well~~
 13 ~~project review process.~~ *process, if not otherwise provided through*
 14 *local land use planning and zoning requirements.*

15 ~~(b)~~

16 (2) *Full and complete geologic and hydrologic characterization*
 17 *and reporting of the formation surrounding the well, including the*
 18 *fracture pressure. This characterization shall include determination*
 19 *of the area of review pursuant to Section 146.6 of Title 40 of the*
 20 *Code of Federal Regulations, and the performance of a step-rate*
 21 *test or tests to evaluate fracture pressure or pressures.*

22 ~~(c)~~

23 (3) *Full and complete characterization and reporting of all well*
 24 *operations with appropriate monitoring, including of surface*
 25 ~~movement and seismic activity.~~ *monitoring of surface movement*
 26 *such as the development of sinkholes or seismic activity. To the*
 27 *extent practicable, monitoring requirements shall be standardized*
 28 *and explicit in the regulations.*

29 ~~(d)~~

30 (4) *Establishment of limits on operations, and procedures to*
 31 *follow in the event of surface movement, including, but*
 32 *not limited to, the development of sinkholes and seismic activity.*

33 3143. *Injection wells and well projects existing as of December*
 34 *31, 2017, shall be brought into compliance with the regulations*
 35 ~~developed~~ *adopted* pursuant to Section 3140 on or before January
 36 1, 2020.

37 3144. *This article shall be liberally construed pursuant to*
 38 *Section 3013 in order to meet the requirements of Section 3106*
 39 *and to provide public transparency.*

1 3145. Where the division shares jurisdiction over an injection
2 well with a federal entity, the division’s rules and regulations shall
3 apply in addition to all applicable federal laws and regulations.

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

12 SEC. 8. Section 3213 of the Public Resources Code is amended
13 to read:

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

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

27 SEC. 9. Section 3213.5 is added to the Public Resources Code,
28 to read:

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

1 SEC. 10. Section 3227 of the Public Resources Code is
2 amended to read:

3 3227. (a) The owner of any well shall file with the supervisor,
4 on or before the last day of each month, for the last preceding
5 calendar month, a statement, in the form designated by the
6 supervisor, showing all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (f) For purposes of this section, the following terms have the
30 following meanings:

31 (1) “Source of water” or “water source” means any of the
32 following:

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

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

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

37 (2) “Specific disposition of all water” means the identification
38 of the ultimate specific use, disposal method or method of
39 recycling, or reuse of the water. This includes, but is not limited
40 to, the identification of any treatment or recycling method used,

1 injection of the water into specific injection or disposal well or
2 wells, if commingled, discharge of the water to surface water or
3 sumps, and sale or transfer of the water to a named entity.

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

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

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

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