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AB-1441 Oil and gas: development. (2019-2020)

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AMENDED IN ASSEMBLY JANUARY 15, 2020

CALIFORNIA LEGISLATURE— 2019-2020 REGULAR SESSION

ASSEMBLY BILL

NO. 1441

Introduced by Assembly Member Levine

February 22, 2019

An act to amend ~~Sections 3106, 3160, 3182, 3203, 3204, and 3213 of, and to add Section 3203.1 to,~~
Sections 3106 and 6830.1 of the Public Resources Code, relating to oil and gas.

LEGISLATIVE COUNSEL'S DIGEST

AB 1441, as amended, Levine. Oil and gas: ~~operations; permit and notice requirements.~~ **development.**

~~(1) Under existing law, the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation regulates the drilling, operation, maintenance, and abandonment of oil and gas wells in the state. Existing law requires the State Oil and Gas Supervisor to supervise the drilling, operation, maintenance, 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, so as to prevent damage to life, health, property, and natural resources; as provided; to permit owners and operators of wells to utilize all known methods and practices to increase the ultimate recovery of hydrocarbons; and to perform the supervisor's duties in a manner that encourages the wise development of oil and gas resources to best meet oil and gas needs in this state.~~

~~This bill would revise and recast the duty on the supervisor to supervise the drilling, operation, maintenance, and abandonment of wells so as to permit the owners or operators of the wells to utilize all methods and practices known to the oil industry that, in the opinion of the supervisor, are suitable in each proposed case. The bill would no longer require the supervisor to perform their duties in a manner that encourages the wise development of oil and gas resources to best meet oil and gas needs in this state.~~

~~(2) Existing law requires the operator of a well to file a written notice of intention to commence drilling with, and prohibits any drilling until approval is given by, the State Oil and Gas Supervisor or district deputy. Under existing law, the notice is deemed approved if the supervisor or district deputy fails to respond to the notice in writing within 10 working days from receipt and is deemed canceled if operations have not commenced within 2 years of receipt. The Permit Streamlining Act requires any public agency that is the lead agency for a development project to approve or disapprove of a project within certain time frames, as specified.~~

~~This bill would require the operator of a well to file a written application for a permit, instead of a notice of intention, to commence drilling with, and would prohibit any drilling until a written permit is issued by, the supervisor or district deputy. The bill would explicitly require the supervisor or district deputy to consider the permit application through a process consistent with the Permit Streamlining Act, and would no longer deem an application approved if the supervisor or district deputy fails to respond in writing within 10 working days from receipt. The bill would require the supervisor or district deputy to approve the permit application, with appropriate conditions, only upon a specified written finding, and would require the supervisor or district deputy to deny the permit application in the absence of sufficient information to support that finding. The bill would provide that these provisions only apply to permit applications filed on or after January 1, 2020, and shall not invalidate any notice of intention approved on or before December 31, 2019. The bill also would make conforming changes.~~

~~(3) Under existing law, a person who fails to comply with specified requirements relating to the regulation of oil or gas operations is guilty of a misdemeanor.~~

~~This bill would require the owner or operator of a well, not less than 20 calendar days before the planned start of drilling operations of a well, and not less than 30 days before the commencement of hydraulic fracturing operations, to notify certain surface property owners and occupants and other specified entities about the planned well operations, including, among other things, a description of the planned operations understandable to a layperson, and to notify those recipients if the drilling operations or hydraulic fracturing operations do not occur during the proposed time period. The bill would require the owner or operator of a well to provide to the State Oil and Gas Supervisor or district deputy a complete list of all recipients of the notice and a copy of the information provided in the notice required pursuant to these provisions, not less than 10 calendar days before commencing drilling operations, and not less than 20 calendar days before commencing hydraulic fracturing operations. Because violation of the notice requirements would be a crime, the bill would impose a state-mandated local program. The bill would require the Division of Oil, Gas, and Geothermal Resources to post a copy of the information provided in the notice on the division's internet website within 5 days of receiving this information, and would authorize the division to conduct a random sample of 5% or less of the lists provided pursuant to these provisions. The bill would require the supervisor to, on or before March 31, 2021, and each year thereafter, submit to the Legislature a written report describing the materials received from the owners or operators of wells pursuant to these provisions, as specified.~~

~~(4) Existing law requires the owner of mineral rights in real property to give written notice to the owner or owner's representative of the real property who is listed as the assessee on the current local assessment roll or as a lessee, and to any public utility that has a recorded interest in the real property if there is to be excavation of the utility interest, prior to the first entry upon the real property to prospect for, mine, or extract any mineral, as specified.~~

~~This bill would deem those notice requirements satisfied for any owner or operator of a well who complies with the notice provisions described above in paragraph (3).~~

~~(5) Existing law requires an owner or operator of a well to keep, or cause to be kept, a careful and accurate log, core record, and history of the drilling of the well, and requires all data on well stimulation treatments to be included in the history.~~

~~This bill would explicitly provide that the data on well stimulation treatments required to be included in the history includes the time period during which well stimulation treatments are performed.~~

~~(6) 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.~~

(1) Under existing law, the Geologic Energy Management Division in the Department of Conservation regulates the drilling, operation, maintenance, and abandonment of oil and gas wells in the state. Existing law requires the State Oil and Gas Supervisor to supervise the drilling, operation, maintenance, 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, so as to prevent damage to life, health, property, and natural resources, as provided; to permit owners and operators of wells to utilize all known methods and practices to increase the ultimate recovery of hydrocarbons; and to perform the supervisor's administrative duties in a manner that encourages the wise development of oil and gas resources to best meet oil and gas needs in this state.

This bill would revise and recast the duty on the supervisor to supervise the drilling, operation, maintenance, and abandonment of wells so as to permit the owners or operators of the wells to utilize methods and practices known to the oil industry that, in the opinion of the supervisor, are suitable in each proposed case. The bill would revise the declared policy of the state relating to the grant in an oil and gas lease or contract of the right or power to explore for and remove hydrocarbons from any lands in the state. The bill would instead require the supervisor to perform their administrative duties in a manner so as to help ensure the wise oversight of oil and gas development used to meet oil and gas needs in this state.

(2) Existing law authorizes the State Lands Commission to make leases for the extraction and removal of oil and gas deposits from state-owned lands to the highest qualified bidder, or to joint bidders, as provided by law, and requires that a lease include all oil and gas deposits in the leased land and be for a term of 20 years and for so long thereafter as gas or oil is produced in paying quantities from the leased land, or that the lessee be diligently conducting production, drilling, deepening, repairing, redrilling, or other necessary lease or well maintenance operations on the leased land.

Existing law establishes a finding and determination by the Legislature that the people of the State of California have a direct and primary interest in assuring the production of the optimum quantities of oil and gas from lands owned by the state, and that a minimum of oil and gas be left wasted and unrecovered in such lands.

This bill would delete this finding and determination by the Legislature from these provisions.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: ~~yes~~no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 3106 of the Public Resources Code is amended to read:

3106. (a) The supervisor shall so supervise 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, including pipelines not subject to regulation pursuant to Chapter 5.5 (commencing with Section 51010) of Part 1 of Division 1 of Title 5 of the Government Code that are within an oil and gas field, so as to prevent, as far as possible, damage to life, health, property, and natural resources; damage to underground oil and gas deposits from infiltrating water and other causes; loss of oil, gas, or reservoir ~~energy,~~ **energy;** and damage to underground and surface waters suitable for irrigation or domestic purposes by the infiltration of, or the addition of, detrimental substances.

(b) ~~The~~ **In compliance with subdivision (a), the** supervisor shall also supervise the drilling, operation, maintenance, and abandonment of wells so as to permit the owners or operators of the wells to utilize ~~all~~ methods and practices known to the oil industry ~~for the purpose of increasing the ultimate recovery of underground hydrocarbons and which, that,~~ in the opinion of the supervisor, are suitable ~~for this purpose~~ in each proposed case. ~~To further the elimination of waste by increasing the recovery of underground hydrocarbons, it~~ **It** is hereby declared as a policy of this state that the grant in an oil and gas lease or contract to a lessee or operator of the right or power, in substance, to explore for and remove all hydrocarbons from any lands in the state, in the absence of an express provision to the contrary contained in the lease or contract, is deemed to allow the lessee or contractor, or the lessee's or contractor's successors or assigns, ~~to do what~~ **subject to the requirements of subdivision (a), to use methods or processes that** a prudent operator using reasonable diligence would ~~do, use,~~ having in mind the best interests of the ~~lessor, lessee, and the~~ state in producing and removing hydrocarbons, including, but not limited to, the injection of air, gas, water, or other fluids into the productive strata, the application of pressure heat or other means for the reduction of viscosity of the hydrocarbons, the supplying of additional motive force, or the creating of enlarged or new channels for the underground movement of hydrocarbons into production wells, when these methods or processes ~~employed~~ have been approved by the supervisor, except that nothing contained in this section imposes a legal duty upon the lessee or contractor, or the lessee's or contractor's successors or assigns, to conduct these operations.

(c) The supervisor may require an operator to implement a monitoring program, designed to detect releases to the soil and water, including both groundwater and surface water, for aboveground oil production tanks and facilities.

(d) ~~To best meet oil and gas needs in this state, the~~ **The** supervisor shall administer this division so as to ~~encourage~~ **help ensure** the wise ~~development~~ **oversight** of oil and gas ~~resources.~~ **development used to meet oil and gas needs in this state.**

SEC. 2. Section 6830.1 of the Public Resources Code is amended to read:

6830.1. It is hereby found and determined by the Legislature of the State of California as follows:

~~(a) That the people of the State of California have a direct and primary interest in assuring the production of the optimum quantities of oil and gas from lands owned by the state, and that a minimum of oil and gas be left wasted and unrecovered in such lands.~~

~~(b)~~

(a) That the state owns tide and submerged lands, which lands have been developed under oil and gas leases issued by the state to ~~such an~~ **an** extent that it is desirable that secondary operations be undertaken within ~~such those~~ **those** lands in an effort to obtain the maximum economic ultimate recovery of oil and gas from ~~said the~~ **the** lands; and that it is desirable that the carrying on of secondary recovery operations in ~~such the~~ **the** lands be encouraged, which operations the holders of ~~such the~~ **the** leases may otherwise not undertake because certain ~~of the~~ leases covering ~~such the~~ **the** lands provide for the payment of graduated royalties dependent upon daily per well rates of oil production ~~(which, which,~~ **which,** in the case of multiple completions, means the separately measured average daily production from each zone produced through a separate string of tubing or through casing ~~which that~~ **that** is not in communication with any other ~~zone), zone,~~ **zone,** which graduated royalties were established without contemplation of secondary recovery operations and the economics respecting ~~such those~~ **those** operations.

~~The~~

(b) ~~The~~ definition relating to multiple completions set forth ~~herein in this section~~ **in this section** shall apply to leases executed on or after the effective date of the amendments made to this section at the 1966 Second Extraordinary Session of the Legislature and may, with the approval of the commission, apply to oil produced from leased lands with respect to which the commission and the holder of the lease shall, on or after the effective date of ~~such the~~ **the** amendments, enter into an amendatory agreement pursuant to Section 6830.2. It is not the intention of the Legislature in enacting this ~~paragraph subdivision~~ **subdivision** to declare the law relating to the computation of daily per well rates of oil production from multiple completions before the effective date of ~~such the~~ **the** amendments or in the absence of ~~such~~ **an** amendatory agreement.

~~SECTION 1. Section 3106 of the Public Resources Code is amended to read:~~

~~3106.(a) The supervisor shall so supervise 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, including pipelines not subject to regulation pursuant to Chapter 5.5 (commencing with Section 51010) of Part 1 of Division 1 of Title 5 of the Government Code that are within an oil and gas field, so as to prevent, as far as possible, damage to life, health, property, and natural resources; damage to underground oil and gas deposits from infiltrating water and other causes; loss of oil, gas, or reservoir energy; and damage to underground and surface waters suitable for irrigation or domestic purposes by the infiltration of, or the addition of, detrimental substances.~~

~~(b) To the extent possible in compliance with subdivision (a), the supervisor shall also supervise the drilling, operation, maintenance, and abandonment of wells so as to permit the owners or operators of the wells to utilize all methods and practices known to the oil industry that, in the opinion of the supervisor, are suitable in each proposed case. It is hereby declared as a policy of this state that the grant in an oil and gas lease or contract to a lessee or operator of the right or power, in substance, and subject to the requirements of subdivision (a), to explore for and remove all hydrocarbons from any lands in the state, in the absence of an express provision to the contrary contained in the lease or contract, is deemed to allow the lessee or contractor, or the lessee's or contractor's successors or assigns, to do what a prudent operator using reasonable diligence would do, having in mind the best interests of the lessor, the lessee, the public, and the state, including, but not limited to, the injection of air, gas, water, or other fluids into the productive strata, the application of pressure, heat, or other means for the reduction of viscosity of the hydrocarbons, the supplying of additional motive force, or the creation of enlarged or new channels for the underground movement of hydrocarbons into production wells, when these methods or processes employed have been approved by the supervisor, except that nothing contained in this section imposes a legal duty upon the lessee or contractor, or the lessee's or contractor's successors or assigns, to conduct these operations, or allows these operations where they risk damage to life, health, property, and natural resources; damage to underground oil and gas deposits from infiltrating water and other causes; loss of oil, gas, or reservoir energy; or damage to underground and surface waters suitable for irrigation or domestic purposes by the infiltration of, or the addition of, detrimental substances.~~

~~(c)The supervisor may require an operator to implement a monitoring program, designed to detect releases to the soil and water, including both groundwater and surface water, for aboveground oil production tanks and facilities.~~

~~SEC. 2. Section 3160 of the Public Resources Code is amended to read:~~

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

~~(1)Follow the well-established standard protocols of the scientific profession, including, but not limited to, the use of recognized experts, peer review, and publication.~~

~~(2)Identify areas with existing and potential conventional and unconventional oil and gas reserves where well stimulation treatments are likely to spur or enable oil and gas exploration and production.~~

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

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

~~(4)Consider, at a minimum, atmospheric emissions, including potential greenhouse gas emissions, the potential degradation of air quality, potential impacts on wildlife, native plants, and habitat, including habitat fragmentation, potential water and surface contamination, potential noise pollution, induced seismicity, and the ultimate disposition, transport, transformation, and toxicology of well stimulation treatments, including acid well stimulation fluids, hydraulic fracturing fluids, and waste hydraulic fracturing fluids and acid well stimulation in the environment.~~

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

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

~~(7)Clearly identify where additional information is necessary to inform and improve the analyses.~~

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

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

~~(C)(i)In order to identify the acid matrix stimulation treatments that are subject to this section, the rules and regulations shall establish threshold values for acid volume applied per treated foot of any individual stage of the well or for total acid volume of the treatment, or both, based upon a quantitative assessment of the risks posed by acid matrix stimulation treatments that exceed the specified threshold value or values in order to prevent, as far as possible, damage to life, health, property, and natural resources pursuant to Section 3106.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(3)The agreements under paragraph (2) shall specify the appropriate public entity responsible for air and water quality monitoring and the safe and lawful disposal of materials in landfills, include trade secret handling protocols, if necessary, and provide for ready public access to information related to well stimulation treatments and related activities.~~

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

~~(d)(1)Notwithstanding any other law or regulation, before performing a well stimulation treatment on a well, the operator shall apply for a permit to perform a well stimulation treatment with the supervisor or district deputy. The well stimulation treatment permit application shall contain the pertinent data the supervisor requires on printed forms supplied by the division or on other forms acceptable to the supervisor. The information provided in the well stimulation treatment permit application shall include, but is not limited to, the following:~~

~~(A)The well identification number and location.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(B)The time period available for approval of the combined authorization applicable to well stimulation is subject to the terms of this section, and not Section 3203.~~

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

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

~~(C)In considering the permit application, the supervisor shall evaluate the quantifiable risk of the well stimulation treatment.~~

~~(D)In the absence of state implementation of a regional groundwater monitoring program pursuant to paragraph (1) of subdivision (h) of Section 10783 of the Water Code, the supervisor or district deputy may approve a permit application for well stimulation treatment pursuant to subparagraph (A) before the approval by the State Water Resources Control Board or a regional water quality control board of an area specific groundwater monitoring program developed by an owner or operator pursuant to paragraph (2) of subdivision (h) of Section 10783 of the Water Code, but the well stimulation treatment shall not commence until the state board or the regional board approves the area specific groundwater monitoring program.~~

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

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

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

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

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

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

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

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

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

~~(7)(A)A property owner notified pursuant to paragraph (6) may request water quality sampling and testing from a designated qualified contractor on any water well suitable for drinking or irrigation purposes and on any surface water suitable for drinking or irrigation purposes as follows:~~

~~(i)Baseline measurements before the commencement of the well stimulation treatment.~~

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

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

~~(C)The results of the water testing shall be provided to the division, appropriate regional water board, and the property owner or authorized agent. A tenant notified pursuant to paragraph (6) shall receive information on the results of the water testing to the extent authorized by the tenant's lease and, where the tenant has lawful use of the ground or surface water identified in subparagraph (A), the tenant may independently contract for similar groundwater or surface water testing.~~

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

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

~~(e)The Secretary of the Natural Resources Agency shall notify the Joint Legislative Budget Committee and the chairs of the Assembly Natural Resources, Senate Environmental Quality, and Senate Natural Resources and Water Committees on the progress of the independent scientific study on well stimulation and related activities. The first progress report shall be provided to the committees on or before April 1, 2014, and progress reports shall continue every four months thereafter until the independent study is completed, including a peer review of the study by independent scientific experts.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(C)To comply with the public disclosure requirements of this section, the supplier shall indicate where trade secret information has been withheld and provide substitute information for public disclosure. The substitute information shall be a list, in any order, of the chemical constituents of the additive, including CAS identification numbers. The division shall review and approve the supplied substitute information.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(f)The division shall perform random periodic spot check inspections to ensure that the information provided on well stimulation treatments is accurately reported, including that the estimates provided before the commencement of the well stimulation treatment are reasonably consistent with the well history.~~

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

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

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

~~SEC. 3. Section 3182 of the Public Resources Code is amended to read:~~

~~3182. On a weekly basis, the division shall post a list of applications for permits received pursuant to Section 3203 on the division's internet website. Copies of any permit application shall be provided to members of the public upon request.~~

~~SEC. 4. Section 3203 of the Public Resources Code is amended to read:~~

~~3203.(a)The operator of any well, before commencing the work of drilling the well, shall file with the supervisor or the district deputy a written application for a permit to conduct drilling. The supervisor or district deputy shall consider the permit application through a process consistent with Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code. The supervisor or district deputy shall approve the permit application, with appropriate conditions, only upon a written finding, based upon all reasonably available information, that the proposed drilling and subsequent operation, as conditioned pursuant to subdivision (d), will not cause damage to life, health, property, and natural resources; damage to underground oil and gas deposits from infiltrating water and other causes; loss of oil, gas, or reservoir energy; or damage to underground and surface waters suitable for irrigation or domestic purposes by the infiltration of, or the addition of, detrimental substances. The supervisor or district deputy shall deny the permit application in the absence of sufficient information to support that finding. Drilling shall not commence until a written permit is issued by the supervisor or the district deputy. If operations have not commenced within 24 months of issuance of the permit, the permit shall be deemed canceled, the permit shall not be extended, and the cancellation shall be noted in the division's records. The permit application shall contain the pertinent data the supervisor requires on printed forms supplied by the division or on other forms acceptable to the supervisor. The supervisor may, at any time before a decision on the permit application, require other pertinent information to supplement the permit application.~~

~~(b)After the completion of any well, this section also applies, as far as may be, to the deepening or redrilling of the well, any operation involving the plugging of the well, or any operations permanently altering in any manner the casing of the well. The number or designation of any well, and the number or designation specified for any well in a permit application filed as required by this section, shall not be changed without first obtaining a written consent of the supervisor.~~

~~(c)If an operator has failed to comply with an order of the supervisor, the supervisor may deny approval of proposed well operations until the operator brings its existing well operations into compliance with the order. If an operator has failed to pay a civil penalty, remedy a violation that it is required to remedy to the satisfaction of the supervisor pursuant to an order issued under Section 3236.5, or to pay any charges assessed under Article 7 (commencing with Section 3400), the supervisor may deny approval to the operator's proposed well operations until the operator pays the civil penalty, remedies the violation to the satisfaction of the supervisor, or pays the charges assessed under Article 7 (commencing with Section 3400).~~

~~(d)If the supervisor or district deputy chooses to approve an application for a permit to conduct drilling pursuant to subdivision (a), it may impose any conditions, whether with respect to surface or subsurface activity, that may be necessary to protect against damage to life, health, property, and natural resources; damage to underground oil and gas deposits from infiltrating water and other causes; loss of oil, gas, or reservoir energy; or damage to underground and surface waters suitable for irrigation or domestic purposes by the infiltration of, or the addition of, detrimental substances.~~

~~(e)This section shall not be interpreted to preempt or otherwise diminish the right of local governmental bodies to impose measures, as otherwise authorized by law, to protect against the types of damage enumerated in subdivision (d) that are more stringent than the conditions imposed by the supervisor or district deputy pursuant to that subdivision.~~

~~(f)This section only applies to permit applications filed on or after January 1, 2020, and shall not invalidate any notice of intention approved on or before December 31, 2019, pursuant to this section, as it read on December 31, 2019.~~

~~SEC. 5. Section 3203.1 is added to the Public Resources Code, to read:~~

~~3203.1. (a) For purposes of this section, the following definitions apply:~~

~~(1) "Hydraulic fracturing" means a well stimulation treatment that, in whole or in part, includes the pressurized injection of hydraulic fracturing fluid or fluids into an underground geologic formation in order to fracture or with the intent to fracture the formation, thereby causing or enhancing, for the purposes of this division, the production of oil or gas from a well.~~

~~(2) "Surface property owner or occupant" means the owner or occupant of a real property as shown on the latest equalized assessment roll or, if more recent information than the information contained on the assessment roll is available, the owner or occupant of record according to the county assessor or tax collector.~~

~~(b)(1) In addition to notice requirements pursuant to Section 3160, as applicable, not less than 20 calendar days before the planned start of drilling operations of a well, and not less than 30 calendar days before the commencement of hydraulic fracturing operations, the owner or operator of a well shall notify all of the following:~~

~~(A) Every surface property owner or occupant, or authorized agent of that owner or occupant, whose property line or place of residence is within a 1,500-foot radius of the wellhead and, if horizontal directional drilling is being employed, is within 500 feet of the surface representation of the horizontal path of the subsurface parts of the well.~~

~~(B) The appropriate regional water quality control board based on the wellhead location.~~

~~(C) Every county and municipal government in which a recipient of the notice pursuant to subparagraph (A) is located.~~

~~(2) The notice shall be mailed or delivered. Notice to a county or municipal government pursuant to subparagraph (C) of paragraph (1), and a regional water quality control board pursuant to subparagraph (B) of paragraph (1), may be provided electronically by prior written agreement.~~

~~(3) The notice shall provide all of the following information:~~

~~(A) The location of the well.~~

~~(B) The well identification number, if available.~~

~~(C) A description of the planned operations understandable to a layperson.~~

~~(D) The time period when the operations are planned to occur.~~

~~(E)Instructions on how to obtain additional information on the status of operations from the well owner or operator.~~

~~(F)The contact information for the district deputy.~~

~~(G)Information on how to obtain additional information on the well from the division, including well log data.~~

~~(4)The owner or operator of a well subject to this section shall provide to the supervisor or district deputy a complete list of all recipients of the notice and a copy of the information provided in the notice required pursuant to this subdivision, not less than 10 calendar days before commencing drilling operations, and not less than 20 calendar days before commencing hydraulic fracturing operations. Notice to the division shall be provided electronically. The division shall post a copy of the information provided in the notice on the division's internet website within five days of receiving this information.~~

~~(5)The owner or operator of a well shall notify all recipients of the notice required, pursuant to this subdivision, if the drilling operations do not occur during the proposed time period.~~

~~(6)The owner or operator of a well conducting hydraulic fracturing operations shall add the actual time period of the hydraulic fracturing well stimulation treatment to the records contained in the well drilling history pursuant to Section 3213 and report it accordingly.~~

~~(c)The owner or operator of a well who complies with this section is deemed to be in compliance with the notice requirement pursuant to Section 848 of the Civil Code.~~

~~(d)For the purposes of enforcing this section, the division may conduct a random sample of 5 percent or less of the lists provided pursuant to paragraph (4) of subdivision (b).~~

~~(e)Notwithstanding Section 10231.5 of the Government Code, on or before March 31, 2021, and each year thereafter, the supervisor shall submit to the Legislature a written report, in compliance with Section 9795 of the Government Code, describing the materials received from the owners or operators of wells pursuant to this section. Data shall be aggregated geographically by the municipal government and district. The report shall include the number of wells with notices and any additional information necessary to interpret the results.~~

~~SEC. 6. Section 3204 of the Public Resources Code is amended to read:~~

~~3204.(a)An operator who, on or after January 1, 2018, engages in the drilling, redrilling, deepening, or in any operation permanently altering the casing, of a well, or who acquires a well, shall file with the supervisor an individual indemnity bond for each well so drilled, redrilled, deepened, or permanently altered, or acquired in the following amount:~~

~~(1)Twenty five thousand dollars (\$25,000) for each well that is less than 10,000 feet deep.~~

~~(2)Forty thousand dollars (\$40,000) for each well that is 10,000 or more feet deep.~~

~~(b)The bond shall be filed with the supervisor at the time of the filing of an application for a permit to perform work on the well, as provided in Section 3203, or at the time of acquisition of the well, as provided in Section 3202. The bond shall be executed by the operator, as principal, and by an authorized surety company, as surety, on the condition that the principal named in the bond shall faithfully comply with all the provisions of this chapter, in drilling, redrilling, deepening, or permanently altering the casing in any well or wells covered by the bond, and shall secure the state against all losses, charges, and expenses incurred by it to obtain the compliance by the principal named in the bond.~~

~~(c)The conditions of the bond shall be stated in substantially the following language: "If the _____, the above bounden principal, shall well and truly comply with all the provisions of Division 3 (commencing with Section 3000) of the Public Resources Code and shall obey all lawful orders of the State Oil and Gas Supervisor or the district deputy or deputies, subject to subsequent appeal as provided in that division, and shall pay all charges, costs, and expenses incurred by the supervisor or the district deputy or deputies in respect of the well or wells or the property or properties of the principal, or assessed against the well or wells or the property or properties of the principal, in pursuance of the provisions of that division, then this obligation shall be void; otherwise, it shall remain in full force and effect."~~

~~(d)This section shall become operative on January 1, 2018.~~

~~SEC. 7. Section 3213 of the Public Resources Code is amended to read:~~

~~3213. The history shall 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, and the results of production and other tests during drilling operations. All data on well stimulation treatments pursuant to Section 3160 shall be recorded in the history, including the time period during which well stimulation treatments are performed.~~

~~SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~