

Date of Hearing: April 22, 2019

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Laura Friedman, Chair

AB 345 (Muratsuchi) – As Amended April 3, 2019

**SUBJECT:** Oil and gas: operations: location restrictions

**SUMMARY:** Requires all new oil and gas development or rework operations permitted by the Division of Oil, Gas, and Geothermal Resources (DOGGR), that is not on federal land, to be located at least 2,500 feet from a residence, school, childcare facility, playground, hospital, or health clinic.

**EXISTING LAW:**

- 1) Requires the state's Oil and Gas Supervisor (Supervisor) to 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.
- 2) Requires the operator of any well, before commencing the work of drilling the well, to file with the Supervisor or the district deputy a written notice of intention to commence drilling. Specifies that if the Supervisor or the district deputy fails to give the operator written response to the notice within 10 working days from the date of receipt, that notice is considered approved. Requires the notice to be deemed canceled if operations have not commenced within one year of receipt of the notice.
- 3) Defines "production facility" to mean any equipment attendant to oil and gas production or injection operations including, but not limited to, tanks, flowlines, headers, gathering lines, wellheads, heater treaters, pumps, valves, compressors, injection equipment, and pipelines that are not under the jurisdiction of the State Fire Marshal.
- 4) Defines "idle well" as any well that has had 24 consecutive months of not producing oil, natural gas, or water to be used in production stimulation, enhanced oil recovery, or reservoir pressure management. Defines "long-term idle well" as any well that has been an idle well for eight or more years.
- 5) Establishes, pursuant to SB 4 (Pavley) Chapter 313, Statutes of 2013, a comprehensive, multi-agency regulatory program for oil and gas well stimulation treatments (e.g., hydraulic fracturing, acid matrix stimulation). Establishes DOGGR as the lead agency for the multi-agency regulatory program. Requires an operator to apply for a permit to perform a well stimulation treatment.

**THIS BILL:**

- 1) Declares both of the following:
  - a) The proximity to oil and gas extraction, including the use of hydraulic fracturing, well acidization, and other nonconventional oil and gas extraction techniques, adversely impacts public health and safety.

- b) These adverse impacts are reduced by locating oil and gas operations away from sensitive receptors such as schools, childcare facilities, playgrounds, residences, hospitals, and health clinics.
- 2) Defines “oil and gas development” to mean exploration for, and drilling, production, and processing of, oil, gas, or other gaseous and liquid hydrocarbons, and the flowlines and the treatment of waste associated with that exploration, drilling, production, and processing. “Oil and gas development” also includes hydraulic fracturing.
  - 3) Defines “Rework operations” to mean operations performed in the well bore of an oil or gas well after the well is completed and equipped for production for the purpose of securing, restoring, or improving, hydrocarbon production in a subsurface interval that is then open to production in the well bore. Requires rework operations to include, but not be limited to, fracturing, refracturing, and other formation stimulation operations and recompletion operations conducted in the subsurface interval, and shall not include routine repairs or well maintenance work.
  - 4) Requires all new oil and gas development permitted by DOGGR, that is not on federal land, to be located at least 2,500 feet from a residence, school, childcare facility, playground, hospital, or health clinic. Requires the redrilling of a previously plugged and abandoned oil or gas well or other rework operations be considered new oil and gas development.
  - 5) Authorizes a city or county to require by ordinance that new oil and gas development be located a larger distance away from a residence, school, childcare facility, playground, hospital, or health clinic.
  - 6) Authorizes an operator of an oil and gas well or a production facility to file a written request with DOGGR for a variance to reduce the health protection zone to the maximum achievable distance. Requires the request to include competent, substantial, and relevant evidence demonstrating that the applicable health protection zone would extend beyond the area which the operator has a legal right to locate the oil or gas well or production facility, and that the variance would be consistent with this bill, and protect public health and safety.
  - 7) Authorizes the Supervisor to grant a variance upon making a written finding that the operator has no other feasible means of accessing a legal subsurface right, that the variance provides as much distance between sensitive receptors and those oil and gas operations as possible, and that the variance would not endanger public health and safety.
  - 8) Exempts from the requirements of this bill a permit issued lawfully before January 1, 2020 for the duration of the permit.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

**1) Author’s statement:**

Of the nearly five and a half million Californians who live within one mile of an oil or gas well, one-third live in areas with the highest levels of environmental pollution in the state and 92 percent of the individuals living in those heavily

burdened areas are people of color.

Studies link proximity to oil and gas wells to a host of health impacts, including increased risk of asthma and other respiratory illnesses, pre-term births and high-risk pregnancies, and in some cases, cancer. Oil and gas extraction produces air toxics, including volatile organic compounds (VOCs) like benzene and formaldehyde, fine and ultra-fine particulate matter (PM), and hydrogen sulfide. Other risks include water contamination, toxic chemicals spills, and explosions. Kern and Los Angeles Counties account for more than 80 percent of the overall oil production in California, placing some of our state's most overburdened residents' health and safety at risk, due to the hazards posed by close proximity production.

In 2015, the California Council on Science and Technology's (CCST) issued a report regarding the health and environmental impacts associated with hydraulic fracturing, which recommended a health and safety buffer zone between sensitive land uses and oil and gas wells in order to protect communities where neighborhood drilling occurs. Despite this recommendation, current law does not prohibit oil and gas operators from placing wells near sensitive areas, such as schools, day cares, residential homes, and hospitals.

AB 345 will mandate a 2,500-foot health and safety buffer zone between new oil and gas wells and sensitive land uses, which include schools, day care centers, residential homes, and hospitals, thereby creating a safe distance between drilling operations and vulnerable populations in order to avoid serious public health and safety risks and impacts.

- 2) **Background.** California has a long history of oil production and has ranked fourth in the nation in oil production behind Texas, North Dakota, and Alaska. In the early 1900s, the Los Angeles Basin produced one-quarter of the world's oil. In 2017, 174 million barrels of oil were produced in California. A large portion of the oil produced in California is mixed with significant amounts of water, which is called produced water. That water is separated from the oil by the operator. Produced water can be treated and reinjected or disposed of either through underground injection or discharged into ponds or surface water. In limited cases, produced water is treated and used for irrigation. Oil production in California has been increased by the application of several technologies, including water flooding, cyclic steaming, steam flooding, acidizing stimulation, and hydraulic fracturing. While the vast majority of oil production occurs in Kern County (123.7 million barrels) the county with the second most production is Los Angeles County (19.8 million barrels).

Oil and gas development in Los Angeles County is located in densely populated areas. Currently, there are approximately 68 active oil fields in the Los Angeles Basin with different operating conditions. According to a February 2018 report of the Los Angeles County Department of Public Health (LA DPH), "In some neighborhoods, such as South Los Angeles, residences are located only several feet away from the boundary of a drilling site and as close as 60 feet from an active oil well. Two smaller neighborhood facilities, in which LA DPH has responded to concerns or complaints, were found in a state of disrepair with environmental conditions that impact the health of neighboring residents."

- 3) **Setbacks.** Many communities in close proximity to oil and gas production are concerned with the associated health impacts. As part of implementation of AB 617 (C. Garcia), Chapter 136, Statutes of 2017, Air Resources Board has developed a Study of Neighborhood Air Near Petroleum Sources (SNAPS) to better characterize air quality in communities near oil and gas operation. However, there is no data available from the SNAPS program yet.

The state of Colorado; the Counties of Kern and Los Angeles; and, the Cities of Carson and Arvin require all new oil and gas wells to be setback from specified sensitive areas to address community concerns. The setback requirements all vary in conditions and applicability. The distances range from 1,500 feet in Kern County to 300 feet for Los Angeles County. DOGGR has additional testing and equipment requirements for wells within 300 feet of a building meant for human occupancy. In July 2018, the City of Arvin passed an ordinance that prohibits new oil and gas operations within 300 feet from residences, schools, hospitals, and parks or 600 feet of sensitive uses unless they can comply with a variety of requirements including an odor minimization plan, air monitoring plan, community alert system, quiet mode operations plan, and lighting and glare analysis. California's Attorney General Xavier Becerra supported the ordinance and stated, "The California Department of Justice supported Arvin's right to protect its residents' health and safety by prohibiting oil and gas sites in residential and other sensitive areas, and by establishing buffers for homes, schools, and hospitals."

LA DPH looked at expanding Los Angeles County's setbacks to 1,500 feet. They said at the 1,500 feet level additional mitigation would likely not be needed for air quality, noise, and odors. If California adopted a 1,500 feet setback for the drilling of new wells from residential development it is estimated it would have impacted 65 permits in 2018.

- 4) **AB 345.** This bill would go well beyond any other setback requirement. It not only requires 2,500 feet from a residence, school, childcare facility, playground, hospital, or health clinic, it would apply to existing wells. The current definition of new oil and gas development and rework operations may capture any permit necessary to keep existing wells producing. According to DOGGR, this would have impacted approximately 1,100 permits or 15% of total permits issued in 2018.

While the bill says rework operations does not include routine repairs or well maintenance work it also states that rework operation includes operations to restore or improve hydrocarbon production. Most repairs are done to restore or improve hydrocarbon production. This bill also include flowlines and treatment of waste in the definition of oil and gas development and, because the bill prohibits new oil and gas development, it may prohibit new flowlines or additional treatment of waste. This could create a situation where an operator does not maintain their well in order to be able to keep production going under the requirements of this bill. That scenario would result in more health impacts to the nearby community, which is counter to the intent of the bill. The author and committee *may wish to consider* amending the bill to clarify that the bill does not apply to maintenance and repairs, and instead, applies to new exploration, drilling, production, and processing; and, operations meant to enhance production on existing wells such as well stimulation treatments, acid well stimulation treatments, and restoring a plugged and abandoned well or an idle well into production.

This bill also creates the ability for an operator to request a variance from the 2,500 feet setback requirement. However, the variance requires the Supervisor to find the operations would not endanger public health and safety. This bill's findings declare that oil and gas extraction endangers public health and safety. Therefore, it is unlikely the variance could ever be used. In addition, DOGGR is not the right agency to determine whether oil and gas development has fully mitigated air quality, noise, and odors impacts. As the bill moves forward the author should amend the variance to have achievable public health and safety mitigation requirements and have the appropriate agencies review potential impacts and mitigation.

#### 5) **Related legislation.**

AB 1440 (Levine) revises the purposes of the state's Oil and Gas Supervisor (Supervisor) supervision of the drilling, operation, maintenance, and abandonment of wells to remove references encouraging oil production. This bill is also scheduled to be heard on April 22.

AB 1057 (Limón) doubles the specified amounts for individual and blanket indemnity bonds an operator is required to file with the Supervisor based on the number and depth of the wells they operate. Authorizes the Supervisor to require an operator to provide an additional amount of security in an amount not to exceed the reasonable costs of plugging and abandoning all of the operator's wells. This bill is awaiting hearing in the Assembly Appropriations Committee.

AB 1328 (Holden) requires, until January 1, 2027, operators to test wells being plugged and abandoned to determine the presence of atmospheric emissions of hydrocarbon pollutants. Requires, until January 1, 2027, the state's Oil and Gas Supervisor (Supervisor) to determine the presence of atmospheric emissions of hydrocarbon pollutants at any hazardous well or idle-deserted well ordered abandoned by the Supervisor. Requires all testing results performed pursuant to this bill to be posted on the DOGGR and the Air Resources Board's website. This bill is awaiting hearing in the Assembly Appropriations Committee.

SB 551 (Jackson) requires DOGGR to develop a mechanism to assess the full cost of decommissioning, cleanup, and remediation of infrastructure related to the oil and gas industry, including pipeline facilities, pump facilities, and storage facilities. This bill is awaiting hearing in the Senate Natural Resources and Water Committee.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

350 Bay Area Action  
350 Riverside  
350 Silicon Valley  
350 South Bay Los Angeles  
Alliance of Nurses For Healthy Environments  
Amazon Watch  
Asian Pacific Environmental Network  
Breast Cancer Action

California Environmental Justice Alliance  
 Californians Against Fracking  
 Center for Biological Diversity  
 Center for Environmental Health  
 Center On Race, Poverty & the Environment  
 Central California Asthma Collaborative  
 Central Valley Air Quality Coalition  
 Clean Water Action  
 Consumer Watchdog  
 Courage Campaign  
 Earthworks  
 Environment California  
 Fossil Free California  
 Greenpeace, Inc.  
 Indivisible South Bay LA  
 Mothers Out Front  
 Natural Resources Defense Council  
 NextGen California  
 Oil Change International  
 Physicians for Social Responsibility - Los Angeles  
 Promesa Boyle Heights  
 SoCal 350 Climate Action  
 Strategic Concepts in Organizing and Policy Education  
 Sunflower Alliance  
 Sunrise Movement Bay Area  
 1 Individual

### **Opposition**

Adolescent Rescue Mentoring Solution - Los Angeles  
 African American Farmers of California  
 American G.I. Forum of California  
 Amvets, Department Of California  
 Associated Builders And Contractors - Central California Chapter  
 BizFed - Los Angeles County  
 BizFed Central Valley  
 C&J Energy Services  
 California Chamber of Commerce  
 California Hispanic Chambers of Commerce  
 California Independent Petroleum Association  
 California State Council of Laborers  
 Central Valley Latino Mayors and Elected Officials Coalition  
 Coalinga Chamber of Commerce  
 Contra Costa Building and Construction Trades Council  
 CREED LA  
 Fresno Area Hispanic Foundation  
 Fresno Metro Black Chamber Of Commerce  
 Greater Bakersfield Chamber Of Commerce  
 Heavy, Highway, Building and Construction Teamsters Committee for Northern California

Inland Empire Economic Partnership  
International Brotherhood of Electrical Workers Local 11  
International Brotherhood of Electrical Workers Local 302  
International Brotherhood of Electrical Workers Local 428  
International Union of Painters and Allied Trades Local 294  
International Union Of Painters And Allied Trades, District Council 16  
Iron Workers Local 433  
Kern Citizens for Energy  
Kern County Economic Development Corporation  
Kern County Farm Bureau  
Kern County Hispanic Chamber of Commerce  
Kern County Taxpayers Association  
Kern County's North Of The River Chamber Of Commerce  
Latin Business Association  
Long Beach Area Chamber Of Commerce  
Los Angeles Area Chamber Of Commerce  
Los Angeles/Orange Counties Building & Construction Trades Council  
LULAC Council (3272)  
Napa-Solano Counties Building And Construction Trades Council  
National Association of Royalty Owners  
Nisei Farmers League  
North of the River Chamber of Commerce  
Orange County Business Council  
Orange County Hispanic Chamber Of Commerce  
San Gabriel Valley Economic Partnership  
San Joaquin Building Trades Council  
Santa Clarita Valley Economic Development Corporation  
Southern California District Council Of Laborers  
State Building And Construction Trades Council Of California  
The Young Professionals  
United Association of Plumbers and Pipefitters Local 38  
United Association of Plumbers and Pipefitters Local 246  
United Association of Plumbers and Pipefitters Local 447  
Valley Industry & Commerce Association  
Weatherford  
Western States Petroleum Association  
1 Individual

**Analysis Prepared by:** Michael Jarred / NAT. RES. /