

(Without Reference to File)

SENATE THIRD READING

SB 1137 (Gonzalez and Limón)

As Amended August 27, 2022

Majority vote

SUMMARY

Prohibits the Geologic Energy Management Division (CalGEM) from approving any notice of intention (NOI) within a health protection zone, as defined, except for under specified circumstances. Requires all oil or gas production facilities or wells with a wellhead within a health protection zone to comply with health, safety, and environmental requirements, as provided, and comply with specified community communication and water sampling requirements.

Major Provisions

- 1) Defines "health protection zone" as the area within 3,200 feet of a sensitive receptor. Defines "sensitive receptor" as a residence, education resource, community resource, health care facility, dormitory, or any building open to the public.
- 2) Prohibits, commencing January 1, 2023, CalGEM from approving a NOI within a health protection zone, except NOIs necessary for any of the following: to prevent or respond to a threat to public health, safety, or the environment; to comply with a court order finding that denying approval would amount to a taking of property, or a court order otherwise requiring approval of a NOI; or, to plug and abandon or reabandon a well, including an intercept well necessary to plug and abandon or reabandon a well.
- 3) Requires an operator of an oil or gas well who submits a NOI to submit a sensitive receptor inventory map of the area within the 3,200-foot radius of the wellhead or proposed wellhead locations. Requires the map to be submitted in compliance with the American Disabilities Act.
- 4) Requires an operator, if a NOI is approved, to provide an individual indemnity bond to cover full costs of properly plugging and abandoning the operator's well or wells, and decommissioning any attendant production facilities in the health protection zone.
- 5) Exempts underground gas storage wells and attendant production facilities from the bill's requirements.
- 6) Authorizes CalGEM to approve a NOI to public and private entities who own, purchase, or lease land containing idle-deserted or previously plugged and abandoned wells for the purposes of those public and private entities plugging and abandoning, or replugging and abandoning, those oil and gas wells so development of nonfossil fuel production and injection and related uses can proceed.
- 7) Requires, commencing January 1, 2025, all oil or gas production facilities with a wellhead in a health protection zone to meet the following: compliance with local, state and federal permit requirements; requirements to post contact information to receive complaints; limits on sound levels; limits on light generation; dust prevention measures; vehicle speed limits;

ceased use of all facilities and equipment if in noncompliance with air district requirements; and, submission to CalGEM of chemical analysis for produced water.

- 8) Requires all operators with a production facility or well with a wellhead in a health protection zone to develop a leak detection for target chemical constituents and detailed response plan by specified dates. Establishes requirements for the leak detection and response plan. Requires ARB and the State Water Board to adopt regulations to implement and set performance standards for the emissions detection system. Authorizes CalGEM, ARB, and the State Water Board to adopt such regulations under an emergency rulemaking process. Requires CalGEM to hold at least three public workshops to inform operators and the public about leak detection systems and response plans. Requires, commencing July 1, 2023, and every six months thereafter, the Supervisor to report to the Legislature on the leak detection and response plans.
- 9) Requires an operator to contact property owners and tenants within a health protection zone with a record of delivery and offer to sample and test water wells or surface water on their property before drilling. Specifies the process for conducting sampling and reporting to CalGEM. Requires water quality sampling data to be submitted to the State Water Board and appropriate regional water board.
- 10) Requires, by July 1, 2023, every operator to submit to CalGEM a sensitive receptor inventory and map that includes a list of sensitive receptors in the health protection zone, among other information. Requires CalGEM to review at least 30% of the inventories and maps annually for accuracy and make them available to the public.
- 11) Requires, commencing January 1, 2027, and annually thereafter, an operator to report specified information to CalGEM.
- 12) Requires, on or before July 1, 2027, CalGEM to report to the Legislature on the implementation of health protection zones.
- 13) Provides CalGEM, ARB, and the State Air Resources Board with emergency regulatory authority.
- 14) Requires, by June 1, 2023, ARB, relevant local air districts, the State Water Board, and relevant local water quality control boards to enter into and execute memoranda of understanding (MOU) with CalGEM to clearly delineate respective responsibilities for implementing and enforcing health protection zones.

COMMENTS

California oil and gas permits. Approvals for drilling operations in California are a two-step process. An oil and gas operator must secure approval from local authorities, and then must apply to CalGEM for permits before constructing or operating a new well or modifying an existing one. Well permits are good indefinitely, unless the operations have not commenced within 24 months of receipt of the NOI, in which case the notice is canceled.

Environmental justice. Proximity to oil and gas extraction sites poses known significant health risks due to increased air pollution and threats to drinking water quality. Hazardous air pollutants that are known to be emitted from oil and gas development sites include benzene, toluene,

ethylbenzene, xylenes, hexane and formaldehyde – many of which are known, probable, or possible carcinogens and/or teratogens and which have other adverse health effects.

The California Oil and Gas Public Health Rulemaking Scientific Advisory Panel (Panel), an advisory body to CalGEM, has noted that close proximity to oil and gas development causes significant adverse health effects, including poor birth outcomes, asthma, and reduced lung function. A growing body of research shows direct health impacts from oil extraction as far as two kilometers away from a well.

SB 1137 prohibits NOIs for most new oil and gas wells being drilled in setback zones ("health protection zones") – areas within 3,200 feet of a sensitive receptor, except to plug-and-abandon a well; in an emergency; or, if a court finds that a well be drilled to in order to prevent a property taking.

CalGEM regulations. In early 2020, CalGEM initiated a process to update public health and safety protections for communities near oil and gas production operations. This process began in response to a November 2019 directive by Governor Gavin Newsom and resulted in the release of the Draft Rule for Protection of Communities and Workers from Health and Safety Impacts from Oil and Gas Production Operations (Draft Rule) last October. The Draft Rule proposes establishing a 3,200-foot setback requirement from sensitive receptors for new NOIs.

Though similar to the Draft Rule, SB 1137 proposes setbacks as well as engineering controls that go farther than what the Draft Rule proposes. The primary differences between the Draft Rule and this bill are:

- 1) *Timing for implementation.* The formal rulemaking process will only begin when the complete regulatory package is submitted to the Office of Administrative Law, which the timing is undetermined. Therefore, the regulations will take an indeterminate amount of time to become operational. This bill, however, would go into effect January 1, 2023.
- 2) *Scope of the NOI ban.* The Draft Rule would prohibit NOIs for new wells. SB 1137 would prohibit approvals for new wells and rework permits for existing wells. Therefore, the scope of the bill is much more aggressive in protecting communities surrounding oil and gas facilities.

It is important to note that, should SB 1137 be enacted, there is nothing in the bill that inhibits or precludes CalGEM from pursuing their public health rulemaking or taking more assertive measures in the proposed regulations.

Enforcement. CalGEM has authority over oil and gas well regulation, but much of this proposal straddles the authorities of other local and state agencies as it relates to permitting, water quality, and air quality enforcement. The ARB and State Water Board would have emergency regulatory authority with CalGEM over the air and water-related provisions, respectively.

SB 1137 would require CalGEM to sign MOUs with the State Water Board, regional water boards, the ARB, local air boards, and local jurisdictions to clarify, in writing, each entity's jurisdiction over the implementation and enforcement of this bill.

According to the Author

Of the approximately five and a half million Californians who live within a mile of one or more oil and gas wells, one-third live in areas that are the most burdened by environmental pollution, and 92% of Californians living in these overburdened neighborhoods are people of color. Moreover, this proximity brings disastrous health implications including, increased risk of asthma and other respiratory illnesses, pre-term births and high-risk pregnancies, and cancer. Given these disproportionate, cumulative impacts on communities of color and low-income communities, state action is long overdue –the time is now to limit exposure from toxic contaminants and protect our frontline communities, vulnerable populations, and families.

SB 1137 will mandate a 3,200-foot health and safety buffer zone between new and reworked oil and gas wells and sensitive land uses, which include schools, childcare centers, community resource centers, residential homes and live-in housing, and hospitals. In addition, SB 1137 will require oil and gas facility operators in these protection zones to implement strict air and water pollution controls and to develop response plans to protect the health of over 2 million Californians currently living within 3,200 feet of an existing oil well.

In 2015, the California Council on Science and Technology reviewed existing scientific studies and determined that, from a public health perspective, the most significant exposures to toxic air contaminants occur within one-half mile of a well, and recommended that the State of California develop science-backed setback requirements for wells to limit these exposures. While CalGEM's own public health researchers have determined that there is no safe distance from oil and gas wells for humans—3, 200 feet will avoid some of the worst exposure and harm to public health. Recent studies consistently demonstrate evidence of harm from pollutants and extraction consequences at distances less than 1 kilometer. SB 1137 takes a science based approach to protecting public health and follows other state jurisdictions that have already required setbacks requirements.

Arguments in Support

Earth Justice and a coalition of environmental groups write, "Despite being praised as an international climate leader, California has failed to take meaningful action on oil extraction in our communities. The negative impacts of oil extraction - from poor air quality to contaminated water - are more often felt by low-income and non-white communities, and are compounding the health impacts of the ongoing COVID-19 pandemic. At the same time, [CalGEM's] public health expert panel recently found that living near oil and gas extraction causes adverse birth outcomes and respiratory problems, a finding in line with extensive research showing harms from neighborhood drilling," and they continue, " ... more than 28,367 operational oil and gas wells are located within 3,200' of a home, hospital, school, or other sensitive receptor. The number of existing wells, and of potential new wells, near these sensitive receptors is a serious public health concern, as numerous studies have demonstrated that this proximity is toxic and linked to increased risk of asthma and other respiratory illnesses, pre-term births and high-risk pregnancies, and cancer. Not only is this a public health crisis, but a matter of longstanding environmental racism, as people of color are at highest risk.

Arguments in Opposition

The State Building and Construction Trades Council, AFL-CIO, opposes the bill stating, "SB 1137 would eliminate thousands of high wage industrial manufacturing union jobs in California's most disadvantaged and underserved communities The production of oil in California is under the strongest environmental and labor standards in the world. Extraction

operations are regulated by more than two dozen federal, state, and local regulatory agencies that enforce these standards. We believe in strong environmental regulations and support responsible oil producers that upgrade facilities with the latest technology to improve the safety, reliability, and efficiency of oil production. As a result, these sites are under project labor agreements that employ tens of thousands of local workers, including young men and women in union apprenticeship programs. For many of our apprentices, these jobs represent the only path out of poverty."

FISCAL COMMENTS

Unknown.

VOTES

SENATE FLOOR: 35-0-5

YES: Allen, Atkins, Becker, Borgeas, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk

ABS, ABST OR NV: Archuleta, Bates, Dahle, Grove, Min

ASM PUBLIC SAFETY: 7-0-0

YES: Jones-Sawyer, Lackey, Mia Bonta, Bryan, Quirk, Santiago, Seyarto

ASM APPROPRIATIONS: 13-0-3

YES: Holden, Bigelow, Bryan, Carrillo, Megan Dahle, Davies, Mike Fong, Fong, Gabriel, Quirk, Robert Rivas, Akilah Weber, Wilson

ABS, ABST OR NV: Calderon, Eduardo Garcia, Levine

ASSEMBLY FLOOR: 57-15-8

YES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO: Chen, Choi, Megan Dahle, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron

ABS, ABST OR NV: Alvarez, Bigelow, Cooper, Davies, Gray, Irwin, Mayes, Salas

ASM NATURAL RESOURCES: 8-3-0

YES: Luz Rivas, Friedman, Cristina Garcia, McCarty, Muratsuchi, Stone, Wood, Boerner Horvath

NO: Flora, Mathis, Seyarto

UPDATED

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