

Senate Bill 395 (As proposed to be amended)

Safe Management of Hazardous Produced Water

Senator Hannah-Beth Jackson

SUMMARY

SB 395 would ensure that waste from oil and gas production that is hazardous be regulated under the same laws as other hazardous waste in California.

This bill would require oil and gas producers to determine if produced water is hazardous before disposal. If it meets the definition of hazardous waste, it could not be injected down a Class II disposal well. It may be transported to a hazardous waste treatment facility, treated to be non-hazardous and disposed of appropriately, or injected down a Class I toxic injection well. The treatment of non-hazardous oil field waste will remain unchanged.

BACKGROUND

The Department of Toxic Substances Control is vested with the responsibility to ensure and oversee the proper handling, transportation and disposal of hazardous waste.

Currently, produced water resulting from fossil fuel extraction is exempt from hazardous waste regulation under both federal and state law if it is intended for disposal in a Class II well. Class II wells are exclusively for the disposal of oilfield wastewater and are overseen by the Division of Oil, Gas and Geothermal Resources.

Liquid emitted from oil or gas wells is known as produced water, or a Class II fluid. It can be groundwater mixed with oil or gas, known as formation water, or it can be fluids that were injected by the well operator returning to the surface, known as flowback. The majority of produced water is eventually injected into a Class II underground disposal well.

Both formation water and flowback are potentially dangerous. Any liquid that comes in contact with underground rock formations can carry toxic trace elements such as arsenic, mercury or uranium. Flowback from hydraulic fracturing is of particular concern for environmental health and safety. In hydraulic fracturing, a combination of water, sand and chemical additives are injected under pressure to fracture the shale reservoir, which in turn increases the flow of oil and gas for collection. The injected fluid is mainly composed of

water and mixed with a comparatively small percentage of chemicals, some of which are known to be toxic. Chemical pollutants in produced water have the potential to be hazardous to public health and safety. It is also of great concern if these pollutants were accidentally released into the environment. Twenty-nine of the most commonly used hydraulic fracturing chemicals are known carcinogens, toxic air contaminants, or regulated under the Safe Drinking Water Act as hazardous to human health¹.

In California, operators of Class II wells are not required to determine if produced water is hazardous before disposal. Additionally, Class II wells are not subject to the same restrictions intended to protect public health and safety or environmental health as Class I toxic injection wells. Given the potentially dangerous nature of the chemicals used, threat to safe drinking water supplies, and possible public health and environmental impacts, produced water should be tested and, if it meets the legal criteria, regulated as hazardous waste.

SOLUTION - SB 395

SB 395 would end disposal of hazardous wastewater in a Class II well. Non-hazardous oilfield wastewater can still be disposed of in a Class II well. Well operators will be required to test waste before disposal. If it meets the legal definition of hazardous waste, its handling and disposal will be regulated by the Department of Toxic Substances Control (DTSC) and the local Certified Unified Program Agencies (CUPAs). This measure will ensure that oil field waste water is handled and disposed of in a manner that minimizes the threat to public health, drinking water, and the environment.

SUPPORT

- Support available upon request.

STATUS

Introduced.

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¹ U.S. House of Representatives Committee on Energy and Commerce Minority Staff (2011). Chemicals Used in Hydraulic Fracturing.