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AB-1328 Oil and gas: notice of intention to abandon well: study of fugitive emissions from idle, idle-deserted, and abandoned wells. (2019-2020)

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Assembly Bill No. 1328

CHAPTER 772

An act to amend Section 3229 of, and to add and repeal Section 3206.2 of, the Public Resources Code, relating to oil and gas.

[Approved by Governor October 12, 2019. Filed with Secretary of State October 12, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1328, Holden. Oil and gas: notice of intention to abandon well: study of fugitive emissions from idle, idle-deserted, and abandoned wells.

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 owner or operator of a well to file a written notice of intention to commence well abandonment with, and prohibits any abandonment 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 one year of receipt.

This bill would extend the time period to commence abandonment operations from one year to 24 months before the notice is deemed canceled.

Under existing law, any owner or operator of a well, or employee thereof, who refuses to permit the supervisor or the district deputy, or their inspector, to inspect a well, or who willfully hinders or delays the enforcement of provisions relating to the regulation of oil or gas operations, is guilty of a misdemeanor.

This bill would require the division, in consultation with the State Air Resources Board, to initiate a study to be conducted by independent experts of fugitive emissions from idle, idle-deserted, and abandoned wells in the state, as provided. The bill would require oil and gas operators with wells selected for purposes of sampling under these provisions to (1) make reasonable efforts to permit access to the wells to the division and the independent experts contracted to undertake the study if adequate notice is provided to the operator to ensure appropriate safety precautions are taken at the well site, and (2) submit to the division a certification stating that no action was taken to reduce emissions from the sampling site within 72 hours of the sampling taking place so as to reduce the value of measurements taken. Because a violation of these requirements would be a crime, the bill would impose a state-mandated local program. The bill would require the department, on or before January 1, 2022, to post all results of testing conducted pursuant to the study on the department's internet website in a machine-readable format. The bill would require the department, on or before January 1, 2021, to produce and post an interim progress report describing the status of the study on the department's internet website. The bill would require the independent experts contracted to undertake the study, on or before July 1, 2022, to complete a written document that includes an executive summary of the findings, a description of the results, the findings, and an estimate of hydrocarbon emissions from the state's idle, idle-deserted, and abandoned wells,

and would require, before public release, the written document to be provided for peer review and comments, to the operators whose wells were included in the sample, and to a group of independent experts and nongovernmental organizations selected by the division. The bill would require the division, on or before January 1, 2023, to make the results of the study, as per the required written document, available on its internet website.

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

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

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

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

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) The Legislature has established statutory requirements for the Department of Conservation to reduce the number of idle wells in California while also providing additional resources for the department to engage in plugging and abandoning of hazardous or idle-deserted wells.

(2) A reduction in the number of idle, hazardous, and idle-deserted wells in California may reduce emissions of greenhouse gases, toxic air pollution, and smog-forming gases in the state.

(3) The availability of low-cost, highly accurate emissions detection and quantification equipment and practices can (A) yield transparent data that can inform the statewide and local pollution inventories, (B) better quantify the impact of efforts to reduce idle, hazardous, and idle-deserted wells, and (C) provide additional evidence of proper well remediation.

(4) Many Californians live in close proximity to idle, hazardous, and idle-deserted wells and may be exposed to toxic air pollution.

(5) Many wells are remediated without sufficient air monitoring to detect possible unsafe air pollution emanating from wells, which poses a risk to workers and nearby residents.

(b) It is therefore the intent of the Legislature to require the Division of Oil, Gas, and Geothermal Resources, in consultation with the State Air Resources Board, to undertake a study of a representative sample of idle, idle-deserted, and abandoned wells in California to better understand the emissions from these wells that may help to identify and provide information on hazardous wells.

SEC. 2. Section 3206.2 is added to the Public Resources Code, to read:

3206.2. (a) (1) The division, in consultation with the State Air Resources Board, shall initiate a study to be conducted by independent experts of fugitive emissions from idle, idle-deserted, and abandoned wells in the state. The independent experts selected shall have experience measuring and documenting emissions from multiple idle and abandoned wells and well sites, preferably at multiple locations within the state.

(2) In developing the parameters of the study, the division shall seek input from researchers with expertise in fugitive emissions, oil and gas operators, and people with relevant experience in nongovernmental organizations. The parameters of the study shall (A) be conducted based on a total well sample not to exceed 500 wells, (B) utilize existing information and technology tools that allow data collection without disruption to a well site, (C) limit surface disturbance associated with any emissions sampling, and (D) limit the total cost of the study to a maximum of one million dollars (\$1,000,000).

(3) In implementing the study, the division shall seek to minimize costs to operators, and the testing conducted pursuant to this section shall not conflict with a scheduled routine maintenance operation of the well or associated equipment.

(4) The study shall be conducted to measure emissions of air pollutants, including, but not limited to, greenhouse gases, toxic air contaminants, and volatile organic compounds, from idle wells, idle-deserted wells, and abandoned wells that can contribute to climate change or endanger occupational and public health and safety through their toxicological properties.

(5) The division shall work with the independent experts, oil and gas operators, and nongovernmental organizations to identify a stratified random sample of wells, and set of pollutants to be measured, from which measurement data can be used to extrapolate to the total number of idle, idle-deserted, and abandoned wells in the state. To the maximum extent possible, the sample shall include emissions data already collected from wells in the state.

(6) The sample of wells shall include idle-deserted wells identified by the division, previously abandoned wells, and idle wells that are ordered or permitted to be plugged and abandoned by the division.

(7) For purposes of undertaking the study, for a well that is selected for measurement as part of the sample but which is also scheduled to be plugged, abandoned, or reabandoned, before the initiation of physical work to plug, abandon, or reabandon the well the division or the contracted independent experts, with oversight from the division, shall have testing performed for leaks on the well and associated equipment either (A) in accordance with the United States Environmental Protection Agency Reference Method 21, as set forth in Appendix A-7 to Part 60 of Title 40 of the Code of Federal Regulations, as it read on January 1, 2019, (B) by using an optical gas imaging instrument that is operated by a technician with a certification or training in infrared theory, infrared inspections, and heat transfer principles, or (C) in accordance with an alternative methodology developed for the purposes of this study.

(8) If, pursuant to paragraph (7), a well is found to emit hydrocarbons in observable quantities using an optical imaging device or in concentrations greater than 1 percent by volume using a United States Environmental Protection Agency Reference Method 21 instrument when tested before the initiation of physical work, the division or the contracted independent experts shall ensure additional testing is performed using a direct measurement method consisting of high volume sampling, bagging, or a calibrated flow measuring instrument to determine the flow rate of atmospheric emissions of total and speciated hydrocarbon pollutants before the initiation of physical work.

(b) Oil and gas operators with wells selected for purposes of sampling under this section shall make reasonable efforts to permit access to the wells to the division and the independent experts contracted to undertake the study if adequate notice is provided to the operator to ensure appropriate safety precautions are taken at the well site. All oil and gas operators with wells selected for sampling shall submit to the division a certification stating that no action was taken to reduce emissions from the sampling site within 72 hours of the sampling taking place so as to reduce the value of measurements taken.

(c) On or before January 1, 2022, the department shall post all results of testing conducted pursuant to subdivision (a) on the department's internet website in a machine-readable format. On or before January 1, 2021, the department shall produce and post to the department's internet website an interim progress report describing the status of the study conducted pursuant to this section, including, but not limited to, the number of wells where testing has been completed, the number of wells remaining to be tested, study costs, and any preliminary testing results, as available and subject to the requirement described in paragraph (2) of subdivision (d).

(d) (1) On or before July 1, 2022, the independent experts contracted to undertake the study shall complete a written document that includes an executive summary of the findings, a description of the results, the findings, and an estimate of hydrocarbon emissions from the state's idle, idle-deserted, and abandoned wells.

(2) Before public release pursuant to subdivision (e), the written document shall be provided for peer review and comments, to the operators whose wells were included in the sample, and to a group of independent experts and nongovernmental organizations selected by the division.

(e) On or before January 1, 2023, the division shall make the results of the study, as per the written document required pursuant to subdivision (d), available on its internet website.

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 3. Section 3229 of the Public Resources Code is amended to read:

3229. Before commencing any work to abandon a well, the owner or operator shall file with the supervisor or the district deputy a written notice of intention to abandon the well. Abandonment shall not proceed until approval is given by the supervisor or the district deputy. If the supervisor or the district deputy does not give the owner or operator a written response to the notice of intention within 10 working days, the proposed abandonment shall be deemed to have been approved and the notice of intention shall for the purposes of this chapter be deemed a written report of the supervisor. If abandonment operations have not commenced within 24 months of receipt of the notice of intention, the notice of intention shall be deemed canceled.

SEC. 4. 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.