



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

SB-84 Oil and gas wells: hazardous or idle-deserted wells and facilities. (2021-2022)

SHARE THIS:  

Date Published: 10/11/2021 02:00 PM

Senate Bill No. 84

CHAPTER 758

An act to amend Sections 3206.3, 3237, and 3258 of the Public Resources Code, relating to oil and gas wells.

[Approved by Governor October 09, 2021. Filed with Secretary of State October 09, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 84, Hurtado. Oil and gas wells: hazardous or idle-deserted wells and facilities.

(1) Existing law establishes the Geologic Energy Management Division in the Department of Conservation, under the direction of the State Oil and Gas Supervisor, who is required 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. Under existing law, the current operator, or the previous operator, as provided, as determined by the records of the supervisor, of a deserted well that produced oil, gas, or other hydrocarbons or was used for injection is responsible for the proper plugging and abandonment of the well or the decommissioning of deserted production facilities. If the supervisor determines that the current operator does not have the financial resources to fully cover the cost of plugging and abandoning the well or the decommissioning of deserted production facilities, existing law requires the immediately preceding operator to be responsible for the cost of plugging and abandoning the well or the decommissioning of deserted production facilities.

This bill would require the supervisor to provide specified committees of the Legislature by July 1, 2022, with the process the supervisor has established to determine that the current operator does not have the financial resources to fully cover the cost of plugging and abandoning the well or the decommissioning of deserted production facilities, or for a previous operator. The bill would require the supervisor to, in a timely manner, post the materials provided to the legislative committees on a public portion of the division's internet website.

(2) Existing law requires the supervisor, on or before July 1, 2019, and annually thereafter until July 1, 2026, to prepare and transmit to the Legislature a comprehensive report on the status of idle and long-term idle wells for the preceding calendar year that includes specified information. For the report due on or before July 1, 2021, and for each report thereafter, existing law requires the division to conduct inspections of production facilities attendant to long-term idle wells and requires that information summarizing violations and pertinent findings in these inspections be included in each report.

For the report due on or before July 1, 2022, and for each report thereafter, this bill would require that each report identify idle wells by the American Petroleum Institute identification number that are registered to an operator and that have met the definition of an idle well for 3 years where neither the required annual fee has been paid or the well is part of a valid idle well management plan on file with the supervisor.

(3) Existing law requires the department to report to the Legislature on April 1, 2021, on the number of hazardous wells, idle-deserted wells, deserted facilities, and hazardous facilities remaining, the estimated costs of abandoning or decommissioning

those wells and facilities, and a timeline for future abandonment and decommissioning of those wells and facilities with a specific schedule of goals. Existing law requires the department to provide an update on the report to the Legislature on October 1, 2023, that describes the total costs, average costs per well and facility, the number of wells plugged and abandoned, the number of facilities decommissioned, the total number of projects completed, and any additional wells and facilities identified by the department requiring abandonment or decommissioning.

This bill would require the department to report the location of hazardous wells, idle-deserted wells, deserted facilities, and hazardous facilities remaining, including the county in which they are located, to the Legislature by April 1, 2022, if the information is not otherwise included in the April 1, 2021, report. The bill would require the October 1, 2023, update to include the location, including the county, of applicable wells, facilities, and projects identified in the report. The bill would require the division to consider certain information reported to the Legislature when developing criteria for determining the priority of plugging and abandoning hazardous or idle-deserted wells and decommissioning hazardous or deserted facilities to be remediated.

(4) This bill would incorporate additional changes to Section 3206.3 of the Public Resources Code proposed by AB 896 to be operative only if this bill and AB 896 are enacted and this bill is enacted last. The bill would incorporate additional changes to Section 3258 of the Public Resources Code to be operative only if this bill and SB 47 are enacted and this bill is enacted last.

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

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

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

(a) Chapter 645 of the Statutes of 2017 requires the State Lands Commission in the Natural Resources Agency, upon appropriation, to administer the coastal hazard and legacy oil and gas well removal and remediation program through the 2027–28 fiscal year.

(b) Chapter 652 of the Statutes of 2017 expanded existing programs to include the identification of, and the decommissioning, plugging, and abandonment of, hazardous and idle-deserted oil and gas wells and associated facilities in the state, in order to protect public health, safety, the environment, and natural resources.

(c) Chapter 272 of the Statutes of 2016 imposed new requirements on the management of idle oil and natural gas wells in order to promote the timely abandonment of wells and protect public health, safety, the environment, and natural resources.

(d) Chapter 771 of the Statutes of 2019 provided the Geologic Energy Management Division enhanced authority to require an operator to file additional securities to cover the reasonable costs of properly plugging and abandoning the operator's wells based on an evaluation of specific criteria.

(e) Orphan wells are oil or gas wells that have no known responsible operator or no financially viable operator capable of plugging the well and decommissioning the well's production facilities. The November 2018 report prepared by the California Council on Science and Technology titled "Orphan Wells in California: An Initial Assessment of the State's Potential Liabilities to Plug and Decommission Orphan Oil and Gas Wells" at page 40, concluded that there are 2,565 idle wells registered to operators with no recorded California production or injection in the past five years. The report contends these wells have potentially been deserted and should be classified as orphan wells. The report acknowledges that additional research is needed to validate the status of these wells.

(f) In order to protect public health, safety, the environment, and natural resources and address environmental issues in the southern central valley area, it is in the interest of the state to ensure resources are dedicated to validating the status of these wells and to recover abandonment costs.

(g) In order to protect public health, safety, the environment, and natural resources and address environmental justice issues, it is necessary to focus state resources for the decommissioning and plugging and abandonment of any hazardous and idle-deserted wells and associated facilities in the southern central valley area.

SEC. 2. Section 3206.3 of the Public Resources Code is amended to read:

3206.3. (a) (1) Notwithstanding Section 10231.5 of the Government Code, on or before July 1, 2019, and annually thereafter until July 1, 2026, the supervisor shall, in compliance with Section 9795 of the Government Code, prepare and transmit to the Legislature a comprehensive report on the status of idle and long-term idle wells for the preceding calendar year. The report shall include all of the following:

(A) A list of all idle and long-term idle wells in the state by American Petroleum Institute identification number and indicating the operator, field, and pool.

(B) A list of all wells whose idle or long-term idle status changed in the preceding year by American Petroleum Institute identification number with the disposition and current status of each well.

(C) A list of orphan wells remaining, the estimated costs of abandoning those orphan wells, and a timeline for future orphan well abandonment with a specific schedule of goals. Idle and long-term idle wells that have become orphan wells shall be identified in the list. For the purposes of this report, an orphan well is a well that has no party responsible for it, leaving the state to plug and abandon it.

(D) A list of all operators with plans filed with the supervisor for the management and elimination of all long-term idle wells and the status of those plans.

(E) Any additional relevant information as determined by the supervisor.

(2) The report shall be made publicly available and an electronic version shall be available on the division's internet website.

(b) For the report due on or before July 1, 2022, and each report thereafter, the division shall do both of the following:

(1) Conduct inspections of production facilities attendant to long-term idle wells to ensure compliance with the requirements of this chapter. Information summarizing violations and pertinent findings in these inspections shall be included in the applicable report required to be prepared and transmitted pursuant to subdivision (a).

(2) Identify idle wells by the American Petroleum Institute identification number that are registered to an operator and that have met the definition of an idle well for three years where neither the required annual fee has been paid or the well is part of a valid idle well management plan on file with the supervisor pursuant to subdivision (a) of Section 3206.

(c) Information on how to access the plans described in subparagraph (D) of paragraph (1) of subdivision (a) shall be made readily available on the division's internet website.

(d) After July 1, 2026, the division shall continue to regularly provide updated information describing idle and long-term idle wells on the division's internet website.

SEC. 2.5. Section 3206.3 of the Public Resources Code is amended to read:

3206.3. (a) (1) Notwithstanding Section 10231.5 of the Government Code, on or before July 1, 2019, and annually thereafter until July 1, 2026, the supervisor shall, in compliance with Section 9795 of the Government Code, prepare and transmit to the Legislature a comprehensive report on the status of idle and long-term idle wells for the preceding calendar year. The report shall include all of the following:

(A) A list of all idle and long-term idle wells in the state by American Petroleum Institute identification number and indicating the operator, field, and pool.

(B) A list of all wells whose idle or long-term idle status changed in the preceding year by American Petroleum Institute identification number with the disposition and current status of each well.

(C) A list of orphan wells remaining, the estimated costs of abandoning those orphan wells, and a timeline for future orphan well abandonment with a specific schedule of goals. Idle and long-term idle wells that have become orphan wells shall be identified in the list. For the purposes of this report, an orphan well is a well that has no party responsible for it, leaving the state to plug and abandon it.

(D) A list of all operators with plans filed with the supervisor for the management and elimination of all long-term idle wells and the status of those plans.

(E) Any additional relevant information as determined by the supervisor.

(2) The report shall be made publicly available and an electronic version shall be available on the division's internet website.

(b) For the report due on or before July 1, 2022, and each report thereafter, the division shall do both of the following:

(1) Conduct inspections of production facilities attendant to long-term idle wells to ensure compliance with the requirements of this chapter. Information summarizing violations and pertinent findings in these inspections shall be included in the applicable report required to be prepared and transmitted pursuant to subdivision (a).

(2) Identify idle wells by the American Petroleum Institute identification number that are registered to an operator and that have met the definition of an idle well for three years where neither the required annual fee has been paid or the well is part of a valid idle well management plan on file with the supervisor pursuant to subdivision (a) of Section 3206.

(c) For the report due on or before July 1, 2023, and each report thereafter, the division shall provide a description of activities undertaken by the division's collections unit established pursuant to Section 3243. This description shall include the number of operators and amounts of idle well fees collected by the collections unit in the preceding year, the criteria, including timelines, used by the collections unit to determine a well or attendant facility is deserted, and the amount of costs recovered from operators or responsible parties for work ordered by the supervisor or undertaken by the division. Information related to the division's use of liens, including, but not limited to, the number of wells and facilities eligible to be subject to a lien, the number of liens placed by the supervisor, and the number of liens released by the supervisor, shall also be provided.

(d) Information on how to access the plans described in subparagraph (D) of paragraph (1) of subdivision (a) shall be made readily available on the division's internet website.

(e) After July 1, 2026, the division shall continue to regularly provide updated information describing idle and long-term idle wells on the division's internet website.

SEC. 3. Section 3237 of the Public Resources Code is amended to read:

3237. (a) (1) The supervisor or district deputy may order the plugging and abandonment of a well or the decommissioning of a production facility that has been deserted whether or not any damage is occurring or threatened by reason of that deserted well or production facility. The supervisor or district deputy shall determine from credible evidence whether a well or production facility is deserted.

(2) For purposes of paragraph (1), "credible evidence" includes, but is not limited to, the operational history of the well or production facility, the response or lack of response of the operator to inquiries and requests from the supervisor or district deputy, the extent of compliance by the operator with the requirements of this chapter, and other actions of the operator with regard to the well or production facility.

(3) A rebuttable presumption of desertion arises in any of the following situations:

(A) If a well has not been completed to production or injection and drilling machinery have been removed from the well site for at least six months.

(B) If a well's production facilities or injection equipment has been removed from the well site for at least two years.

(C) If an operator has failed to comply with an order of the supervisor within the time provided by the order or has failed to challenge the order on a timely basis.

(D) If an operator fails to designate an agent as required by Section 3200.

(E) If a person who is to acquire a well or production facility that is subject to a purchase, transfer, assignment, conveyance, exchange, or other disposition fails to comply with Section 3202.

(F) If an operator has failed to maintain the access road to a well or production facility site passable to oilfield and emergency vehicles.

(4) The operator may rebut the presumptions of desertion set forth in paragraph (3) by demonstrating with credible evidence compliance with this division and that the well or production facility has the potential for commercial production, including specific and detailed plans for future operations, and by providing a reasonable timetable for putting those plans into effect. The operator may rebut the presumption set forth in subparagraph (F) of paragraph (3) by repairing the access road.

(b) An order to plug and abandon a deserted well or to decommission a production facility may be appealed to the director pursuant to the procedures specified in Article 6 (commencing with Section 3350).

(c) (1) The current operator, as determined by the records of the supervisor, of a deserted well that produced oil, gas, or other hydrocarbons or was used for injection is responsible for the proper plugging and abandonment of the well or the decommissioning of deserted production facilities. If the supervisor determines that the current operator does not have the financial resources to fully cover the cost of plugging and abandoning the well or the decommissioning of deserted production facilities, the immediately preceding operator shall be responsible for the cost of plugging and abandoning the well or the decommissioning of deserted production facilities.

(2) The supervisor may continue to look seriatim to previous operators until an operator is found that the supervisor determines has the financial resources to cover the cost of plugging and abandoning the well or decommissioning deserted production facilities. However, the supervisor may not hold an operator responsible that made a valid transfer of ownership of the well before January 1, 1996.

(3) For purposes of this subdivision, "operator" includes a mineral interest owner who shall be held jointly liable for the well and attendant production facilities if the mineral interest owner has or had leased or otherwise conveyed the working interest in the well to another person, if in the lease or other conveyance, the mineral interest owner retained a right to control the well operations that exceeds the scope of an interest customarily reserved in a lease or other conveyance in the event of a default.

(4) No prior operator is liable for any of the costs of plugging and abandoning a well or decommissioning deserted production facilities by a subsequent operator if those costs are necessitated by the subsequent operator's illegal operation of a well or production facility.

(5) If the supervisor is unable to determine that an operator who acquired ownership of a well after January 1, 1996, has the financial resources to fully cover the costs of plugging and abandonment of the well or decommissioning deserted production facilities, the supervisor may undertake plugging and abandonment of the well or decommissioning deserted production facilities pursuant to Article 4.2 (commencing with Section 3250).

(6) By July 1, 2022, the supervisor shall provide to the Senate Committee on Natural Resources and Water and the Assembly Committee on Natural Resources the process the supervisor has established to determine that the current operator does not have the financial resources to fully cover the cost of plugging and abandoning the well or the decommissioning of deserted production facilities pursuant to paragraph (1), or for a previous operator pursuant to paragraphs (1) and (2). The supervisor shall, in a timely manner, post the materials provided to the legislative committees pursuant to this paragraph on a public portion of the division's internet website.

(d) (1) Notwithstanding any other provision of this chapter, the supervisor or district deputy, at the supervisor's or district deputy's sole discretion, may determine that a well that has been idle for 25 years or more and that fails to meet either of the following conditions is conclusive evidence of desertion, and may order the well abandoned:

(A) The operator is operating in compliance with a valid idle well management plan that is on file with the supervisor pursuant to paragraph (2) of subdivision (a) of Section 3206 or is covered by an indemnity bond provided under Section 3204, subdivision (a) of Section 3205, or subdivision (a) of Section 3205.2.

(B) The well meets the relevant testing standards for idle wells required under the regulations implementing this chapter.

(2) The supervisor or district deputy shall provide the operator a 90-day notice of warning once a determination has been reached pursuant to this subdivision that a well has been deserted. An operator may rebut the determination, made pursuant to paragraph (1), of the supervisor or district deputy by demonstrating compliance with subparagraphs (A) and (B) of paragraph (1).

(3) An order to plug and abandon a deserted well under this section due to the supervisor's or district deputy's determination of an operator's noncompliance with either subparagraph (A) or (B) of paragraph (1) may be appealed to the director pursuant to the procedures specified in Article 6 (commencing with Section 3350).

SEC. 4. Section 3258 of the Public Resources Code is amended to read:

3258. (a) The division shall not make expenditures pursuant to this article that exceed in any one fiscal year:

(1) Three million dollars (\$3,000,000) commencing on July 1, 2018, for the 2018–19 fiscal year, and continuing for three fiscal years thereafter.

(2) One million dollars (\$1,000,000), commencing with the 2022–23 fiscal year.

(b) Moneys expended pursuant to this article shall be used exclusively for plugging and abandoning hazardous or idle-deserted wells and decommissioning hazardous or deserted facilities and shall not be used for nonwell or nonproduction facility-related activities and payments.

(c) The division shall develop criteria for determining the priority of plugging and abandoning hazardous or idle-deserted wells and decommissioning hazardous or deserted facilities to be remediated pursuant to this article. The criteria shall consider the information required to be reported pursuant to subdivision (d). The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) does not apply to the development of criteria by the division pursuant to this subdivision.

(d) (1) (A) On April 1, 2021, the department shall report to the Legislature on the number of hazardous wells, idle-deserted wells, deserted facilities, and hazardous facilities remaining, the estimated costs of abandoning and decommissioning those wells and facilities, and a timeline for future abandonment and decommissioning of those wells and facilities with a specific schedule of goals. By April 1, 2022, the department shall report to the Legislature the location of the applicable wells and facilities, including

the county in which they are located, if the information is not otherwise included in the April 1, 2021, report described in this paragraph.

(B) As part of the report required in subparagraph (A), the department shall provide recommendations to the Legislature for improving and optimizing the involvement of local agencies in the process of plugging and abandoning wells and decommissioning facilities. In drafting these recommendations, the department shall consider factors unique to each of the division's districts, and shall consult with local agencies in developing recommendations.

(C) In collecting the information for the report required in subparagraph (A), the division shall conduct field inspections of hazardous wells, idle-deserted wells, deserted facilities, and hazardous facilities and include information in the report from the field inspections that can be used to prioritize those wells and facilities in the specific schedule of goals.

(2) On October 1, 2023, the department shall provide to the Legislature an update on the report required in paragraph (1) that describes the total costs, average costs per well and facility, the number of wells plugged and abandoned, the number of facilities decommissioned, the total number of projects completed, and any additional wells and facilities identified by the department requiring abandonment or decommissioning. The update shall include the location, including the county, of applicable wells, facilities, and projects identified in the report.

(3) The report and update to the report required to be submitted under this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

(4) The requirement for submitting a report or update to the report required pursuant to this subdivision is inoperative on October 1, 2027, pursuant to Section 10231.5 of the Government Code.

SEC. 4.5. Section 3258 of the Public Resources Code is amended to read:

3258. (a) The division shall not make expenditures from the Oil, Gas, and Geothermal Administrative Fund pursuant to this article that exceed in any one fiscal year:

(1) Three million dollars (\$3,000,000), commencing on July 1, 2018, for the 2018–19 fiscal year, and continuing for three fiscal years thereafter.

(2) Five million dollars (\$5,000,000), commencing with the 2022–23 fiscal year, and continuing thereafter.

(b) The expenditure limits of subdivision (a) also apply to expenditures by the division from the Oil, Gas, and Geothermal Administrative Fund pursuant to Section 3226, unless the division obtains a lien against real or personal property of the operator. If the division obtains a lien against real or personal property of greater value than the amount of the expenditure, then the amount of the expenditure shall not count against the expenditure limit of subdivision (a). If the division obtains a lien against real or personal property of lesser value than the amount of the expenditure, then only the difference between the amount of the expenditure and the value of the property counts against the expenditure limit of subdivision (a).

(c) Moneys expended pursuant to this article shall be used exclusively for plugging and abandoning hazardous or idle-deserted wells, decommissioning hazardous or deserted facilities, or otherwise remediating well sites of hazardous or idle-deserted wells.

(d) The division shall develop criteria for determining the priority of plugging and abandoning hazardous or idle-deserted wells and decommissioning hazardous or deserted facilities to be remediated pursuant to this article and performing work pursuant to Section 3226. The criteria shall consider the information required to be reported pursuant to subdivision (d). The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) does not apply to the development of criteria by the division pursuant to this subdivision.

(e) (1) (A) On April 1, 2021, the department shall report to the Legislature on the number of hazardous wells, idle-deserted wells, deserted facilities, and hazardous facilities remaining, the estimated costs of abandoning and decommissioning those wells and facilities, and a timeline for future abandonment and decommissioning of those wells and facilities with a specific schedule of goals. By April 1, 2022, the department shall report to the Legislature the location of the applicable wells and facilities, including the county in which they are located, if the information is not otherwise included in the April 1, 2021, report described in this paragraph.

(B) As part of the report required in subparagraph (A), the department shall provide recommendations to the Legislature for improving and optimizing the involvement of local agencies in the process of plugging and abandoning wells and decommissioning facilities. In drafting these recommendations, the department shall consider factors unique to each of the division's districts, and shall consult with local agencies in developing recommendations.

(C) In collecting the information for the report required in subparagraph (A), the division shall conduct field inspections of hazardous wells, idle-deserted wells, deserted facilities, and hazardous facilities and include information in the report from

the field inspections that can be used to prioritize those wells and facilities in the specific schedule of goals.

(2) On October 1, 2023, and annually thereafter, the department shall provide to the Legislature an update on the report required in paragraph (1) that describes the total costs, average costs per well and facility, the number of wells plugged and abandoned, the number of facilities decommissioned, the total number of projects completed, and any additional wells and facilities identified by the department requiring abandonment or decommissioning. The update shall include the location, including the county, of applicable wells, facilities, and projects identified in the report.

(3) The report and update to the report required to be submitted under this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 5. Section 2.5 of this bill incorporates amendments to Section 3206.3 of the Public Resources Code proposed by both this bill and Assembly Bill 896. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 3206.3 of the Public Resources Code, and (3) this bill is enacted after Assembly Bill 896, in which case Section 2 of this bill shall not become operative.

SEC. 6. Section 4.5 of this bill incorporates amendments to Section 3258 of the Public Resources Code proposed by both this bill and Senate Bill 47. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 3258 of the Public Resources Code, and (3) this bill is enacted after Senate Bill 47, in which case Section 4 of this bill shall not become operative.