

REQUIREMENTS FOR IDLE WELL TESTING AND MANAGEMENT

PUBLIC COMMENT SUMMARY AND RESPONSE

**Second 15-day Public Comment Period:
February 12, 2019 - February 28, 2019**

The following comments, objections, and recommendations were made regarding the proposed Requirements for Idle Well Testing and Management rulemaking action during the second fifteen-day public comment period beginning February 12, 2019 and ending February 28, 2019. Over the course of the public comment period, the Division received a number of public comments via email and regular mail.

To facilitate the process of reviewing and responding to comments, the Division assigned to each comment a unique numerical signifier. This signifier consists of three components: first, a unique code number assigned to each commenter; second, a separating hyphen; third, a sequential number assigned to each comment from the identified commenter. The chart below lists the code number for each commenter. Within this document, you will find either grouped or individual numerical signifiers, followed by a summary or specific comment, followed by a response (italicized).

Commenters

Number	Name and/or Entity
0001	Mark Smith
0002	Macpherson Energy
0003	Southern California Gas Company
0004	Miller Nash Graham & Dunn LLP

Numeric codes at the beginning of each comment summary can be used to locate the summarized comment in the marked-up version of the written comment submission or transcript of public hearing.

Acronyms

Division Department of Conservation, Division of Oil, Gas, and Geothermal
DOGGR Department of Conservation, Division of Oil, Gas, and Geothermal
PRC Public Resources Code

General

0001-1

DOGGR has not followed the requirements of the California Environmental Quality Act (CEQA) “to identify the significant environmental impacts of their actions” and thus has not analyzed the cumulative effects caused by DOGGR initiatives and activities. It should not be assumed that there are no significant impacts. The proposed updates to the statewide well construction regulations, requirements regarding the review by licensed professional of operator proposals, and the proposed idle well regulations are having a significant impact on producers, including small and medium size businesses which struggle to meet the many demands. Oil and gas production in the state is falling and one result of this reduction is increased imports from sources that are not environmentally friendly. The import itself has environmental impacts. Before these regulations can be finalized and adopted, they must be subjected to an environmental review. The review must include all of the initiatives of the Renewal Plan and must be made available for public review and comment.

Response to Comment 0001-1: NOT ACCEPTED. In undertaking this rulemaking, the Division has and will continue to comply with the CEQA, and has considered, analyzed, and estimated the impacts of the regulations including the costs of compliance. The Division appreciates the impacts on operators from these regulations, and the Division these regulations afford operators various options for managing these impacts over an extended period. These regulations are intended to reduce the risks that are associated with idle wells in the State. Proactive testing and monitoring of idle wells will help both operators and the Division identify problems with wells early and limit the risks that an idle well may pose to the environment.

Underground Gas Storage Wells

0003-1

Commenter is concerned that “the text of the proposed regulations conflict with the operational uses of underground gas storage wells and instead addresses underground gas storage wells in the same vein as an oil production well, which have fundamentally different uses.” The proposed regulations also appear to be inconsistent with recent determinations and guidance from the California Public Utilities Commission. As written, the regulations require an idle gas storage well to remain on a continuous six-month period of injection in order to consider such well as “active”. “Operations of a storage well in this fashion is inconsistent with the purpose, use, and regulatory requirements of underground gas storage operations. Injection or withdrawal of underground gas storage wells are determined by seasonal or operational needs. Further, the basic purpose and use for gas storage wells require such wells to be available for service, supporting system balancing, and reliability requirements, which means that storage wells may be used only periodically or intermittently at any given time.” The CPUC acknowledged this in their determination of the operating status of Aliso Canyon in 2018: “For purposes of the capacity availability test in D.07-09-021, equipment is considered available if is in a state of readiness and can be used in the ordinary course of operation when called upon. Capacity availability does not require that gas storage equipment be constantly in use, even under normal conditions.” SoCalGas recommends that the Division’s regulations include similar language to clarify that gas storage equipment is “active” when it is “in a state of readiness and can be used in the ordinary course of operation when called upon”, even if it is not in a continuous six-month period of injection or withdrawal.

The commenter also suggests the rulemaking process would benefit from a new workshop to further clarify these conflicting issues.

Response to Comment 0003-1: NOT ACCEPTED. "Idle well" is defined by statute in Public Resources Code section 3008, subdivision (d). That statutory definition cannot be substantively modified by these regulations. The statutory definition of idle well does not include an exception for underground gas storage wells. Whenever possible, the Division has worked to ensure that wells subject to one set of regulations are not subject to duplicative requirements under another set of regulations. A well does not become an idle well until it has been inactive for at least 24 consecutive months. An underground gas storage well becomes an idle well if for a period of 24 consecutive months the gas storage well is not used for injection or withdrawal. Once a well becomes idle, the well must have six-months of continuous activity to return to active status. An idle underground gas storage well becomes an active well if for a period of six consecutive months, the production or injection report shows activity for that well.

1723.9 Testing of Idle Wells

0002-2
Commenter would like to clarify that section 1723.9 does not include a well that is plugged back to complete in a shallower zone. According to the commenter, such wells are not an idle well.

Response to Comment 0002-2: NOT ACCEPTED. The requirements for idle wells do apply to an idle well that is plugged back to complete in a shallower zone. An idle well that has not been properly abandoned in accordance with Public Resources Code section 3208, including a partially plugged back well, remains an idle well. An idle well is defined as a well that for a period of 24 consecutive months has not either produced oil or natural gas, produced water to be used in production stimulation, or been used for enhanced oil recovery, reservoir pressure management, or injection. An idle well continues to be an idle well until it has been properly abandoned in accordance with Public Resources Code section 3208 or has, for a continuous six-month period either maintained production of oil or natural gas, maintained production of water used in production stimulation or been used for enhanced oil recovery, reservoir pressure management, or injection. Section 1723.9 does not define an idle well, it simply directs the operator to the correct code section for testing requirements once a well has become idle.

0003-2
Commenter observes that section 1723.9 does not consider the applicable exemption to section 1772.1 provided under section 1772.7. Commenter seeks clarification and recommends the following amendment, "Operators shall comply with all of the **applicable** requirements in section 1772.1 for the testing of idle wells.

Response to Comment 0003-2: NOT ACCEPTED. Proposed section 1723.9 directs operators to comply with the requirements of section 1772.1. However, under section 1772.7, if an idle well penetrates a gas storage reservoir and is subject to the mechanical integrity testing requirements of section 1726.6, the operator is not required to meet the requirements of section 1772.1.

1752. Wells Partially Plugged

0002-1
Section 1752 should allow for the temporary or partially plugging of conductors. The commenter currently has conductors that were set more than two years ago. "These conductors are 80' deep and are included in future development."

Response to Comment 0002-1: NOT ACCEPTED. Public Resources Code Section 3206.1 provides that, at the discretion of the Division, the regulations may provide an option for temporary or partial well abandonment in lieu of compliance with the requirements of the proposed regulations. Proposed section 1752 provides guidance regarding when a well may be partially plugged, including testing requirements for partially plugged wells. The regulations do not, however, provide for the temporary

abandonment of a well. Similarly, the regulations do not provide for exemptions for conductors. If a conductor is partially abandoned it must be done so in accordance with proposed section 1752.

1760. Definitions

0002-3

Section 1760, "Waste water," means produced water that after being separated from the produced oil may be of such quality that discharge to land requirements need to be set by a California Regional Water Quality Control Board. To ensure DOGGR remains the primary subsurface injection agency and maintains sole primacy of injection of Class II fluids, commenter recommends the addition of this definition.

Response to Comment 0002-3: NOT ACCEPTED. The proposed regulations change the regulations for idle well testing and management. The definition section is modified by the inclusion of new definitions related only to idle well testing and management. Waste water is not related to idle well testing and management and is outside the scope of this rulemaking.

1772.1. Testing of Idle Wells

0004-1

"Currently, there are approximately 29,529 idle oil wells in California. On average, these wells have been idle for over 16 years. In fact, over 1,000 of such oil wells have been idle for over 100 years. As California is a state of rapid urban development, a large portion of these idle wells are now likely inaccessible due to such development (i.e., roads, buildings, etc.). The Requirements for Idle Well Testing and Management should be revised in order to allow the Division to exercise discretion relating to such inaccessible wells."

The commenter recommends the following revisions to the text of the regulations:

- Addition of language: "Upon the Division's approving an operator's demonstration that a well is inaccessible, the operator is no longer required to include the inaccessible well in the Operator's Idle Well Inventory and Evaluation, as required by Section 1772, to the extent no hazards are posed by the well"
- Removing the requirement in section 1772.1(d)(1)(C) that an operator plan and commit to plugging and abandoning an inaccessible well if the well becomes accessible.

Response to Comment 0004-1: NOT ACCEPTED. Section 1772 requires an operator submit an Idle Well Inventory and Evaluation to the Division that contains information for each of the operator's idle wells. The Idle Well Inventory and Evaluation ensures that data about risk factors is readily available to facilitate a risk-based approach for the management of idle wells, including inaccessible idle wells.

Requiring operators to plug and abandon an inaccessible well if the well ever becomes accessible is necessary because a well that is not properly plugged and abandoned poses potential threats. Accordingly, it is necessary to plug and abandon an inaccessible well if the well becomes accessible to ensure that the risk posed by the well can be mitigated.

Multi-Section Comments

0003-3

Commenter observes the compliance dates from the first revised text have not been extended forward according to the ongoing process of the current rulemaking. Commenter “suggests an additional 6-months and/or dates equivalent to at least 6-months from the effective date of the regulations (or longer for other sections) for the following sections: 1752(c); 1772.1(a)(1); 1772.1.2(i); 1772.1.4(a)(b)(d)(e)(g); 1772.5(c).”

Response to Comment 0003-3: NOT ACCEPTED. The dates which appeared in the first revised text of the regulations are based upon an April 1, 2019 effective date. Operators have been made aware of the regulatory changes before the changes go into effect and an effective date of April 1, 2019 will provide operators adequate time to comply with the new requirements before the new requirements go into effect. The effective date will trigger requirements for operators to begin planning for the compliance requirements imposed by the regulations over a period of several years.

0003-4

The commenter seeks clarification on the interpretation of section 1772.7. Commenter interprets section 1772.7 as exempting underground gas storage wells subject to the mechanical integrity testing requirements of section 1726.6 from the requirements of sections 1772.1, 1772.1.1, 1772.1.2 and 1772.5 and also from the requirements of sections 1772.1.3, 1772.1.4, 1772.2, 1772.3, and 1772.4.

Response to Comment 0003-4: NOT ACCEPTED. Proposed section 1772.7 exempts idle wells penetrating a gas storage reservoir from the requirements of section 1772.1, 1772.1.1, 1772.1.2, and 1772.5 if the idle well is subject to the mechanical integrity testing requirements of section 1726.6. If an operator has an idle well that does not penetrate the storage reservoir, the idle well does not qualify for the exemptions provided in section 1772.7.

Section 1772.1.3, casing diagrams, provides the requirements for casing diagrams submitted under the requirements of section 1772.1.2. Under section 1772.7, an idle well that penetrates a gas storage reservoir and is subject to the mechanical integrity testing requirements of section 1726.6, the operator is not required to meet the requirements of section 1772.1.2. An operator is only required to comply with section 1772.1.3 if the operator has to comply with section 1772.1.2. Accordingly, if a well is exempt from the requirements of section 1772.1.2 the operator does not have to submit a casing diagram for the well under section 1772.1.3. However, the operator may still be required to comply with the casing diagram requirements under section 1726.4.1.

Section 1772.1.4, idle well testing compliance work plan, requires operators, in part, to submit a schedule for testing idle wells. Idle wells that penetrate a gas storage reservoir and are subject to the mechanical integrity testing requirements of section 1726.6 are not required to meet the testing requirements of section 1772.1. Accordingly, if an operator does not have any idle wells subject to the requirements of section 1772.1, the operator does not need to submit a testing compliance work plan under section 1772.1.4. If, however, the idle well does not penetrate a gas storage reservoir or if the well is not subject to the mechanical integrity requirements of section 1726.6, the operator must submit a testing compliance work plan under section 1772.1.4.

Section 1772.2, idle well testing waiver plan, is a schedule for plugging and abandoning idle wells. If an operator is not scheduling an idle well for plugging and abandonment as part of an idle well testing waiver plan, the operator does not need to submit an idle well testing waiver plan.

Section 1772.3, idle well management plan, only applies to idle wells scheduled to be plugged and abandoned as part of an Idle Well Management Plan approved by the Division under Public Resources

Code section 3206, subdivision (a)(2). If an operator does not have an Idle Well Management Plan approved by the Division, the operator is not required to comply with section 1772.3.

Section 1772.4, prioritization of idle wells for testing and plugging and abandonment, requires operators submitting a Testing Compliance Work Plan under section 1772.1.4, a Testing Waiver Plan under section 1772.2, or an Idle Well Management Plan under Public Resources Code section 3206, subdivision (a)(2) to consider a set of factors when prioritizing idle wells for testing or plugging and abandonment. If an operator does not submit any of these plans, the operator does not have to use the prioritization criteria under section 1772.4. If, however, an operator submits a Testing Compliance Work Plan, a Testing Waive Plan, or an Idle Well Management Plan, the operator must consider the prioritization criteria under section 1772.4.