

## **ABANDONMENT OF OIL/GAS LEASES**

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### **Sec. 35-323. Abandonment of Certain Oil/Gas Land Uses.**

*(Added by Ord. 4551, 9/21/04)*

#### ***Sec. 35-323.1. Purpose and Intent.***

This section establishes procedures to achieve the timely abandonment of applicable land uses, and following such abandonment, the timely and proper removal of applicable oil and gas facilities, reclamation of host sites, and final disposition of pipelines, in compliance with applicable laws and permits. Such procedures ensure appropriate due process in differentiating idled from abandoned facilities and protect the vested rights of permittees while also ensuring that facilities with no reasonable expectation of restarting are removed, pursuant to the intent of enabling development permits. Timely abandonment provides a public benefit by avoiding unnecessary delays in remediating any residual contamination that may result during operations, and providing an effective means of mitigating several significant environmental and socioeconomic effects, including aesthetics, compatibility with surrounding land uses, and risk of default on demolition and reclamation obligations by the permittee.

#### ***Sec. 35-323.2. Applicability.***

Section 35-323 shall apply to the following land uses within the unincorporated area of the County:

1. All permitted uses defined in Sections 35-296 and 35-298 of this Chapter that handle, or at one time handled, oil, natural gas, natural gas liquids, produced water, or waste water that originated from an offshore reservoir, regardless of whether these uses were permitted in accordance with this Chapter or any preceding ordinance.
2. All permitted uses defined in Section 35-297 of this Chapter, regardless of whether these uses were permitted in accordance with this Chapter or any preceding ordinance.
3. All pipeline systems defined in Section 35-290, except for public utility natural gas transmission and distribution systems such as The Gas Company, that transport, or at one time transported, oil, natural gas, produced water, or waste water that originated from an offshore reservoir, regardless of whether these uses were permitted in accordance with this Chapter or any preceding zoning ordinance.
4. Unless specifically stated otherwise, reclamation of sites and corridors used to support any of the operations identified in 35-323.2.1, 2 or 3, above.

#### ***Sec. 35-323.3. Requirement to File an Application.***

1. The permittee of a permitted land use shall submit an application to the Director for a Demolition & Reclamation Permit (ref. Sec. 35-323.9 *et seq.*) upon intentional abandonment of a permitted land use, or an independent business function thereof.

## **ABANDONMENT OF OIL/GAS LEASES**

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2. The permittee of a permitted land use shall submit an application to the Director either to defer abandonment (ref: Section 35-323.4 *et seq.*) or to obtain a Demolition & Reclamation Permit (ref: Section 35-323.9 *et seq.*) upon the occurrence of either of the following:
  - a. Any event designated in an existing County permit that would require consideration of abandonment; or
  - b. The permitted land use or an independent business function of a permitted land use has become idle.

### ***Sec. 35-323.4. Filing an Application to Defer Abandonment.***

Any permittee subject to the requirements of Section 323.3.2 may file an application to defer abandonment, which shall be considered by the Director. The application shall be filed no later than 90 days after an event specified in Section 323.3.2 has occurred.

### ***Sec. 35-323.5. Contents of Application to Defer Abandonment.***

The application to defer abandonment shall be in a form and content specified by the Director and this chapter. Such applications shall contain the following:

1. Name, address, and contact information for permittee;
2. Name, address, and general description of the permitted land use
3. Date when permitted land use first became idle.
4. Reason for idle status.
5. Status of upstream production facilities, where applicable.
6. Listing of facility equipment that has been identified on a plan (submitted in satisfaction of a County, Fire, or APCD permit) and has been either removed from the site or is not currently in operational condition. Include an explanation of the affect this missing or inoperable equipment has on ability to restart operations and run all processes. Also explain measures necessary to bring inoperable equipment back into operational condition.
7. Plans and schedule to restart operations and identification of any facility components that would remain inactive after restart.
8. Identification of reasonable circumstances that may hinder the restart of operations according to plan and schedule.
9. Any other information deemed necessary by the Director.

### ***Sec. 35-323.6. Processing of Application to Defer Abandonment.***

## **ABANDONMENT OF OIL/GAS LEASES**

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The Director shall determine the completeness of any application and issue a completeness letter within 30 days of receipt. If the application is deemed incomplete, the Director shall specify in detail the deficiencies in the application.

1. The applicant shall submit information in response to an incompleteness letter within 60 days of receipt or, if it is not practicable to respond within a 60-day period, shall request an extension, not to exceed 60 additional days (total of 120 days to respond), within which to provide the required information.
2. The Director may choose, at his or her discretion, to conduct a public hearing to consider any application to defer abandonment. The public shall be given all reasonable opportunity to review the Director's recommended decision no less than ten days prior to conducting a public hearing on any application to defer abandonment in accordance with applicable noticing procedures specified in Sec. 35-326.
3. The Director shall refer an application to defer abandonment to the Fire Department and Air Pollution Control District for review and comment.

### ***Sec. 35-323.7. Decision on Application to Defer Abandonment.***

1. Decisions for Idle Facilities. The Director shall grant the application unless the evidence shows that an idle facility has no reasonable possibility of being restarted or the owner has no intent of restarting the facility within a reasonable period of time. Notwithstanding the above, the Director shall approve the application for any pipeline subject to the jurisdiction of the Federal Energy Regulatory Commission if that Commission has determined that abandonment is not appropriate. The Director shall consider all relevant evidence in determining if a permitted land use has been abandoned, including whether any of the following have occurred:
  - a. The oil and gas leases that have supplied the permitted land use with product have terminated.
  - b. The oil and gas operations that have supplied the permitted land use with product have been abandoned.
  - c. For oil/gas land uses designated as consolidated facilities and sites under the zoning code, there are no other existing offshore leases that may reasonably be expected to use the consolidated facility or site in the next 10 years.
  - d. Major and essential components of a land use, or an independent business function thereof, have been removed from the site or have fallen into such disrepair that they are no longer functional.

## **ABANDONMENT OF OIL/GAS LEASES**

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- e. Permits or other entitlements for the land use, such as permits from the Air Pollution Control District, have been surrendered, expired, revoked or otherwise rendered invalid and no intent has been demonstrated to renew or reacquire such permits.
  - f. The Fire Department has issued an order requiring abandonment.
  - g. Any other evidence that shows clear intent to abandon.
2. Decisions for Consideration of Abandonment under Permit Conditions. The Director shall grant the application unless:
- a. The Director finds under the applicable existing permit condition that abandonment of the permitted land use or independent business function thereof is required without further delay; and
  - b. The permittee no longer has a vested right to continue operation.
3. The Director's decision shall be transmitted by a public notice pursuant to applicable provisions of Section 35-326.
4. The Director's decision may be appealed to the Planning Commission within 30 days of noticing such decision. The Director's decision shall be final upon conclusion with the 30-day appeal period if no appeals have been filed. All appeals shall follow procedures specified in Section 35-327.

### ***Sec. 35-323.8. Deferral Period and Extensions of Approval to Defer Abandonment.***

The Director may approve an abandonment deferral for a period not to exceed 24 months from the occurrence of an event defined in Sec. 35-323.3.2.a or b. The Director may extend this period for one-year increments upon timely application by the operator. Applications for extensions shall be filed 90 days prior to the end of the approved abandonment-deferral period and shall contain the information specified in section 35-323.5, above. Deferrals and extensions shall not be granted if another County agency, such as the Fire Department, has properly denied the deferral or extension.

### ***Section 35-323.9. Filing an Application for a Demolition & Reclamation Permit.***

Any permittee of a permitted land use that has not filed an application to defer abandonment pursuant to Section 35-323.4, or who has filed and that application has been denied, shall file an application for a Demolition & Reclamation Permit. The application for a Demolition & Reclamation Permit shall be filed no later than 180 days after an application to defer abandonment has been denied and all administrative appeals have been exhausted. If no application to defer abandonment has been filed, an application for a Demolition & Reclamation

## **ABANDONMENT OF OIL/GAS LEASES**

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Permit shall be filed no later than 180 days after an event in Section 35-323.3.1 or 35-323.3.2 has occurred. The Director may grant extensions of time for good cause.

### ***Section 35-323.10. Content of Application for a Demolition & Reclamation Permit.***

The application for a Demolition & Reclamation Permit shall contain the following.

1. Name, address, and contact information for permittee.
2. Name, address, and general description of the permitted land use.
3. Gross and net acreage and boundaries of the property.
4. Location of all structures, above and underground, proposed to be removed.
5. Location of all structures, above and underground, proposed to remain in-place.
6. Location of all utilities on the property.
7. Location of all easements on or adjacent to the property that may be affected by demolition or reclamation.
8. To the extent known, the type and extent of all contamination and proposed remedial actions to the level of detail that can be assessed through environmental review. This information does not require a new or modified Phase 2 site assessment in advance of any such requirement by the Fire Department or State agencies with regulatory oversight of site assessments.
9. Location of areas of geologic, seismic, flood, and other hazards.
10. Location of areas of prime scenic quality, habitat resources, archeological sites, water bodies and significant existing vegetation.
11. Location and use of all buildings and structures within 50 feet of the boundaries of the property.
12. A proposed decommissioning plan that details the activities involved in removing structures from the site, including the following details: estimated number of workers required on site to decommission facilities and structures, disposition of equipment and structures proposed for decommissioning, projected method of transporting equipment, structures, and estimated debris from the site to the place of disposition as well as number of trips required, and an estimated schedule for decommissioning facilities.
13. A proposed waste-management plan to maximize recycling and minimize wastes.
14. Other permit applications as may be required by the Santa Barbara County Code to retain any existing structures, roadways, and other improvements to the property that were ancillary to the oil or gas operations and are proposed to be retained to support other

## **ABANDONMENT OF OIL/GAS LEASES**

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existing or proposed uses of the property following abandonment of the oil and gas operations.

15. A proposed grading and drainage plan.
16. A proposed plan to convert site to natural condition or convert to another proposed land use, including a detailed schedule for restoring the site. In the latter case, include other applicable permit applications required, if any, for the proposed land use.
17. A statement of intent as to the disposition of utilities that served the oil and gas operations, including water, power, sewage disposal, fire protection, and transportation.
18. Measures proposed to be used to prevent or reduce nuisance effects, such as noise, dust, odor, smoke, fumes, vibration, glare, traffic congestion, and to prevent danger to life and property.
19. Any other information deemed necessary by the Director to address site-specific factors.

### ***Section 35-323.11. Processing of Demolition & Reclamation Permit.***

1. The Planning and Development Department shall process applications for Demolition & Reclamation Permits through environmental review after determining such applications to be complete.
2. The Planning and Development Department shall process complete applications for Demolition & Reclamation Permits independently of any other permit applications to develop the site in question. However, Demolition & Reclamation Permits may be processed concurrently with development permits, provided that long delays in securing approval of development permits do not unduly hinder timely demolition of facilities and reclamation of host sites.
3. The Director's decision shall be transmitted by a public notice pursuant to applicable provisions of Section 35-326.
4. The Director's decision may be appealed to the Planning Commission within 30 days of noticing such decision. The Director's decision shall be final upon conclusion with the 30-day appeal period if no appeals have been filed. All appeals shall follow procedures specified in Section 35-327.
5. Upon approval of the Demolition & Reclamation Permit or upon abandonment of operations, whichever occurs later, the Demolition & Reclamation Permit shall supersede any discretionary use permit issued for construction and operation of the facilities.

### ***Section 35-323.12. Findings Required for Approval of a Demolition & Reclamation Permit.***

## **ABANDONMENT OF OIL/GAS LEASES**

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A Demolition & Reclamation Permit shall only be approved if all of the following findings are made:

1. That significant adverse impacts to the environment due to demolition and reclamation are mitigated to a level of insignificance or, where impacts cannot feasibly be mitigated to insignificance, they are mitigated to the maximum extent feasible.
2. That, where applicable, streets and highways are adequate and properly designed to carry the type and quantity of traffic generated by the proposed demolition and reclamation.
3. That any conditions placed upon the operator or responsible party for assessment or remediation of soil or water contamination fully conform with the permitting process and requirements of the Regional Water Quality Control Board and the Santa Barbara County Fire Department.
4. That the proposed reclamation will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood, and will not be incompatible with the surrounding area.
5. That the site will be restored to natural conditions unless any of the following conditions apply:
  - a. Areas within the site are subject to approved development, in which case restoration and landscaping of these areas will conform to the newly permitted development. In cases where development is proposed but not yet permitted, restoration of affected areas to natural conditions may be waived, provided that such development is permitted within five years and the permittee has posted financial assurances acceptable to the Director to assure restoration to natural conditions if the proposed development is not permitted.
  - b. Areas within the site are subject to agricultural uses that do not require a County permit, in which case the restoration will conform to conditions appropriate for such agricultural uses where they occur.

For purposes of this finding, the Director may allow abandonment in-place of specific improvements such as retaining walls or emergency access roads if the Director finds that their removal would be detrimental to the health, safety or welfare of the public or the environment (e.g., undesired destabilization of slopes due to removal of a retaining wall).

6. That any retention of improvements to land has been duly permitted in accordance with the County Code where permits are required.

## **ABANDONMENT OF OIL/GAS LEASES**

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7. That the proposed reclamation will leave the site in a condition that is compatible with any existing easements or dedications for public access through, or public use of a portion of the property.
8. That the permit conditions contain specific enforceable requirements to ensure the timely closure of the host site and completion of post-closure activities.

### ***Section 35-323.13. Performance Standards for Demolition & Reclamation Permits.***

1. All equipment shall be cleaned of oil or other contaminants prior to dismantlement in order to reduce any risk of contamination of soils or water during demolition of the facility to the maximum extent feasible. Where applicable, the permittee shall prepare and submit a Spill Contingency Plan to the Fire Department. This plan shall identify measures to prevent and contain spills during dismantling and removal of facilities, as well as how spills will be cleaned up once they have occurred.
2. The permittee shall obtain all other necessary permits from other agencies and, where applicable, submit proof of permits issued by the California Division of Oil, Gas, and Geothermal Resources to plug and abandon wells or to inject waste water for purposes of disposal into any State oil and gas field prior to issuance of the Demolition & Reclamation Permit.
3. The demolition and reclamation shall be adequately monitored by a qualified individual, funded by the permittee and retained by the County, to ensure compliance with those conditions designed to mitigate anticipated significant, adverse effects on the environment, and to provide recommendation instances where effects were not anticipated or mitigated by the conditions in the permit. Pre- and post-reclamation surveys of sensitive resources shall be employed as appropriate to measure compliance.
4. Topsoil shall be stockpiled, covered, and saved for use as topsoil when excavated areas are backfilled, unless such soil is treated onsite or removed for offsite disposal due to contamination.
5. If appropriate, truck traffic transporting materials to and from the site shall avoid arriving or departing the site during the peak traffic hours of 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. weekdays (or other peak-hour periods applicable to the location of the traffic).
6. Adequacy of sight distance, ingress/egress and emergency access shall be verified by the Public Works Department and Fire Department.

## **ABANDONMENT OF OIL/GAS LEASES**

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7. Measures shall be implemented to inhibit dust generation, where appropriate. Unavoidable generation of dust shall be kept to a minimum through effective controls.
8. The permittee implements a viable recycling plan that meets County approval and includes provisions to maximize recycling of equipment, asphalt, and concrete, and to minimize disposal of wastes into hazardous waste and solid waste management facilities to the maximum extent feasible.
9. Contouring of the land shall be compatible with the surrounding natural topography, unless otherwise approved to accommodate another permitted use or required drainages.
10. Appropriate measures shall be implemented to control erosion both during and after site closure.
11. Establishment of vegetation shall be in conformance with an approved revegetation plan and the following standards:
  - a. In accordance with the County's Fire Plan, as implemented by the County Fire Department, all disturbed areas identified for vegetation shall be disked or ripped to an appropriate depth to eliminate compaction and establish a suitable root zone in preparation for planting, except where such requirement poses a significant adverse environmental impact.
  - b. Native seeds and plants shall be used when returning the area to natural conditions. The Director shall define an acceptable geographic area from which genetically compatible, native –seed stocks may be selected for site restoration in order to protect the genetic integrity and the habitat value of the site and its surrounding area. Other seeds, such a pasture mix, shall be allowed in areas designated for such use.
12. Subsurface segments of inter-facility pipelines may be abandoned in-place except under the following circumstances:
  - a. Presence of the pipeline would inhibit future land uses proposed in an active development application.
  - b. Modeling approved by the U.S. Army Corp. of Engineers or U.S. Bureau of Reclamation indicates that segments of the pipeline in erosive locations would become exposed at some time during the next 100 years, and environmental review determines that impacts from exposure and subsequent removal during inclement weather are more significant than removal at the time of abandonment.

## **ABANDONMENT OF OIL/GAS LEASES**

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13. Appropriate notification has been recorded with the County Clerk-Recorder to update, supersede, or release the recorded rights-of-way where a subsurface pipeline is abandoned in-place. This notice shall describe the presence and location of the abandoned pipeline, any material placed in the pipeline for abandonment, and the operator and owner of the pipeline prior to abandonment.
14. The site shall be assessed for previously unidentified contamination. Any discovery of contamination shall be reported to the Director and the Fire Department. The permittee shall diligently seek all necessary permit approvals, including revisions to the Demolition & Reclamation Permit, if any are required in order to remediate the contamination.
15. The Director, in consultation with other County agencies, may impose other appropriate and reasonable conditions or require any changes to the project as deemed necessary to protect the health, safety, and welfare of the public, protect property, preserve the character, natural resources, or scenic quality of the area, or implement the purpose of this Chapter or any other chapter of the County Code.
16. In the case of an Independent Business function of a Permitted Land Use, the Director shall have discretion to determine the timing and extent of the requirements of the Demolition & Reclamation Permit. Factors that the Director may consider include:
  - a. Whether removal of the Independent Business function would substantially reduce the overall footprint of the Permitted Land Use, reduce any significant visual impact, or reduce any significant risk to public safety.
  - b. Whether site restoration is feasible at the time the Independent Business function is removed, compared to deferring site restoration to such time that the entire Permitted Land Use is removed.
17. Appropriate notification has been recorded with the County Clerk-Recorder to describe the presence and location of any contamination left in place under the authority of the Fire Department.

### ***Sec. 35-323.14. Revocation of Entitlement to Land Use.***

1. All entitlements provided in any use permits issued under this ordinance, or under any preceding zoning ordinance, to use the facilities shall be automatically revoked and no longer effective upon the County's denial of an application to defer abandonment and exhaustion of available administrative remedies. Requirements of use permits necessary to ensure continued protection of public and environmental health, safety and welfare shall continue in full force and effect, including:

## **ABANDONMENT OF OIL/GAS LEASES**

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- a. Conditions that specify liability of the owner, operator, and other persons.
- b. Conditions that specify payment of County fees and costs.
- c. Conditions that indemnify the County.
- d. Where applicable, conditions that specify the County's authority to require abatement of public nuisances or require mitigation of environmental impacts that may occur prior to issuance of a Demolition & Reclamation Permit.
- e. Where applicable, conditions that require oil spill prevention, preparedness, and response.
- f. Where applicable, conditions that require emergency preparedness and response.
- g. Where applicable, conditions that require safety inspections, maintenance, and quality assurance.
- h. Where applicable, conditions that require site security.
- i. Where applicable, conditions that require fire prevention, preparedness, protection and response.
- j. Where applicable, conditions that require payment of fees, including fees that provide mitigation for ongoing impacts to the environment (e.g., payments to the Coastal Resource Enhancement Fund).
- k. Substantive conditions that address abandonment; however procedural requirements for abandonment, demolition, and reclamation shall conform to Section 35-323 of this Chapter.

Upon revocation of entitlements in a use permit, the Director shall notify the owner or operator and include a list of permit conditions that remain in full or partial force.

2. All use permits issued under this ordinance, or under any preceding zoning ordinance, shall be automatically revised to remove any entitlement to continue the use of any independent business function of a permitted land use determined to be abandoned in accordance with Section 35-323. However, permit conditions necessary to ensure continued protection of public and environmental health, safety and welfare, such as those identified in Sec. 35-323.14.1, shall continue in full force and effect.
3. The permittee shall have a grace period of two years from the date of revocation of entitlements in use permits in order to secure a Demolition & Reclamation Permit. The Director may extend the grace period no more than one year, cumulatively, for good cause, or for longer periods for delays attributable to circumstances beyond the permittee's control.

## **ABANDONMENT OF OIL/GAS LEASES**

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4. Upon completion of the grace period, the abandoned land use or independent business function shall be treated as a deserted and illegal land use until such time that the permittee secures approval of a Demolition & Reclamation Permit.

### ***Sec. 35-323.15. Expiration of a Demolition & Reclamation Permit.***

1. Requirements. The permittee shall complete all requirements of the Demolition & Reclamation Permit prior to the expiration of the permit, including any extensions thereof. Failure to do so shall constitute a violation of this Article.
2. Term. Demolition & Reclamation Permits shall expire upon issuance of a “Reclamation Complete” letter by the Director, which shall be issued upon the satisfactory completion of the required work, or seven years after the date of issuance, whichever occurs sooner. Director’s “Reclamation Complete” letter shall certify completion of all required work except for remediation of contamination, which is certified by other agencies.
3. Extensions. The Director may extend the expiration date of the permit without penalty if the closure or re-vegetation of the site was delayed by circumstances reasonably beyond the permittee’s control. Otherwise, Director may extend the expiration date of the permit with penalties, pursuant to Section 35-330 of this Article, in order to realize completion of all site closure and post-closure requirements. If the permittee requests a time extension for this project, the Director may revise the Demolition & Reclamation Permit to revise conditions and mitigating measures or to add new conditions and mitigating measures, which reflect changed circumstances, including newly identified impacts.

### **Sec. 35-324. Reserved for Future Section.**