

OIL AND GAS (58 PA.C.S.) - OIL AND GAS WELL PLUGGING OVERSIGHT,
BONDING, WELL PLUGGING FUNDS AND RELATED REPEAL
Act of Jul. 19, 2022, P.L. 1622, No. 96 Cl. 58
Session of 2022
No. 2022-96

HB 2644

AN ACT

Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated Statutes, providing for oil and gas well plugging oversight; in development, further providing for bonding and for well plugging funds; establishing the Oil and Gas Well Plugging Grant Program; and making a related repeal.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 58 of the Pennsylvania Consolidated Statutes is amended by adding a chapter to read:

CHAPTER 28

OIL AND GAS WELL PLUGGING OVERSIGHT

Subchapter

- A. Preliminary Provisions
- B. Orphaned Well Site Plugging, Remediation and Restoration Program
- C. Oil and Gas Well Plugging Grant Program

SUBCHAPTER A

PRELIMINARY PROVISIONS

Sec.

2801. Scope of chapter.

2802. Definitions.

§ 2801. Scope of chapter.

This chapter relates to oil and gas well plugging oversight.

§ 2802. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Department." The Department of Environmental Protection of the Commonwealth.

"Eligible well." An orphan well that meets the requirements under section 2823(b) (relating to eligible wells).

"Orphan well." As defined in section 3203 (relating to definitions).

"Qualified well plugger." A person that meets the requirements of section 2824 (relating to qualified well plugger).

SUBCHAPTER B

**ORPHANED WELL SITE PLUGGING, REMEDIATION
AND RESTORATION PROGRAM**

Sec.

2811. Allocation of funding.

§ 2811. Allocation of funding.

(a) Requirements.--Federal money received from the Orphaned Well Site Plugging, Remediation and Restoration Program under section 40601 of the Infrastructure Investment and Jobs Act (Public Law 117-58, 135 Stat. 429) shall be subject to the following:

(1) The amount of 80% received shall be deposited into the Orphan Well Plugging Fund.

(2) The amount of 20% is hereby appropriated on a continuing basis to the department for grants under Subchapter C (relating to Oil and Gas Well Plugging Grant Program).

(b) Records.--The department shall keep records sufficient to document compliance with the requirements imposed under the Orphaned Well Site Plugging, Remediation and Restoration Program. The department may not impose requirements on the recipients of the Federal money under subsection (a)(2) that are stricter than the requirements imposed under State law when awarding grants under Subchapter C.

SUBCHAPTER C

OIL AND GAS WELL PLUGGING GRANT PROGRAM

Sec.

2821. Establishment of program.

2822. Grants.

2823. Eligible wells.

2824. Qualified well plugger.

2825. Applications and review process.

2826. Reports.

§ 2821. Establishment of program.

The Oil and Gas Well Plugging Grant Program is established as a program within the department.

§ 2822. Grants.

(a) Availability.--A qualified well plugger that plugs an eligible well shall be eligible for a grant as provided under this subchapter.

(b) Amount.--Subject to subsection (c), a grant under this subchapter shall be:

(1) In the amount of \$10,000 for every eligible well plugged that is an orphan well of a depth of 3,000 feet or less.

(2) In the amount of \$20,000 for every eligible well plugged that is an orphan well of a depth greater than 3,000 feet.

(c) Adjustment.--

(1) If the department finds that it is not receiving an adequate number of applications for grants under this section, the department may increase the amounts under subsection (b) at its discretion by posting the increased amounts on its publicly accessible Internet website.

(2) The department may not decrease the amounts specified in this subsection.

§ 2823. Eligible wells.

(a) Review of known orphan wells.--No later than 30 days after the effective date of this subsection, the department shall review available documentation on all known orphan wells with no known owner or operator.

(b) Determination of eligible wells.--No later than 45 days after the effective date of this subsection, the department shall designate each orphan well reviewed under subsection (a) as an eligible well if it meets the following requirements:

(1) The orphan well is not plugged in accordance with the requirements of section 3220 (relating to plugging requirements).

(2) No amount of a bond under section 3225 (relating to bonding) is available to pay for the plugging of the orphan well.

(3) No person who is financially responsible for the plugging of the orphan well is known to the department or likely to be identifiable.

(c) Publication of notice of availability of grants.--No later than 60 days after the effective date of this subsection, the department shall publish on its publicly accessible Internet website all of the following:

(1) A list of each eligible well and any relevant identifying information.

(2) Any available technical data that would be necessary for a qualified well plugger to plug each eligible well on the list under paragraph (1).

(d) Publication of notice of updated availability of grants.--The department shall periodically update the notice under subsection (c) to identify all of the following:

(1) Which eligible well has been the subject of an approval under section 2825 (relating to applications and review process).

(2) Which eligible well has been plugged in accordance with section 3220.

(e) Plugging contract discretion.--The department may remove an eligible well from the list under subsection (c) that the department makes available for plugging through a contracting process. Upon removing an eligible well from the list, the department shall update the notice and list under subsection (c) to reflect the removal.

§ 2824. Qualified well plugger.

(a) Criteria.--A person shall qualify as a qualified well plugger if the person meets any of the following criteria:

(1) The person has drilled 10 or more wells in this Commonwealth in accordance with section 3211 (relating to well permits).

(2) The person has plugged 10 or more wells in this Commonwealth in accordance with section 3220 (relating to plugging requirements).

(3) The person otherwise demonstrates access to the equipment, materials, resources and services to plug wells in accordance with section 3220.

(b) Legal responsibility.--A qualified well plugger shall not be the person who is legally responsible for plugging the orphan well.

§ 2825. Applications and review process.

(a) Application form.--No later than the date that the notice of availability under section 2823(c) (relating to eligible wells) is published, the department shall make an application form for a grant under this subchapter available on the department's publicly accessible Internet website.

(b) Content of applications.--An application submitted by a qualified well plugger shall contain all of the following:

(1) The name of the qualified well plugger.

(2) A list of eligible wells listed under section 2823(c) that the qualified well plugger intends to plug in accordance with the requirements of section 3220 (relating to plugging requirements) if approved for a grant under this subchapter.

(3) A certification that the qualified well plugger has legal authority to access and perform the activities needed to plug each well listed under paragraph (2).

(c) Acceptance of applications.--

(1) The department shall begin accepting applications under subsection (a) no later than the date that the application is made available under subsection (a).

(2) As additional amounts are appropriated to the department for the grant program under this subchapter after the effective date of this subsection, the department shall

begin accepting applications under subsection (a) no later than seven days after the additional money is appropriated.

(d) Review.--The department shall review and approve applications received under subsection (c) on a rolling basis.

(e) Initial approval.--

(1) If an application submitted under subsections (b) and (c) meets the requirements of this subchapter and if the amount of grant money that the qualified well plugger would be eligible to receive remains available, the department shall approve the application and shall notify the applicant which orphan wells on the list under subsection (b)(2) for which the qualified well plugger has been approved to receive a grant.

(2) An approval under this subsection shall be made within seven days of the receipt of the application. The department shall provide notice of the approval to the qualified plugger within three days of the date of approval.

(f) Awarding of grant.--An approved well plugger shall be awarded a grant if all of the following requirements are met:

(1) The qualified well plugger was previously approved under subsection (e).

(2) The qualified well plugger plugged an orphan well for which the qualified well plugger was approved under subsection (e).

(3) The qualified well plugger has submitted a plugging certificate, prepared and signed, on a form furnished by the department, by two experienced and qualified individuals who participated in the work and specified the time and manner in which the well was plugged.

(g) Amount of grant.--The amount of the grant awarded under subsection (f) shall be the sum of the amounts under section 2822 (relating to grants) for which the qualified well plugger is approved under subsection (e). If the qualified well plugger encounters unusual technical difficulties due to the condition of an orphan well, the department may, upon awarding the grant, reimburse the qualified well plugger with an additional grant amount. The additional grant amount under this subsection shall not exceed the amount of the grant for a specific orphan well. The department may not award the additional grant amount under this subsection to a qualified well operator without receiving an adequate proof of cost from the qualified well plugger.

(h) Civil immunity.--A person who voluntarily provides equipment, materials, resources or services for plugging an orphan well in accordance with this subchapter shall be immune from civil liability other than injury or damage resulting from gross negligence or willful misconduct. The person may raise the civil immunity protections specified in this subsection in a legal proceeding brought to enforce the environmental laws of this Commonwealth or otherwise impose civil liability.

§ 2826. Reports.

(a) Requirement.--No later than 21 days after the end of each calendar quarter in which the grant program under this subchapter receives applications, approves applications or awards grants, the department shall issue a report.

(b) Contents.--The report under this section shall include all of the following:

(1) The number of applications received under section 2825(c) (relating to applications and review process) in the quarter, year to date and since the effective date of this subsection.

(2) The number of applications approved under section 2825(e) in the quarter, year to date and since the effective date of this subsection.

(3) The number of grants and the total amount awarded under section 2825(f) in the quarter, year to date and since the effective date of this subsection.

(c) Recipients.--The report under this section shall be made available on the publicly accessible Internet website of the department and shall be submitted to the following:

(1) The chairperson and minority chairperson of the Appropriations Committee of the Senate.

(2) The chairperson and minority chairperson of the Appropriations Committee of the House of Representatives.

(3) The chairperson and minority chairperson of the Environmental Resources and Energy Committee of the Senate.

(4) The chairperson and minority chairperson of the Environmental Resources and Energy Committee of the House of Representatives.

Section 2. Section 3225(a)(1) and (2) of Title 58 are amended and the subsection is amended by adding a paragraph to read:

§ 3225. Bonding.

(a) General rule.--The following shall apply:

(1) Except as provided in subsection (d), upon filing an application for a well permit and before continuing to operate an oil or gas well, the owner or operator of the well shall file with the department a bond covering the well and well site on a form to be prescribed and furnished by the department. A bond filed with an application for a well permit shall be payable to the Commonwealth and conditioned upon the operator's faithful performance of all drilling, water supply replacement, restoration and plugging requirements of this chapter. A bond for a well in existence on April 18, 1985, shall be payable to the Commonwealth and conditioned upon the operator's faithful performance of all water supply replacement, restoration and plugging requirements of this chapter. The amount of the bond required shall be in the following amounts and **amounts under subparagraphs (i) and (ii)** may be adjusted by the Environmental Quality Board every two years to reflect the projected costs to the Commonwealth of plugging the well:

(i) For **unconventional** wells with a total well bore length less than 6,000 feet:

(A) For operating up to 50 wells, \$4,000 per well, but no bond may be required under this clause in excess of \$35,000.

(B) For operating 51 to 150 wells, \$35,000 plus \$4,000 per well for each well in excess of 50 wells, but no bond may be required under this clause in excess of \$60,000.

(C) For operating 151 to 250 wells, \$60,000 plus \$4,000 per well for each well in excess of 150 wells, but no bond may be required under this clause in excess of \$100,000.

(D) For operating more than 250 wells, \$100,000 plus \$4,000 per well for each well in excess of 250 wells, but no bond may be required under this clause in excess of \$250,000.

(ii) For **unconventional** wells with a total well bore length of at least 6,000 feet:

(A) For operating up to 25 wells, \$10,000 per well, but no bond may be required under this clause in excess of \$140,000.

(B) For operating 26 to 50 wells, \$140,000 plus \$10,000 per well for each well in excess of 25 wells, but no bond may be required under this clause in excess of \$290,000.

(C) For operating 51 to 150 wells, \$290,000 plus \$10,000 per well for each well in excess of 50 wells, but no bond may be required under this clause in excess of \$430,000.

(D) For operating more than 150 wells, \$430,000 plus \$10,000 per well for each well in excess of 150 wells, but no bond may be required under this clause in excess of \$600,000.

(iii) For a well other than an unconventional well, \$2,500 per well. For 10 years following the effective date of this subparagraph, the Environmental Quality Board and the department shall have no authority to adjust the amount under this subparagraph.

(2) [In] The following apply:

(i) Except as provided under subparagraph (ii), in lieu of individual bonds for each well, an owner or operator may file a blanket bond for the applicable amount under paragraph [(1)] (1) (i) or (ii), on a form prepared by the department, covering all of its wells in this Commonwealth, as enumerated on the bond form.

(ii) As follows:

(A) An operator may file a blanket bond of \$25,000 for all of the operator's wells in this Commonwealth that are not unconventional wells.

(B) For every new well that is not an unconventional well drilled after six months after the effective date of this subsection, the bond amount for that operator shall increase by \$1,000.

(C) The total blanket bond for an operator's wells that are not unconventional wells shall not exceed \$100,000.

(D) The blanket bond increase of \$1,000 shall be waived by the department for a new well drilled under this subsection if the operator provides evidence to the department that the operator has plugged an orphan well at the operator's own expense for which the operator was not the responsible party within the previous 365 days that the operator has not yet received credit for under this subsection by the department.

(E) For 10 years following the effective date of this clause, the bond amounts for wells that are not unconventional wells may only be revised by the General Assembly. The Environmental Quality Board and the department shall have no authority to adjust bond amounts related to wells that are not unconventional wells during that time period.

(2.1) Notwithstanding any other provision of this section, section 1934-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, shall continue to apply to a well drilled prior to April 18, 1985.

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Section 3. Section 3271(c) (1) of Title 58 is amended to read:
§ 3271. Well plugging funds.

* * *

(c) Orphan Well Plugging Fund.--The following shall apply:

(1) A restricted revenue account to be known as the Orphan Well Plugging Fund is created. A \$100 surcharge for wells to be drilled for oil production and a \$200 surcharge for wells to be drilled for gas production are added to the permit fee established by the department under section 3211 for new wells. The surcharges **and amounts deposited under section 2811(a)(1) (relating to allocation of funding)** shall be placed in the Orphan Well Plugging Fund and expended by the department to plug orphan wells. If an operator rehabilitates a well abandoned by another operator or an orphan well, the permit fee and the surcharge for the well shall be waived.

* * *

Section 4. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the amendment of 58 Pa.C.S. § 3225(a)(1).

(2) Section 1606-E of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, is repealed.

Section 5. This act shall take effect immediately.

APPROVED--The 19th day of July, A.D. 2022.