

OIL AND GAS (58 PA.C.S.) - OMNIBUS AMENDMENTS

Act of Nov. 3, 2022, P.L. 1987, No. 136

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Session of 2022

No. 2022-136

HB 2528

AN ACT

Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated Statutes, in oil and gas well plugging oversight, further providing for allocation of funding, for establishment of Oil and Gas Well Plugging Grant Program, for grants, for eligible wells, for qualified well plugger and for applications and review process; in development, further providing for well plugging funds and providing for well plugging contracts; and making editorial changes.

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

Section 1. Sections 2811, Subchapter C heading of Chapter 28 and sections 2821, 2822, 2823(c), 2824, 2825 and 3271(c)(1) of Title 58 of the Pennsylvania Consolidated Statutes, amended or added July 19, 2022 (P.L.1622, No.96), are amended to read: § 2811. [Allocation of funding.] **Requirements for use of**

Federal 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) **that is appropriated by the General Assembly** 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] **No less than 20% of the amount shall be made available** for grants under Subchapter C (relating to **Orphan** Oil and Gas Well Plugging Grant Program) [.] **for a period of no less than 12 months after publication of the notice under section 2823(c) (relating to eligible wells).**

(3) **If any amount made available under paragraph (2) remains uncommitted six months prior to any date of recapture by the Federal Government, the department may use the amount in any other manner in accordance with Federal law and guidance.**

(b) Records.--The department shall keep records sufficient to document compliance with the requirements imposed under the **Federal** Orphaned Well Site Plugging, Remediation and Restoration Program **and this title**. 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 **or applicable Federal requirements** when awarding grants under Subchapter C.

SUBCHAPTER C

ORPHAN OIL AND GAS WELL PLUGGING GRANT PROGRAM

§ 2821. Establishment of program.

The **Orphan** 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] **\$40,000** for every eligible well plugged that is an orphan well of a depth of 3,000 feet or less **or the actual cost of the qualified well plugger to plug the well, whichever is less.**

(2) In the amount of [\$20,000] **\$70,000** for every eligible well plugged that is an orphan well of a depth greater than 3,000 feet **or the actual cost of the qualified well plugger to plug the well, whichever is less.**

(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.

* * *

(c) Publication of notice of availability of grants.--No later than 60 days after the [effective date of this subsection,] **date of the periodic awarding of funds pursuant to section 349 of the Energy Policy Act of 2005 (Public Law 109-58, 42 U.S.C. § 15907) or the effective date of an appropriation of money to the department for the purposes of this subchapter, whichever is earlier,** 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).

* * *

§ 2824. Qualified well plugger.

(a) Criteria.--A person shall qualify as a qualified well plugger if the person [meets any of the following criteria:] **demonstrates access to the equipment, materials, resources and services to plug wells in accordance with section 3220 (relating to plugging requirements).**

(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.

(c) Effect of continuing violations.--

(1) In order to receive a grant under this subchapter, the applicant, or a parent or subsidiary business entity of the applicant, may not be in continuing violation of this chapter, any other statute administered by the department, a regulation promulgated under this chapter or a statute

administered by the department or a plan approval, permit or order of the department, unless the violation is being corrected to the satisfaction of the department.

(2) This subsection shall not apply to an applicant who has committed a violation until the department has taken a final action on the violation and:

(i) the applicant has not appealed the final action in accordance with the act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act; or

(ii) if an appeal has been filed, no supersedeas has been issued.

§ 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)] **in the next 12 months** 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).

(4) **An attestation that the qualified well plugger will provide the documentation necessary for the department to comply with the provisions of section 2811(b) (relating to allocation of funding).**

(5) **An attestation that each well plugged by the qualified well plugger will be plugged in accordance with section 3220 (relating to plugging requirements).**

(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] **The department shall accept applications until the amount available for grants under section 2811(a) is committed to projects initially approved under subsection (e). As additional amounts are made available for the grant program under this subchapter, the department shall recommence** accepting applications under subsection (a) no later than seven days after the additional money is [appropriated] **made available.**

(d) Review.--The department shall review and approve applications received under subsection (c) on a rolling basis **until the money available has been fully committed to approved projects.**

(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] **15** 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 **complete** 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.

(4) The qualified well plugger has submitted adequate documentation of the cost for the plugging of an orphan well.

(5) The qualified well plugger has submitted any other information or document necessary for compliance with the Federal Orphaned Well Site Plugging, Remediation and Restoration Program.

(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.], **in its discretion, amend the grant award to cover the additional cost, if provided with adequate documentation of those unexpected additional costs.** 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.

§ 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 2. Title 58 is amended by adding a section to read:
§ 3271.1. Well plugging contracts.

(a) General rule.--Notwithstanding any other provision of law:

(1) The department shall allow any Pennsylvania company to bid for a contract that the department plans to award for plugging oil or gas wells, regardless of the size of the company. This paragraph shall not prohibit the department from accepting or awarding bids for contracts for plugging oil or gas wells from companies which are not Pennsylvania companies if no other law, regulation or Executive Order would prevent the company which is not a Pennsylvania company from bidding.

(2) (Reserved).

(b) Definition.--As used in this section, the term "Pennsylvania company" means a business entity that:

(1) has its main offices or headquarters located within this Commonwealth and conducts at least 50% of its business activities within this Commonwealth; or

(2) will bid for State contracts for plugging oil or gas wells and subcontract the work to subcontractors selected through a competitive bidding process that gives priority to subcontractors that satisfy the criteria specified under paragraph (1) when possible.

Section 3. This act shall take effect in 60 days.

APPROVED--The 3rd day of November, A.D. 2022.

TOM WOLF