



JULY 8, 2022

SENATOR VINCENT HUGHES  
Democratic Chairman

## Oil and Gas Well Plugging Oversight

*House Bill 2644, Printer's Number 3364, amends Title 58 (Oil and Gas) to distribute Federal infrastructure money for Orphaned Well Site Plugging, Remediation and Restoration and updates bonding requirements for oil and gas wells. The bonding requirement updates include a ten year ban on any revision in the amounts by the Environmental Quality Board and the Department of*

### Orphaned Well Site Plugging, Remediation and Restoration Program Funding

House Bill 2644 amends Title 58 providing for a new Chapter 28 entitled "Oil and Gas Well Plugging Oversight". This new chapter provides for the allocation of federal money received from the Orphaned Well Site Plugging, Remediation and Restoration Program under the IJA. Funds shall be allocated as follows:

- 80% received shall be deposited into the existing Orphan Well Plugging Fund.
- 20% is appropriated on a continuing basis to a new Oil and Gas Well Plugging grant program.

The Department of Environmental Protection (DEP) shall keep records sufficient to document compliance with the requirements imposed under the Orphaned Well Site Plugging, Remediation and Restoration Program. DEP may not impose requirements on the recipients of federal money from the new grant program that are stricter than the requirements imposed under state law when awarding grants. Grants under the new program shall be:

- \$10,000 for eligible orphan wells plugged with a depth of 3,000 feet or less.
- \$20,000 for eligible orphan wells plugged with a depth greater than 3,000 feet.

If DEP finds that it is not receiving an adequate number of applications for grants under the new program, it may increase the allowable amounts at its discretion by posting the increased amounts on its public website. However, DEP may not decrease allowable amounts.

No later than 30 days after the effective date of the legislation, DEP shall review available documentation on all known orphan wells with no known owner or operator. No later than 45 days after the effective date, DEP shall designate each orphan well reviewed as an eligible well if it meets the following requirements:

- The orphan well is not plugged in accordance with the requirements of section 3220 (relating to plugging requirements).
- No amount of a bond under section 3225 is available to pay for the plugging.

- No person who is financially responsible for the plugging is known to DEP or likely to be identifiable.

No later than 60 days after the effective date, DEP shall publish on its public website notice of the availability of grants to include the following:

- A list of each eligible well and any relevant identifying information.
- Any available technical data necessary for a qualified well plugger to plug each eligible well.

DEP shall periodically update the notice to identify the following:

- Eligible wells that have been the subject of an approval.
- Eligible wells that have been plugged in accordance with section 3220.

DEP may remove an eligible well from the list that it makes available for plugging through a contracting process and, upon removal, shall update the notice and list.

A person shall qualify as a qualified well plugger if they meet any of the following criteria:

- They have drilled 10 or more wells in this Commonwealth in accordance with section 3211 (relating to well permits).
- They have plugged 10 or more wells in this Commonwealth in accordance with section 3220 (relating to plugging requirements).
- They otherwise demonstrate access to the equipment, materials, resources, and services to plug wells in accordance with section 3220.

A qualified well plugger shall not be the person legally responsible for plugging the well.

No later than the date that the notice of availability of grants is published, DEP shall make a grant application form available on its public website. DEP shall begin accepting applications no later than the date that the application is made available. An application submitted by a qualified well plugger shall contain the following:

- Their name.
- A list of eligible wells they intend to plug in accordance with section 3220.
- A certification that they have the legal authority to access and perform the activities needed to plug each well.

As additional amounts are appropriated to the program after the effective date, DEP shall begin accepting applications no later than seven days after the additional money is appropriated.

DEP shall review and approve applications on a rolling basis. If an application submitted meets the requirements specified and if the amount of grant money the qualified well plugger would be eligible to receive remains available, DEP shall approve the application and notify the applicant of which orphan wells they have been approved to receive a grant for. An approval shall be made within seven days of the receipt of the application and notice of the approval

shall be provided to the qualified plugger within three days of the date of approval. An approved well plugger shall be awarded a grant if the following requirements are met:

- Their application was approved.
- They plugged an orphan well for which they were approved.
- They have submitted a plugging certificate, prepared, and signed, on a form furnished by DEP, by two experienced and qualified individuals who participated in the work and specified the time and manner in which the well was plugged.

If the qualified well plugger encounters unusual technical difficulties due to the condition of an orphan well, DEP may, upon awarding the grant, reimburse them with an additional grant amount. The additional grant amount shall not exceed the amount of the initial grant. DEP may not award the additional grant amount without receiving adequate proof of cost.

A person who voluntarily provides equipment, materials, resources, or services for plugging an orphan well shall be immune from civil liability other than injury or damage resulting from gross negligence or willful misconduct.

No later than 21 days after the end of each calendar quarter in which the grant program receives applications, approves applications or awards grants, DEP shall issue a report. The report shall include the number of applications both received and approved, the number of grants, and the total amount awarded, in the quarter, year to date and since the effective date. The report shall be made available on DEP's public website and submitted to the chairs and minority chairs of the House and Senate Appropriations and Environmental Resources and Energy Committees.

### **Bonding**

The legislation amends Title 58 to set the bonding amount for conventional wells at the current statutory rate of \$2,500 per well, which shall not be subject to adjustment by the Environmental Quality Board (EQB) for a period of ten years following the effective date. The current bond amounts for conventional wells are provided for in Section 1606-E of the Fiscal Code, while bond amounts provided for in Title 58 apply to unconventional wells. The legislation clarifies that the existing bond amounts in Title 58 apply only to unconventional wells.

A blanket bond of \$25,000 may be filed for all conventional wells (current statutory rate). For every new conventional well drilled after six months after the effective date, the blanket bond amount for the operator shall increase by \$1,000, but the total amount per operator shall not exceed \$100,000. The blanket bond increase of \$1,000 shall be waived for a new well drilled if the operator provides evidence that they have plugged an orphan well at their own expense, when they were not the responsible party within the previous 365 days and have yet to receive credit for. For a period of ten years following the effective date of the section, the EQB and DEP shall have no authority to adjust the amounts.

The legislation specifies that section 1934-A of the Administrative Code, which states that no bond or bond substitute is needed for any well drilled prior to April 18, 1985, shall continue to apply to reflect the repeal noted below (language is currently carried in section 1606-E of the Fiscal Code).

### **Repeal**

Section 1606-E (conventional oil and gas well bonding) of the Fiscal Code is repealed to accommodate the changes within the bill.