

Stricken language would be deleted from and underlined language would be added to the law as it existed  
prior to this session of the General Assembly.  
Act 1267 of the Regular Session

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005

# A Bill

HOUSE BILL 2418

4  
5 By: Representative Mahony  
6  
7

## For An Act To Be Entitled

9 AN ACT TO PROVIDE THE OIL AND GAS COMMISSION WITH  
10 MORE FLEXIBLE AUTHORITY TO GUARANTEE PROPER  
11 OPERATIONS OF OIL AND GAS WELLS AND BRINE  
12 PRODUCTION UNITS; TO CREATE THE ABANDONED AND  
13 ORPHAN WELL PLUGGING FUND; AND FOR OTHER  
14 PURPOSES.

## Subtitle

15  
16 AN ACT TO PROVIDE THE OIL AND GAS  
17 COMMISSION WITH MORE FLEXIBLE AUTHORITY  
18 TO GUARANTEE PROPER OPERATIONS OF OIL  
19 AND GAS WELLS AND BRINE PRODUCTION  
20 UNITS.  
21  
22  
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
25

26 SECTION 1. Arkansas Code § 15-71-110(d) and (e), concerning the powers  
27 and duties of the Oil and Gas Commission, are amended to read as follows:

28 (d) After hearing and notice as provided in this ~~act~~ chapter, the  
29 commission ~~shall have the authority to~~ may make such reasonable rules,  
30 regulations, and orders as are necessary from time to time in the proper  
31 administration and enforcement of this ~~act~~ chapter, including rules,  
32 regulations, or orders for the following purposes:

33 (1)(A) To require the drilling, casing, and plugging of wells to  
34 be done in such a manner as to:

35 (i) Prevent the escape of oil or gas from one (1)



1 stratum to another;

2 (ii) Prevent the intrusion of water into an oil or  
3 gas stratum from a separate stratum; and

4 (iii) Prevent the pollution of fresh water supplies  
5 by oil, gas, or salt water; and

6 (B) To require a reasonable ~~bond~~ financial assurance  
7 acceptable to the commission conditioned on the performance of the duty to  
8 plug each dry or abandoned well;

9 (2) To require the making of reports showing the location of oil  
10 and gas wells and the filing of logs and drilling records;

11 (3) To prevent the drowning by water of any stratum or part of  
12 any stratum capable of producing oil or gas in paying quantities and to  
13 prevent the premature and irregular encroachment of water which reduces, or  
14 tends to reduce, the total ultimate recovery of oil or gas from any pool;

15 (4) To require the operation of wells with efficient gas to oil  
16 ratios and to fix those ratios;

17 (5) To prevent "blow outs", "caving", and "seepage" in the sense  
18 that conditions indicated by those terms are generally understood in the oil  
19 and gas business;

20 (6) To prevent fires;

21 (7) To identify the ownership of all oil or gas wells, producing  
22 leases, refineries, tanks, plants, structures, and all storage and  
23 transportation equipment and facilities;

24 (8) To regulate the "shooting", perforating, and chemical  
25 treatment of wells;

26 (9) To regulate secondary recovery methods, including the  
27 introduction of gas, air, water, or other substances into producing  
28 formations;

29 (10) To limit and prorate the production of oil or gas or both  
30 from any pool or field for the prevention of waste as defined in this ~~act~~  
31 chapter;

32 (11) To require, either generally or in or from particulate  
33 areas, certificates of clearance or tenders in connection with the  
34 transportation of oil or gas;

35 (12) To regulate the spacing of wells and to establish drilling  
36 units;

1 (13) To prevent, so far as is practical, reasonably avoidable  
 2 drainage from each developed unit which is not equalized by counter drainage,  
 3 regarding oil and gas;

4 (14) With respect to the drilling of wells for production and  
 5 disposal of salt water, the commission shall have the jurisdiction and  
 6 authority of and over all persons and property to the extent necessary to  
 7 effectively make and enforce rules, regulations, and orders for the following  
 8 purposes:

9 (A) To require that the operator shall, before drilling  
 10 any well in search of salt water or for the injection of salt water into the  
 11 earth, obtain from the commission a permit authorizing that drilling;

12 (B) To require that casing and cementing of supply wells  
 13 and injection wells be done in accordance with such rules and regulations as  
 14 may be promulgated by the commission;

15 (C) To require the plugging of wells to be done in such a  
 16 manner as to:

17 (i) Prevent the escape of salt water out of one (1)  
 18 stratum into another;

19 (ii) Prevent the intrusion of salt water into an oil  
 20 and gas stratum; and

21 (iii) Prevent the pollution of fresh water supplies  
 22 by salt water;

23 (D) To require the making of reports showing the  
 24 completion data, volume of water injected, and the filing of electrical logs  
 25 of all wells with the commission;

26 (E) To regulate the "shooting" and perforating of all  
 27 wells;

28 (F) To require the operation of wells in a manner designed  
 29 to prevent "blow outs", "caving", and "seepage";

30 (G) To physically identify at the site the ownership of  
 31 all salt water wells, plants, ponds, structures, and all storage facilities;  
 32 and

33 (H)(i) To require the annual payment of ~~twenty-five~~  
 34 ~~dollars (\$25.00)~~ one hundred dollars (\$100) per well for each salt water  
 35 injection well and disposal well and each well into which debrominated brine  
 36 is injected.

1 (ii) All moneys so collected shall be used solely to  
2 pay the expenses and other costs in the administration of this law;

3 (15) To administer and enforce the applicable provisions of the  
4 Natural Gas Policy Act of 1978, ~~Public Law~~ Pub. L. 95-621;

5 (16) To acquire primary enforcement responsibility either  
6 singularly or jointly with the Arkansas Department of Environmental Quality  
7 for the control of underground injection under the applicable provisions of  
8 the Safe Drinking Water Act, ~~Public Law~~ Pub. L. 93-523, ~~as amended as it~~  
9 existed on January 1, 2005;

10 (17)(A)(i)(a) To require the payment of a fee of two hundred  
11 fifty dollars (\$250) or a sum the commission may prescribe for each  
12 application for hearing or other proceeding before it under this act.

13 ~~(b) Provided, in no event shall the fee~~ The  
14 fee shall not exceed five hundred dollars (\$500); and

15 (ii) To prescribe a reasonable and necessary charge  
16 or fee per copy and per subscription for notices and reports prepared and  
17 published by the commission deemed necessary to reimburse the commission for  
18 the cost of those notices and reports.

19 (B) All moneys so collected shall be used solely to pay  
20 the expenses and other costs in the administration of this law; and

21 (18) To administer and enforce any applicable provisions of the  
22 Natural Gas Pipeline Safety Act of 1968, ~~Public Law~~ Pub. L. 90-481, and to  
23 specifically empower the commission to submit any satisfactory certification  
24 required by the Natural Gas Pipeline Safety Act of 1968, ~~Public Law~~ Pub. L.  
25 90-481, in connection with any production process or production facility as  
26 defined in this section.

27 (e) The commission has the following specific powers and duties in  
28 administering the Abandoned and Orphan Well Plugging Program and the  
29 Abandoned and Orphan Well Plugging Fund:

30 (1) To adopt rules necessary to implement the Abandoned and  
31 Orphaned Well Plugging Program including rules regarding wells deemed  
32 abandoned in accordance with § 15-71-217;

33 (2) To collect the fees assessed by the commission under this  
34 chapter and to make deposits into the Abandoned and Orphan Well Plugging  
35 Fund;

36 (3) To deposit the amount of any forfeited bond or other

1 financial assurance into the Abandoned and Orphan Well Plugging Fund;

2 (4) To recover well-site plugging, repair, and restoration costs  
3 from well operators who fail to reimburse the Abandoned and Orphan Well  
4 Plugging Fund for expenses attributable to those well operators and to  
5 deposit any amounts reimbursed or collected into the Abandoned and Orphan  
6 Well Plugging Fund;

7 (5) To accept, receive, and deposit into the Abandoned and  
8 Orphan Well Plugging Fund any grants, gifts, or other funds that may be made  
9 available from public or private sources;

10 (6) To make expenditures of amounts appropriated from the  
11 Abandoned and Orphan Well Plugging Fund, as the commission may deem  
12 appropriate in its sole discretion, for the sole purposes of plugging,  
13 replugging, repairing any well, or restoring the site of any well, including  
14 but not limited to:

15 (A) Removal of well-site equipment or production  
16 facilities; and

17 (B) Reimbursement to landowners through grants for  
18 plugging a well and restoring the site of a well, including, but not limited  
19 to, removal of well-site equipment located on the landowner's property for  
20 which the landowner has no legal obligation to plug the wells or remove the  
21 well-site equipment, if the well is determined by the commission to be  
22 abandoned or ordered by the commission to be plugged, replugged, repaired, or  
23 restored;

24 (7) To enter into contracts and to administer a landowner grant  
25 program in accordance with applicable state law; and

26 (8) To dispose in a commercially reasonable manner at generally  
27 recognized market value well-site equipment, including an associated tank  
28 battery and production facility equipment, and any amount of hydrocarbons  
29 from the well that is stored on the lease, by either or both of the following  
30 methods after the well has been determined to be abandoned by the commission:

31 (A) A plugging contract may provide that the person  
32 plugging the well or remediating oil field waste pollution, or both, shall  
33 have clear title subject to any prior perfected claim on all well-site  
34 equipment and hydrocarbons from the well that are stored on the lease, or  
35 hydrocarbons recovered during the plugging operation in exchange for a sum of  
36 money deducted as a credit from the contract price; or

1                   (B)(i)(a) The well-site equipment, including, but not  
 2 limited to, an associated tank battery and production facility equipment,  
 3 hydrocarbons from the well that are stored on the lease, and hydrocarbons  
 4 recovered during the plugging operation may be sold at a public auction or a  
 5 public or private sale.

6                   (b) The proceeds from any sale under  
 7 subdivision (e)(8)(B)(i)(a) of this section shall be deposited in the  
 8 Abandoned and Orphaned Well Plugging Fund.

9                   (ii) All well-site equipment and hydrocarbons  
 10 acquired by a person by sale shall be acquired under clear title subject to  
 11 any prior perfected claims.

12           ~~(e)~~(f) Nothing in this section is to affect any hydrogen sulfide  
 13 emission standards or ambient air standards enacted by the General Assembly.  
 14

15           SECTION 2. Arkansas Code § 15-71-114(a)(3), concerning permits  
 16 required for field seismic operations, is amended to read as follows:

17                   (3)(A) The application shall be accompanied by a ~~bond~~ financial  
 18 assurance acceptable to the commission in the amount of fifty thousand  
 19 dollars (\$50,000) or such larger amount as may be prescribed by the  
 20 commission not to exceed two hundred fifty thousand dollars (\$250,000).

21                   (B) The ~~bond~~ financial assurance shall be executed by the  
 22 applicant, as principal, and a corporate surety approved by the commission,  
 23 and shall be conditioned that the permittee shall pay all damages resulting  
 24 from such seismic operations.

25                   (C) The ~~bond~~ financial assurance shall be maintained at an  
 26 amount not less than fifty thousand dollars (\$50,000) nor more than two  
 27 hundred fifty thousand dollars (\$250,000) as may be set by the commission, so  
 28 long as the permittee is conducting field seismic operations in the state and  
 29 until released by the commission.

30                   (D)(i) Any surface owner seeking to recover under ~~such~~  
 31 ~~bond~~ a financial assurance as described in subdivisions (a)(3)(A) through (C)  
 32 of this section for damages caused by the performance of such field seismic  
 33 operations must file written notice of claim ~~therefor~~ for the damages with  
 34 the ~~Oil and Gas Commission~~ commission within one (1) year of the date of  
 35 expiration of the permit for conducting such operations~~+~~.

36                   (ii) provided, however, that such However, the claim

1 shall be subordinate to the rights of the ~~Oil and Gas Commission~~ commission  
 2 under ~~said bond~~ the financial assurance to secure compliance by ~~said the~~ the  
 3 permittee with the provisions of this section, ~~as hereby amended,~~ and the  
 4 rules and regulations of the commission promulgated ~~thereunder~~ under this  
 5 section.

6  
 7 SECTION 3. Arkansas Code Title 15, Chapter 71, Subchapter 1 is amended  
 8 to add an additional section to read as follows:

9 15-71-115. Abandoned and Orphan Well Plugging Fund.

10 (a) There is created on the books of the Treasurer of State, Auditor  
 11 of State, and Chief Fiscal Officer of the State a special revenue fund to be  
 12 known as the "Abandoned and Orphan Well Plugging Fund".

13 (b)(1) All moneys collected under the Abandoned and Orphan Well  
 14 Plugging Fund shall be deposited into the State Treasury to the credit of the  
 15 fund as special revenues.

16 (2) The fund shall also consist of any other revenues as may be  
 17 authorized by law.

18 (c) The fund may be used by the Oil and Gas Commission to provide  
 19 security in the event an oil and or gas well operator fails to perform  
 20 plugging responsibilities under the provisions of § 15-72-217 or fails to  
 21 correct well conditions that create an imminent danger to the health or  
 22 safety of the public, or threaten significant environmental harm or damage to  
 23 property.

24 (d) Expenditures from the Abandoned and Orphan Well Plugging Fund may  
 25 be authorized by the commission through contracts or grants for the payment  
 26 of plugging costs or the cost of performing corrective work as follows:

27 (1) If after the commission gives the well operator notice and  
 28 hearing and finds that an abandoned well must be plugged; that a leaking well  
 29 must be plugged, replugged, or repaired; or that a well site must be  
 30 restored, and the well operator fails to perform the required plugging,  
 31 replugging, repair, or restoration work within the time frame prescribed in  
 32 the commission order, the commission may authorize Abandoned and Orphan Well  
 33 Plugging Fund expenditures to plug, replug, or repair the well or wells and  
 34 to restore the well site in accordance with commission rules; and

35 (2) If the abandoned well or well site operator cannot be  
 36 identified or located for purposes of notice and hearing, the commission may

1 administratively determine the well or well site to be orphaned, as defined  
 2 by commission rules, and may authorize Abandoned and Orphan Well Plugging  
 3 Fund expenditures to plug the orphan well and restore the orphan well site.  
 4

5 SECTION 4. Arkansas Code § 15-72-217 is amended to read as follows:

6 15-72-217. Plugging dry or abandoned well by lessee or operator.

7 (a) All lessees or operators drilling or operating for crude oil or  
 8 natural gas within the State of Arkansas shall immediately, in a practical  
 9 and workmanlike manner, under the supervision of the oil or gas inspector, ~~as~~  
 10 ~~hereinafter provided~~ as provided in this section, plug all dry holes or  
 11 abandoned oil or gas wells ~~in which oil bearing or gas bearing strata have~~  
 12 ~~been found, in the following manner:~~ in accordance with Oil and Gas  
 13 Commission plugging rules.

14 ~~(1) Beginning at the bottom, the hole shall be solidly plugged~~  
 15 ~~with a substance consisting of one third (1/3) portion cement and two thirds~~  
 16 ~~(2/3) portion of sand properly mixed with water to a point twenty five feet~~  
 17 ~~(25') above the top level of the oil bearing or gas bearing sand. At that~~  
 18 ~~point, a seasoned wooden plug two feet (2') in length and the diameter of the~~  
 19 ~~hole shall be placed. Thereafter the hole shall be filled solidly with~~  
 20 ~~twenty five feet (25') of sand balings. Then a seasoned wooden plug two feet~~  
 21 ~~(2') long and the diameter of the hole shall be placed and driven firmly into~~  
 22 ~~the sand balings.~~

23 ~~(2) Should there be more than one (1) oil bearing or gas bearing~~  
 24 ~~sand in the well, after plugging the bottom sand in the well, as set out in~~  
 25 ~~subdivision (1) of this section, the well shall be filled with sand balings~~  
 26 ~~to within ten feet (10') of the bottom of the next sand above that last~~  
 27 ~~plugged, when this sand and each succeeding sand shall be plugged in the~~  
 28 ~~manner set out in subdivision (1) of this section until all of the oil-~~  
 29 ~~bearing and gas bearing sands in the well have been plugged as provided in~~  
 30 ~~this section.~~

31 (b)(1) If after notice and a hearing, the Oil and Gas Commission finds  
 32 that a well drilled for the exploration, development, storage or production  
 33 of oil or gas, or as injection, salt water disposal, salt water source, brine  
 34 injection or disposal has been abandoned as defined by the commission or is  
 35 leaking salt water, oil, gas, or other deleterious substances into any fresh  
 36 water formation onto the surface of the land in the vicinity of the well, or



1 creates an imminent danger to the health or safety of the public, the  
 2 commission shall issue an order that the well be properly plugged, replugged,  
 3 or repaired to remedy the situation.

4 (2) If the well operator fails to obey the order within thirty  
 5 (30) days after the date of the order, then any person authorized by the  
 6 commission may enter upon the land on which the well is located and plug,  
 7 replug, or repair the well as may be reasonably required to remedy the  
 8 condition.

9 (3)(A) The costs and expenses incurred by the commission and  
 10 paid with funds from the Abandoned and Orphan Well Plugging Fund shall be a  
 11 debt due by the well operator to the commission for reimbursement to the  
 12 Abandoned and Orphan Well Plugging Fund.

13 (B) The well owner's failure to comply with the  
 14 commission's order to plug, replug, or repair the well or to repay expenses  
 15 incurred by the commission to plug, replug, or repair the well is a violation  
 16 of this chapter and subject to enforcement action or a cessation of  
 17 operations.

18 (c) This section does not:

19 (1) Relieve any well operator otherwise legally responsible from  
 20 any obligation to plug, replug, or repair a well; or

21 (2) Limit the authority of the commission to require the proper  
 22 plugging, replugging, or repair of a well.

23 (d)(1) Any person who enters upon the land on which the well is  
 24 located to plug, replug, or repair the well, or who supports or contributes  
 25 to any such action in accordance with the order of the commission and under  
 26 contract to the commission shall not be liable for any damages resulting from  
 27 operations reasonably necessary or proper to plug, replug, or repair the  
 28 well, except damages to growing crops and improvements.

29 (2) The person shall not be held to have assumed responsibility  
 30 for future remedial work on the well or be liable in damages or otherwise for  
 31 conditions subsequently arising from or in connection with the well.

32  
 33 SECTION 5. Arkansas Code § 15-76-306(c), concerning the authority of  
 34 the Oil and Gas Commission to regulate brine production, is amended to read  
 35 as follows:

36 (c) The commission shall have authority to make, after hearing and

1 notice as ~~hereinafter~~ provided in this section, such reasonable rules,  
 2 regulations, and orders as may be necessary from time to time in the proper  
 3 administration and enforcement of this subchapter, including rules,  
 4 regulations, or orders for the following purposes:

5 (1) To form brine production units;

6 (2)(A) To require the drilling, casing, and plugging of wells to  
 7 be done in such a manner as to prevent the escape of brine and effluent from  
 8 one (1) stratum to another;

9 (B) To prevent the pollution of fresh water supplies by  
 10 brine and effluent; and

11 (C) To require reasonable ~~bond~~ financial assurance  
 12 acceptable to the commission conditioned for the performance of the duty to  
 13 plug each dry hole or abandoned well;

14 (3) To require the making of reports showing the location of  
 15 brine wells utilized for production and of injection wells used for disposal  
 16 and the filing of logs and drilling records ~~therefore~~ for those wells;

17 (4) To require the return of the brine to the same formation  
 18 from which it was produced unless the commission shall authorize the disposal  
 19 of effluent into one (1) or more other formations upon finding that neither  
 20 underground damage nor waste shall result therefrom;

21 (5) To prevent the drowning by brine and effluent of any stratum  
 22 or part thereof capable of producing oil or gas in paying quantities;

23 (6) To prevent "blowouts", "caving", and "seepage" in the sense  
 24 that conditions indicated by these terms are generally understood;

25 (7) To identify the ownership of all wells utilized for  
 26 producing brine and of all injection wells and all pipelines, plants, ponds,  
 27 structures, and storage facilities;

28 (8) To regulate the "shooting", perforating, and chemical  
 29 treatment of wells;

30 (9) To regulate the introduction or injection of effluent and  
 31 other substances into an aquifer;

32 (10) To regulate the spacing of wells for the production of  
 33 brine and injection wells for the introduction of effluent into an aquifer.  
 34 However, the commission shall have no authority to allow wells or other  
 35 installations on the surface of lands without the consent of the surface  
 36 owner;

1 (11) To formulate rules and regulations for the proper  
2 transportation of brine from the producing wells to the plant and from the  
3 plant to the injection wells and for the maintenance and surveillance of the  
4 transportation facilities; and

5 (12) To prevent, so far as is practical, reasonably avoidable  
6 drainage between brine production units.

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APPROVED: 3/29/2005

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