

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.

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

A Bill

HOUSE BILL 2418

4
5 By: Representative Mahony
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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.
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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)
36 stratum to another;



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

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

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

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

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

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

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

19 (6) To prevent fires;

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

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

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

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

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

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

36 (13) To prevent, so far as is practical, reasonably avoidable

1 drainage from each developed unit which is not equalized by counter drainage,
 2 regarding oil and gas;

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

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

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

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

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

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

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

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

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

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

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

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

36 (ii) All moneys so collected shall be used solely to

1 pay the expenses and other costs in the administration of this law;

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

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

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

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

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

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

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

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

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

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

35 (3) To deposit the amount of any forfeited bond or other
36 financial assurance into the Abandoned and Orphan Well Plugging Fund;

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

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

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

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

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

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

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

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

36 (B)(i)(a) The well-site equipment, including, but not

1 limited to, an associated tank battery and production facility equipment,
 2 hydrocarbons from the well that are stored on the lease, and hydrocarbons
 3 recovered during the plugging operation may be sold at a public auction or a
 4 public or private sale.

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

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

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

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

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

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

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

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

35 (ii) ~~provided, however, that such~~ However, the claim
 36 shall be subordinate to the rights of the ~~Oil and Gas Commission~~ commission

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

5
 6 SECTION 3. Arkansas Code Title 15, Chapter 71, Subchapter 1 is amended
 7 to add an additional section to read as follows:

8 15-71-115. Abandoned and Orphan Well Plugging Fund.

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

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

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

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

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

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

34 (2) If the abandoned well or well site operator cannot be
 35 identified or located for purposes of notice and hearing, the commission may
 36 administratively determine the well or well site to be orphaned, as defined

1 by commission rules, and may authorize Abandoned and Orphan Well Plugging
 2 Fund expenditures to plug the orphan well and restore the orphan well site.

3
 4 SECTION 4. Arkansas Code § 15-72-217 is amended to read as follows:
 5 15-72-217. Plugging dry or abandoned well by lessee or operator.

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

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

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

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

1 commission shall issue an order that the well be properly plugged, replugged,
 2 or repaired to remedy the situation.

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

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

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

17 (c) This section does not:

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

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

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

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

31
 32 SECTION 5. Arkansas Code § 15-76-306(c), concerning the authority of
 33 the Oil and Gas Commission to regulate brine production, is amended to read
 34 as follows:

35 (c) The commission shall have authority to make, after hearing and
 36 notice as ~~hereinafter~~ provided in this section, such reasonable rules,

1 regulations, and orders as may be necessary from time to time in the proper
 2 administration and enforcement of this subchapter, including rules,
 3 regulations, or orders for the following purposes:

4 (1) To form brine production units;

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

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

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

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

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

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

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

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

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

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

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

36 (11) To formulate rules and regulations for the proper

1 transportation of brine from the producing wells to the plant and from the
2 plant to the injection wells and for the maintenance and surveillance of the
3 transportation facilities; and

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

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