

# Pennsylvania Allocated \$104 Million for Orphaned and Abandoned Well Cleanup

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On January 31, 2022, Pennsylvania Governor Tom Wolf announced Pennsylvania was allocated a total of \$104 million in Phase I funding to support the cleanup of orphaned and abandoned oil and natural gas wells throughout the state. See Press Release, Gov. Tom Wolf, “Gov. Wolf Announces \$104 Million from President Biden’s Bipartisan Infrastructure Law to Support Orphaned, Abandoned Well Cleanup in PA” (Jan. 31, 2022). The \$104 million allocation is based on Pennsylvania’s notice of intent (NOI) to the U.S. Department of the Interior (DOI) indicating the commonwealth’s interest in applying for federal grant money for plugging orphaned wells and remediating orphaned well sites. See Press Release, DOI, “Biden Administration Announces \$1.15 Billion for States to Create Jobs Cleaning Up Orphaned Oil and Gas Wells” (Jan. 31, 2022). The grants are part of \$1.15 billion the federal government has allocated to states under the DOI with specific goals of reducing methane emissions and other pollution, and creating jobs. See Fact Sheet, White House, “Biden Administration Tackles Super-Polluting Methane Emissions” (Jan. 31, 2022); Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429 (2021). In the future, formula grants will allow the commonwealth to access more than \$330 million in additional funding for the same purposes. See News Release, Senator Bob Casey, “Pennsylvania to Receive \$104 Million to Clean Up Orphaned Oil and Gas Wells” (Jan. 31, 2022).

The Pennsylvania Oil and Gas Act defines an “abandoned well” as a well that (1) has not been used to produce, extract, or inject any gas, petroleum, or other liquid within the preceding 12 months; (2) for which the equipment necessary for production, extraction, or injection has been removed; or (3) is considered dry and not equipped for production within 60 days after drilling, re-drilling, or deepening. 58 Pa. Cons. Stat. Ann. § 3203. An “orphan well” is a well “abandoned prior to April 18, 1985, that has not been affected or operated by the present owner or operator and from which the present owner, operator or lessee has received no economic benefit other than as a landowner or recipient of a royalty interest from the well.” *Id.* The Pennsylvania Department of Environmental Protection (PADEP) estimates there are between 100,000 and 560,000 wells unaccounted for in state records, a significant number of which may still pose a threat to human health and the environment. See Fact Sheet, PADEP, “Abandoned and Orphan Oil and Gas Wells and the Well Plugging Program” (rev. Apr. 2021).

The funding is allocated in two parts. Phase I, with an initial grant of \$25 million, will be used by PADEP to plug and remediate high-priority wells that pose a threat to health and the environment, and document how many orphaned and abandoned wells exist throughout the commonwealth that need to be plugged. See Meeting, Oil and Gas Technical Advisory Board (TAB) (Jan. 14, 2022). At the April 25, 2022, TAB meeting, PADEP stated that it is developing plugging projects for the most efficient expenditure of funds. For example, PADEP said that it intends to include lower priority orphaned wells in the vicinity of high-priority wells, targeting 8 to 10 wells per contract. Per PADEP, doing so will allow for remediating the largest number of orphaned wells possible in the fewest number of trips. Meeting, TAB (Apr. 25, 2022). The second allocation of Phase I funding to the commonwealth, totaling \$79 million, was awarded in accordance with Phase I formula grant eligibility requirements based on job loss in the oil and gas industry during the COVID-19 pandemic, the number of documented orphaned wells, and the estimated cost to plug and remediate orphaned wells. See DOI Press Release, *supra*.

On April 12, 2022, DOI issued guidance to states outlining, among other things, the grant application process, uses for initial grant funding, and recommended best practices for establishing, conducting, and reporting plugging, remediating, and reclaiming activities. See Fact Sheet, DOI, “Bipartisan Infrastructure Law Sec. 40601 Orphaned Well Program—FY 2022 State Initial Grant Guidance” (Apr. 2022). At the January 14, 2022, and April 25, 2022, TAB meetings, PADEP explained that the commonwealth must submit an application for the previously awarded initial grant funding no later than May 13, 2022. The application must include certification that (1) there are orphaned wells

in the commonwealth, (2) the commonwealth is a member of the Interstate Oil and Gas Compact Commission, and (3) 90% of the funds will be allotted to plugging contracts or grants within 90 days of receiving federal funding. See *also id.* at 9. DOI will disperse funds within 30 days of submission of certification. Any funds that remain “unobligated,” i.e., any funding that, on the date one year from the date of receipt, is not subject to a definite commitment for an immediate or future payment for goods or services ordered or received, must be returned to DOI. *Id.* at 5–6.

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