United States Department of the Interior
OFFICE OF THE SECRETARY
Washington, DC 20240

Orphaned Wells Program Office
Draft State Regulatory Improvement Grants Guidance - October 2024

I. INTRODUCTION

President Biden signed the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law (BIL; Public Law 117-58), on November 15, 2021, making a once-in-a-generation investment in the United States's infrastructure and economic competitiveness. This landmark investment will rebuild the United States's critical infrastructure, tackle the climate crisis, address legacy pollution sites, advance environmental justice, and drive the creation of good-paying jobs that provide a free and fair chance to join a union. By addressing long overdue infrastructure and environmental improvements, and strengthening our resilience to the changing climate, this investment in our communities across the country will grow the economy sustainably and equitably for decades to come.

Subsection (b) of Section 40601 of the BIL creates an orphaned well site plugging, remediation, and reclamation program within the Department of the Interior (DOI) to address orphaned wells and well sites located on federal lands. Subsection (d) authorizes Tribal financial assistance programs to fund similar activities performed on Tribal land. Subsection (c) creates three types of grants for States:

1. Initial grants (Section 40601(c)(3))
2. Formula grants (Section 40601(c)(4))
3. Performance grants (Section 40601(c)(5))

Secretary Haaland issued Order No. 3409, establishing the Orphaned Wells Program Office (OWPO) to ensure effective, accountable, and efficient implementation of the BIL's historic investment in orphaned well clean-up. The OWPO, in the Office of Policy, Management and Budget, carries out the Secretary's responsibilities under Section 40601 of the BIL, including issuing, administering, and overseeing State grants.

Under Section 40601(c)(5)(E)(i), a regulatory improvement grant (RIG) is a type of performance grant that may be awarded to an eligible State if it demonstrates that, "during the 10-year period ending on the date on which the State submits to the Secretary an application," (10-Year Application Period):

- The State has strengthened plugging standards and procedures designed to ensure that wells located in the State are plugged in an effective manner that protects groundwater and other natural resources, public health and safety, and the environment (Plugging Standards RIG); or

- The State has made improvements to State programs designed to reduce future orphaned well burdens, such as financial assurance reform, alternative funding mechanisms for orphaned well programs, and reforms to programs relating to well transfer or temporary abandonment (Program Improvement RIG).

This document sets forth the application process for both kinds of RIGs. It also contains requirements for carrying out activities under both kinds of RIGs.

II. DEFINITIONS

This section contains a list of definitions relevant to RIGs. The definitions supplement the BIL and other federal law and authorities, *e.g.*, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. part 200.[1]

"Adjacent land" means land that adjoins or is in close proximity to a documented orphaned well and for which reclamation or remediation is necessary to address the negative health, safety, habitat, and environmental impacts of the orphaned well.

"Administrative costs" identified in Section 40601(c)(2)(B)(i), limited to not more than 10 percent of the funds received, are those costs that cannot be directly attributed to activities listed under Section 40601(c)(2)(A)(i)-(viii), but instead to general grants management or program administration. Administrative costs can be expended for personnel or non-personnel costs, and can be direct or indirect, but should represent the costs to the State for managing the overall grant-funded work rather than preparation for and execution of the plugging of an individual well or set of wells, or the associated remediation, reclamation, decommissioning, and removal activities.

The terms "associated pipelines," "facilities," and "infrastructure" collectively include structures, appurtenances, and improvements located on land associated with exploring, producing, transporting, or processing from an orphaned well.

"Award Date" means the date a financial assistance officer issues a RIG award. A grant's award date may or may not be the same date as the grant's effective date. The effective date of a RIG is the date of receipt of the funds.

"Community" means either a group of individuals living in geographic proximity to one another, or a geographically dispersed set of individuals (such as migrant workers), where either type of group experiences common conditions.

"Date of receipt of the funds" means the effective date of a RIG award and may or may not be the same date as the award date. A RIG's effective date is determined by a financial assistance officer, in consultation with the receiving State. The effective date is the date the RIG's period of performance begins.

The terms "decommission" and "remove" collectively include activities undertaken to permanently plug pipelines associated with a documented orphaned well, and other activities that remove pipelines, facilities, and infrastructure associated with a documented orphaned well, such that the same is permanently relocated or dismantled and the surrounding area returned to its natural condition, or a condition appropriate for its intended future land use.

[1] On October 1, 2024, changes to relevant authorities, such as 2 C.F.R. part 200, go into effect. *See* Guidance for Fed. Financial Assistance, 89 Fed. Reg. 30,046-30,208 (Apr. 22, 2024). This guidance refers to those authorities.

"Disadvantaged communities" means the census tracts identified as disadvantaged by the Climate and Economic Justice Screening Tool (CEJST), that is at or above the threshold for one or more environmental, climate, or other burdens, and is at or above the threshold for an associated socioeconomic burden; or is a Federally Recognized Tribe.[2]

"Documented well" means a well for which a State, including its agencies, or a non-State agency, has a drilling, completion, or inspection report, or any other record establishing the existence of the well, including its precise latitude and longitude in decimal degrees.

"Economic conditions" includes a state of macroeconomic variables and trends, in an area, at a point in time, such as per capita income and unemployment rate.

"Federal land" is defined in Section 40601(a)(1) as land administered by a land management agency within the Department of Agriculture or the DOI.

"Federal wells" - Orphaned wells and well sites on Federal land are considered "Federal wells" and are eligible for funding under the Section 40601(b) Federal Program. Orphaned wells–and well sites associated with such wells–that were drilled subject to a federal permit to drill may be considered Federal wells eligible for funding under the Section 40601(b) Federal Program, regardless of surface ownership. As the funding under the Federal Program is not expected to be sufficient to remediate all eligible Federal wells, a State may use grant funds received under Section 40601 to plug and remediate Federal wells located on State or private land and may include those wells in its inventory of documented orphaned wells on State or private land. Any plugging and reclamation activities on such split-estate orphaned wells would be subject to the Federal government's onshore plugging and reclamation standards and DOI approval prior to the start of operations.

"Indian tribe" or "Tribe" mean any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Both "low-income communities" and "economically distressed areas" are: 1) those communities that in the last 12 months had a median household income less than twice the poverty level; or 2) communities identified as disadvantaged pursuant to the CEJST.

"Obligated amount" means any RIG funds that are subject to a definite commitment that creates a legal liability for the State for an immediate or future payment for goods or services ordered or received, including by contract or subcontract award.

[2] The CJEST can be found at https://screeningtool.geoplatform.gov. Executive Order No. 14008, Executive Order on Tackling the Climate Crisis at Home and Abroad, and the Justice40 Initiative, set the goal that 40 percent of the overall benefits flow to disadvantaged communities. Executive Order No. 14008 and the Justice40 Initiative covers RIGs (and other State grants). States are encouraged to pursue this goal using awarded RIG funds.

"Orphaned well" has the meaning given to the term by the applicable State. If a State uses different terminology, however, for the purposes of a RIG, an orphaned well means a well that is eligible for plugging, remediation, and reclamation by the State applying for the RIG.

"Pre-Award Costs" - DOI waives the prior written approval requirements for pre-award project costs that were incurred within 90 calendar days before the federal award effective date. All costs incurred prior to the effective date are at the recipient's risk of non-reimbursement if the costs are not determined to be allowable, allocable, and reasonable (2 C.F.R. §§ 200.308, 407).

The terms "remediate" and "reclaim" collectively may include eliminating, limiting, correcting, counteracting, mitigating or removing any contaminant or the adverse effects on the environment or human health of any contaminant, including but not limited to: preliminary site investigations; detailed site investigations; analysis and interpretation, including tests, sampling, surveys, data evaluation, risk assessment and environmental impact assessment; evaluation of alternative methods of remediation; preparation of a remediation plan, including a plan for any consequential or associated removal of soil or soil relocation from the site; implementation of a remediation plan; monitoring, verification and confirmation of whether the remediation complies with the remediation plan, applicable standards and requirements imposed by a director; and other activities prescribed by applicable State or federal law and authorities. Each term may also have the respective meaning given to it under the applicable State's law and authorities.

"Tribal land" means land or interest in land owned by an Indian Tribe, the title to which is held in trust by the United States or subject to a restriction against alienation under federal law.

"Undocumented well" means either: 1) a well that is entirely unknown to a State or other non-State regulatory agency; or 2) a well for which a State or non-State regulatory agency has some evidence, but the State or non-State regulatory agency requires verification, including the well's precise latitude and longitude in decimal degrees.

"Unobligated amount" means the amount of awarded RIG funds the State has not obligated. The amount is computed by subtracting the cumulative amount of the State's unliquidated financial obligations and expenditures of funds under the RIG award from the cumulative amount of the funds that the federal awarding agency or pass-through entity authorized the State to obligate.

III. PERMISSIBLE USES OF AWARDED REGULATORY IMPROVEMENT GRANT FUNDS AND RELATED ELEMENTS

Under Section 40601(c)(2)(A), a State may use awarded Plugging Standards and Program Improvement RIG funds for any of the following purposes:

1. To plug, remediate, and reclaim orphaned wells located on State-owned or private land.

2. To identify and characterize undocumented orphaned wells on State and private land.

3. To rank orphaned wells based on factors including: public health and safety; potential environmental harm; and other land use priorities.

4. To make information regarding the use of funds received available on a public website.

5. To measure and track: emissions of methane and other gases associated with orphaned wells; and contamination of groundwater or surface water associated with orphaned wells.

6. To remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure.

7. To remediate land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure.

8. To identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities.

9. To administer a program to carry out any activities that fall under Numbers 1-8. These costs are referred to as administrative costs. *No more than 10 percent of a particular RIG's funds may be used for administrative costs.*

RIG funds are available for such activities where the surface or subsurface estate is owned by the State or by a private party, including, potentially, individually owned Indian properties that are held in trust by the Secretary of the Interior, but deemed by the State to be "orphaned wells" on "private land." To the extent RIG funds are used in the split estate context, the State must coordinate in advance with the OWPO and other appropriate federal agencies, and/or Indian Tribe, as applicable.

RIG funds may be spent on, and grant-receiving States are encouraged to, display signage at orphaned well and well site plugging, remediation, and restoration sites to increase the transparency of activities funded in whole or in part by the BIL. Costs to procure, distribute, and install signage are considered administrative costs. Such signage must comply with the Investing in America Signage Guidelines.[3]

In applying for RIGs, and obligating and spending awarded RIG funds, States must comply with all applicable federal grant award statutes, regulations, and other requirements, including but not limited to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. part 200. A State that accepts an award is also subject to and must comply with the terms and conditions of the grant it is awarded, and the certifications that the State submits as part of its grant application.

IV. REGULATORY IMPROVEMENT GRANT APPLICATIONS

In 2021, the Interstate Oil and Gas Compact Commission (IOGCC) published Idle and Orphan Oil and Gas Wells: State and Provincial Regulatory Strategies. The 2021 IOGCC Report stated that "the primary purpose of this report is to help states and provinces evaluate their idle- and orphan-well programs and identify useful regulatory tools and strategies from other

[3] *See* https://www.whitehouse.gov/wp-content/uploads/2023/02/Investing-in-America-Brand-Guide.pdf.

jurisdictions."[4] The 2021 IOGCC Report updated a 2019 IOGCC report, which the IOGCC stated "served as a useful reference in the development of federal legislation."[5]

On October 20, 2023, DOI published a *Request for Information to Inform the Orphaned Wells Program Office's Development of Regulatory Improvement Grants Under the Bipartisan Infrastructure Law* (RFI).[6] A total of 20 parties submitted responses to the RFI, which included the IOGCC, 13 states, 5 environmental groups, and 1 anonymous commenter.

OWPO incorporated comments it received in response to the RFI, the 2021 IOGCC report, and other IOGCC reports[7] to develop the Plugging Standards and Program Improvement RIG Programs.

A. A State's general application framework

A State's RIG application must contain sufficient information for DOI to determine whether: 1) the proposed grant amount is consistent with the BIL; and 2) the State's proposed activities can realistically be achieved and are consistent with the BIL, other federal law and authorities, and the grant's anticipated terms and conditions. Each submitted application will be promptly reviewed for completeness and a State will be notified of any deficiencies in their application, such as a failure to meet the requirements of the BIL, applicable Federal authorities, and this guidance. Failure to appropriately resolve such deficiencies within a reasonable timeframe may result in a determination, in the Secretary's discretion, that the application is incomplete. The DOI will then cease processing the application and the State will be notified. In such a situation, however, that State may submit additional applications in future phases.

Below are the frameworks for both kinds of RIG programs. Scoresheets were developed to assist States in applying for both kinds of RIGs. The Scoresheets are described further below in this guidance.

OWPO will evaluate each application based on the Scoresheet and supporting documentation that a State submits as part of its application. A State need not have made improvements in all categories and subcategories to be awarded a RIG, and any authority or policy may be used for all applicable subcategories (*e.g.*, a single statute may be used for two or more subcategories).

For Plugging Standards RIGs, a State must: 1) describe the plugging standards and procedures that were in place before the changes and provide a copy of those standards and procedures; 2) describe the changes that occurred to plugging standards and procedures during the 10-Year Application Period, and provide a copy of those changed standards and procedures; and 3) explain how each change is designed to ensure that

[4] 2021 IOGCC Report, at p. 1.
[5] *Id.*
[6] 88 Fed. Reg. 72,528.
[7] *See, e.g.*, Transfer of Infrastructure and Liabilities - Assessment Criteria and Considerations Toolbox for State and Provincial Regulators, IOGCC, May 2018.

wells located in the State are plugged in an effective manner that protects groundwater and other natural resources, public health and safety, and the environment.

For Program Improvement RIGs, a State must: 1) describe the State programs that were in place before the changes and provide any relevant documentary evidence; 2) describe the changes to the State programs that were made during the 10-Year Application Period, and provide the relevant documentary evidence; and 3) explain how each change is designed to reduce future orphaned well burdens, such as financial assurance reform, alternative funding mechanisms for orphaned well programs, and reforms to programs relating to well transfer or temporary abandonment.

B. Calculating the Plugging Standards and Program Improvement RIG Amounts

Only States that receive initial grants under Section 40601(c)(3) are eligible to receive RIGs. A State may be awarded a single $20 million (or a smaller or no amount) Plugging Standards RIG and a single $20 million (or a smaller or no amount) Program Improvement RIG.

1. Plugging Standards RIGs

Below is a list of categories and subcategories of particular actions that will be used to determine whether, during the 10-Year Application Period,

> The State has strengthened plugging standards and procedures designed to ensure that wells located in the State are plugged in an effective manner that protects groundwater and other natural resources, public health and safety, and the environment.

In its Plugging Standards RIG application, a State must submit a completed Scoresheet and supporting documentation. A total of 254 points are available to a State. A total of 94 points are available for plugging standards and procedures in effect when the State submits its application, even if they were also in effect prior to the 10-Year Application Period (Plugging Standards Criteria 1). An additional 160 points are available for improvements to plugging standards and procedures that the State made during the 10-Year Application Period (Plugging Standards Criteria 2). Improvements to plugging standards and procedures made during the 10-Year Application Period will earn points under both Plugging Standards Criteria 1 and 2.

States are eligible for certain grant amounts based on their scores:

Points	Grant Available (millions)
95 – 101	$10
102 – 114	$15
115 – 126	$17.5
≥ 127	$20

A State that is eligible for a certain amount may choose to apply for a lesser amount.

Categories and subcategories of particular actions relevant to Plugging Standards RIGs are as follows:

Category 1: Drilling well construction. Standards and procedures that relate to drilling well construction will be considered. This may include actions taken that concern drilling, casing, and cementing of a well that are designed to positively affect the success of future permanent plugging operations. The following will be considered:

A. Logging and reporting - Standards and procedures associated with well log and reporting requirements for geological information discoveries during the drilling process. This should include (as applicable): Base of protected water zones; lost circulations zones or formation voids, including depth and thickness; hydrocarbon bearing zones, including depth and thickness; and potential cross flow zones, including depth and thickness.

B. Casing centralization - Standards and procedures associated with casing centralization requirements that provide for uniform annuli and cement coverage between the casing and hole.

C. Minimum cementing - Standards and procedures associated with casing cementing requirements that establish a minimum cement coverage, including minimum above and below zone coverage across: hydrocarbon bearing zones; protected water zones; isolation requirements for potential cross flow zones; and lost circulation zones, or any corrosive zones.

Category 2: Well control equipment. Standards and procedures that relate to well control equipment that manages perforating, cutting/pulling of casing, or retrieving seal assemblies will be considered. This includes standards or procedures designed to manage incidents that occur as a result of the above actions, and any related monitoring changes.

Category 3: Barrier types. Standards and procedures that relate to barrier types will be considered. A barrier is a component or practice that, when properly installed or implemented, contributes to total system reliability by preventing liquid or gas flow. Specifically, the following will be considered:

A. Cement - Standards and procedures that address changes to acceptable or permissible types or classes of cement, acceptable mix water quality standards, and acceptable slurry preparations standards. The OWPO's research found that allowable cements are often referenced in the American Petroleum Institute (API) defined

class specifications. Cement is typically manufactured and tested against either API Specification 10A, Specification for Cements and Materials for Well Cementing, or the American Society for Testing and Materials (ASTM) C150/C150M Standard Specification for Portland Cement.

B. **Sealants other than cement** - Standards and procedures that address changes to acceptable or permissible types of sealants, other than cements. The OWPO's research found sealant types that are currently being allowed include blast furnace slag, hardening ceramics, resins, and geo-polymers, and bentonite. The application of sealants varies based on wellbore geological conditions.

C. **Bridge plugs** - Standards and procedures to acceptable bridge plug placement locations and cement cap requirements. The OWPO's research found that 50-100 feet of cement is typically required on top of mechanical bridge plugs. The research also found that dump bailers are often used to place cement tops on mechanical plugs. The cement capping requirements when a dump bailer is used is generally less than the requirements when using tubing or other work strings, and the cement top when using a dump bailer is typically found to be 35 feet.

D. **Cement retainers** - Standards and procedures that relate to acceptable cement retainer placement locations and cement cap requirements. The OWPO's research found that, in addition to the cement pumped below retainers, typically 50-100 feet of cement is required to be placed on top of cement retainers. The research also found that dump bailers are often used to place cement caps on mechanical plugs, the cement cap requirements when a dump bailer is used are less than the requirements when using tubing or other work strings, and the cement cap when using a dump bailer is typically found to be 35 feet.

E. **Packer** - Standards and procedures that related to acceptable packer use, placement locations, and cement topping requirements. The OWPO's research has found that packer use typically follows the same requirements as cement retainer use.

Category 4: Barrier Placement Locations. Standards and procedures that relate to barrier placement locations will be considered. This includes barrier placement locations that achieve permanent confinement of all oil, gas, and water in the separate strata in which they are originally found. OWPO's research found the requirements for these barriers vary depending on geological conditions, such as normal or high-pressure zones, temperature conditions of zones, and length or duration of zones. Cement plugs as barriers should be of sufficient volumes to reduce the risk of spacer mud contamination resulting in non-uniform, weak, or

dilutes barriers. Below identified are specific considerations for uncased hole, cased hole, and horizontal wells.

Uncased hole - Standards and procedures that relate to barrier placement locations in open, uncased-hole sections of a wellbore. OWPO's research found wellbore or geological conditions are commonly addressed in standards or procedures covering open hole, or uncased wellbores.

A. **Open-hole sections of the wellbore** - Standards and procedures may specify barrier requirements, including minimum plug sizes and maximum lengths of open hole between plugs.

B. **Hydrocarbon bearing, injection, or disposal zones** - Standards and procedures may specify barrier requirements to isolate hydrocarbon bearing, injection, or disposal zones.

C. **Potential cross flow zones** - Standards and procedures may specify barrier requirements to prevent cross flows between zones.

D. **Lost circulation zones** - Standards and procedures may specify barrier requirements to isolate lost circulation zones.

E. **Protected water zones or other geological zones (*e.g.*, coal seams, salt caverns)** - Standards and procedures may specify barrier requirements to isolate and protect usable water zones or other geological zones.

F. **At the surface (uncased hole)** - For an uncased hold, standards and procedures may specify minimum cement plug length at surface.

Cased Hole - Standards and procedures that relate to barrier placement locations in cased sections of the wellbore will be considered. The OWPO's research found that the following wellbore locations are commonly addressed in standards and procedures that cover cased wellbore situations.

G. **Perforated or producing, injection or disposal casing intervals** - Standards and procedures may specify barrier requirements that address producing, injection, or disposal intervals, including all open perforations.

H. **Known holes or casing integrity** - Standards and procedures may specify barrier requirements to isolate casing integrity issues.

I. **Removed casing locations** - Standards and procedures may specify barrier requirements to isolate stub plug conditions.

J. **Casing shoe locations** - Standards and procedures may specify barrier requirements to isolate casing and liner shoes, including minimum cement length below to above shoes.

K. **Liner tops** - Standards and procedures may specify barrier requirements to isolate liner hangars.

L. **Open uncemented annulus outside casing** - Standards and procedures may specify isolation requirements to prevent cross flows between zones. Based on OWPO's research, requirements typically range from cutting and pulling casing at top of cement or identified free-point or perforating the uncemented intervals at 50 feet spacing and squeeze cementing through perforations into the uncemented annulus.

M. **At the surface (cased hole)** - For a cased hold, standards and procedures may specify minimum cement plug length at surface.

Horizontal Wellbores - Standards and procedures that relate to barrier placement locations in sections of the wellbore of a horizonal well will be considered. The OWPO's research found the following are commonly addressed in standards and procedures that cover horizontal wells.

N. **Barrier type or location** - For horizontal wells, standards and procedures may specify acceptable isolation location or barrier types for horizontal leg of wellbore.

O. **Casing or liner hanger and shoes** - For horizontal wells, standards and procedures may specify barrier requirements to isolate casing and liner hangers and shoes. OWPO's research found that State's often specify required minimum cement length from below to above the hangers and shoes.

Category 5: Barrier placement techniques. Standards and procedures that relate to allowable barrier placement techniques will be considered. Based on OWPO's research, there are four conventional barrier placement techniques, and alternative methods are generally only considered after an operator demonstrates that its conventional attempts have been unsuccessful. Below is a description of some common techniques.

A. **Balanced technique** - This technique involves setting a cement plug at a predetermined point within the casing or open hole. The typical steps for this technique are as follows: 1) a cement slurry is pumped down the drill pipe or tubing and back up to a calculated height that will balance the cement inside and outside the pipe; and 2) the pipe or tubing is then slowly withdrawn out of the cement.

B. **Cement retainer technique** - This technique involves the installation of a cement retainer (*i.e.*, packer) plug within a cased hole. The cement is displaced by the cement retainer so that the formation below the retainer can be squeezed with cement. After cementing a formation, the cement retainer may be closed at the bottom, and the cement pipe may be disconnected from the top of the retainer. Cement can then be placed on top of the retainer by slowly withdrawing the cement pipe above it.

C. **Dump bailer technique** - This technique is available for setting plugs in shallow wells. In this technique, a wireline truck lowers a bailer into the well that is to be plugged. Generally, a bridge plug or cement basket is first placed in the hole at a specified depth. Then, the bailer opens upon contact with the mechanical plug and releases the cement slurry at this position as it is raised.

D. **Squeeze cement technique** - Using this technique, cement is squeezed through perforations into the well bore casing annulus to spot a cement plug or circulate cement to the surface to achieve plug length or circulation of cement. OWPO has identified three methods that may be used for this technique: 1) the tubing squeeze method; 2) the tubing/packer squeeze method; and 3) the bull plug method.

Category 6: **Wellbore and barrier integrity and verification.** Standards and procedures that relate to wellbore integrity and barrier verification will be considered. Specifically, the following subcategories will be considered:

A. **Casing pressure test** - Based on OWPO's research, after a well's perforations have been effectively confined, the remaining casing may and is typically pressure tested to verify wellbore integrity. Research has shown the typical test is a pressure of 500 to 1000 psi, held for a duration of ten minutes. OWPO also found that should a pressure test fail, further testing is typically conducted to determine the location or locations of casing failures.

B. **Barrier verification** - After the placement of barriers (cement or mechanical), verification that the barrier has been placed at the correct depth and has the proper stability or strength will be conducted. Verification could be by "tagging" the barrier or pressure testing the barrier or a combination of both.

Category 7: **Spacer between barriers.** Standards and procedures related to the spacer medium between well barriers will be considered. Based on OWPO's research, each interval between well plugs is filled with a medium of a sufficient density to exert hydrostatic pressure that exceeds the greatest formation pressure

encountered. The purpose of doing so is to stabilize the well and provide a medium for cement plug placement.

Category 8: Wellbore capping. Standards and procedures that relate to wellbore capping requirements will be considered. Based on OWPO's research, a wellbore marker or capping mechanism is typically placed on each plugged well. The timing of marker installation will also be considered:

A. **Below ground marker** - A below ground marker plate; typically inscribed with well identity information.

B. **Above ground marker** - An above ground marker pole or pipe typically inscribed with well identity information.

C. **Marker installation timing** - OWPO's research found a wellbore cap not being allowed to be installed until a specified time has elapsed. Four to twenty-four hours was found to be statutorily acceptable to verify cement curing and static conditions indicating no gas migration or micro-annulus flow is occurring.

Category 9: Pre-approval, procedure changes, post-reporting. Standards and procedures that relate to improving the following will be considered:

A. **Plugging procedure approval requirements.**

B. **Plugging procedure changes for previously approved procedures.**

C. **Plugging operations notification requirements.**

D. **Post-plugging reporting requirements.**

E. **Established criteria or process to address alternative material or methods not meeting the prescriptive requirements outlined in the regulations.**

Category 10: State plugging inspection, oversight, and long-term monitoring. Standards and procedures that relate to internal inspection and oversight, and long-term monitoring of plugged wells will be considered. Below is a list of relevant standards and procedures:

A. **State inspector certification** - The establishment or expansion of a state inspector certification program, including requirements to be certified.

B. **Contractor approval/certification** - The establishment or expansion of a plugging and cementing contractor approval or certification program, including requirements to be certified.

C. Inspection, witnessing, monitoring, and documentation - A State inspection, witnessing or monitoring, and documentation policy for plugging operations.

D. Plugged well certification - The establishment or expansion of a State certification policy for plugged wells to certify the well has been plugged consistent with the State's standards and procedures.

E. Long-term monitoring - The establishment or expansion of a long-term periodic monitoring program for plugged wells with a prioritization policy that may include criteria based on the date a well is drilled, the date a well is plugged, and the requirements of the State at the time of either.

2. Program Improvement RIGs

Below is a list of categories and subcategories of particular actions that will be used to determine whether, during the 10-Year Application Period,

> The State has made improvements to State programs designed to reduce future orphaned well burdens, such as financial assurance reform, alternative funding mechanisms for orphaned well programs, and reforms to programs relating to well transfer or temporary abandonment.

In its Program Improvement RIG application, a State must submit a completed scoresheet and supporting documentation. A total of 192 points are available to a State. A total of 71 points are available for authorities in effect when the State submits its application, even if they were also in effect prior to the 10-Year Application Period (Program Improvement Criteria 1). An additional 121 points are available for additions or improvements the State made during the 10-Year Application Period (Program Improvement Criteria 2). Additions or improvements made during the 10-Year Application Period earn points under both Program Improvement Criteria 1 and 2.

States are eligible for certain grant amounts based on their scores:

Points	Grant Available (millions)
72 – 76	$10
77 – 86	$15
87 – 95	$17.5
≥ 96	$20

A State that is eligible for a certain amount may choose to apply for a lesser amount.

The categories and subcategories of particular actions relevant Program Improvement RIGs are provided below. In the interest of sharing approaches of

various jurisdictions, some examples are provided. However, OWPO does not endorse any particular jurisdiction's approach.

Category 1: Liable parties, scope of liability, and state authorities. The scope of parties considered liable for plugging a well, restoring and reclaiming the associated well sites and lands, and/or removing or decommissioning the associated facilities may be expanded. The following will be considered:

A. **Scope of liable parties** - There are several types of non-state parties that may be considered liable. Parties include but are not limited to well operators; unit, pool, or participating area operators; working interest owners/lessees; owners or affiliates of liable parties; parties with contractual relationships to liable parties; mineral estate owners/lessors; and surface estate owners. An example is as follows:

- Defining responsible party as "the operator of record according to the office of conservation records, who last operated the property on which the oilfield site is located at the time the site is about to be abandoned, ceases operation, or becomes an unusable oilfield site, and that operator's partners and working interest owners of that oilfield site." LA Rev. Stat. § 30:82(11).

B. **Predecessors in interest** - Predecessors of the interests of liable parties may be considered liable. Examples are as follows:

- "1) The current operator, as determined by the records of the supervisor, of a deserted well that produced oil, gas, or other hydrocarbons or was used for injection is responsible for the proper plugging and abandonment of the well or the decommissioning of deserted production facilities. If the supervisor determines that the current operator does not have the financial resources to fully cover the cost of plugging and abandoning the well or the decommissioning of deserted production facilities, the immediately preceding operator shall be responsible for the cost of plugging and abandoning the well or the decommissioning of deserted production facilities.

  2) The supervisor may continue to look seriatim to previous operators until an operator is found that the supervisor determines has the financial resources to cover the cost of plugging and abandoning the well or decommissioning deserted production facilities. However, the supervisor may not hold an operator

responsible that made a valid transfer of ownership of the well before January 1, 1996.

3) For purposes of this subdivision, "operator" includes a mineral interest owner who shall be held jointly liable for the well and attendant production facilities if the mineral interest owner has or had leased or otherwise conveyed the working interest in the well to another person, if in the lease or other conveyance, the mineral interest owner retained a right to control the well operations that exceeds the scope of an interest customarily reserved in a lease or other conveyance in the event of a default."

CA Pub. Res. Code § 3237(c)

- "Every current and prior record title owner is jointly and severally liable, along with all other record title owners and all prior and current operating rights owners, for compliance with all non-monetary terms and conditions of the lease and all regulations issued under [the Outer Continental Shelf Land Act], as well as for fulfilling all non-monetary obligations, including decommissioning obligations, which accrue while it holds record title interest." 30 C.F.R. § 556.604(d).

C. Joint and several liability - Each liable party may be responsible for all of the costs of well plugging, well site reclamation and restoration, and/or decommissioning or removing the associated infrastructure. Examples are as follows:

- A plugging-related "claim shall be paid by the owner or operator, or surety, within 30 days, and if not paid within that time the supervisor, acting for and on (sic) behalf of the state, may bring suit against the owner or operator, or surety, jointly or severally, for the collection of the claim." MI Compiled Laws § 324.61519.

- "Lessees, owners of operating rights, and their predecessors are jointly and severally liable for meeting decommissioning obligations for facilities on leases, including the obligations related to lease-term pipelines, as the obligations accrue and until each obligation is met." 30 C.F.R. § 250.1701(a).

D. State access (*e.g.*, the right to enter premises) and the right to acquire an interest in a well or other wells or related interests - State authorities may allow the State access to or take a security interest in wells or other interests of a liable party. State authorities

may also grant the State a higher priority for any security interest. Examples are as follows:

- "The commission, its agents, employees, or contractors shall have the right to enter any land for the purpose of plugging or replugging a well or the restoration of a well site as provided in section 38-08-04.4." ND Cent. Code § 38-08-04.7.

- "In the event that a site is being declared orphaned, the assistant secretary shall retain a first lien and privilege upon such property superior to any existing mortgages, privileges, or liens of any kind, type, or nature whatsoever." LA Rev. Stat. § 30:91(B)(2)(a).

E. Increased or enhanced compliance or enforcement programs - State orphaned well enforcement and compliance programs may be designed to more aggressively supervise or pursue parties that are liable. This also includes evidence that demonstrates that the State is more aggressively monitoring or pursuing liable parties.

Category 2: Transfers of interest. There are risks to states arising from the transfer of interests in oil and gas wells, underlying leases, and/or the associated infrastructure. These risks may arise from a sale to or merger of previously affiliated or unaffiliated parties. These risks can also arise from a bankruptcy. A State may attempt to mitigate these risks. The following will be considered:

A. Notice of transfer sent to state from the transferor, the transferee, or another interested party - A state may require that notice of transfers be submitted to the state by the transferor, transferee, or another interested party (*e.g.*, a bank financing the transaction). Examples are as follows:

- "Any entity that acquires the right to operate a well or production facility, whether by purchase, transfer, assignment, conveyance, exchange, or other disposition, shall, as soon as it is reasonably possible, but not later than the date when the acquisition of the well or production facility becomes final, notify the supervisor or the district deputy, in writing, of the person's operation. The acquisition of a well or production facility shall not be recognized as complete by the supervisor or the district deputy until the new operator provides all of the following material:
    1) The name and address of the person from whom the well or production facility was acquired.

2) The name and location of the well or production facility, and a description of the land upon which the well or production facility is situated.
3) The date when the acquisition becomes final.
4) The date when possession was or will be acquired.
5) An indemnity bond for each well as required under Section 3204 or 3205."

CA Pub. Res. Code § 3202(a).

- "Prior to the transfer, the transferee shall submit to the State:
  1) The name of the Buying Operator;
  2) The anticipated date for the transfer of all Transferable Items;
  3) The complete anticipated list of Transferable Items that are proposed for transfer.
     A) The list will identify Low Producing Wells, Inactive Wells, and Out of Service Wells proposed for transfer.
     B) For each Low Producing and Inactive Well proposed for transfer, the Selling Operator will provide the following information about the Oil and Gas Location where the Low Producing or Inactive Well is located:
        i) Area of initial total disturbance for the Oil and Gas Location;
        ii) Number of Wells at the Oil and Gas Location, including how many are proposed for transfer and how many are Low Producing or Inactive Wells;
        iii) Whether the Oil and Gas Location has cut-and-fill slopes, and, if yes, the slope ratios (e.g., 4:1) of both the cut slope and the fill slope;
        iv) Whether the Oil and Gas Location has sandy soils;

v) Whether any salt kills have occurred at the Oil and Gas Location;

vi) Whether the Oil and Gas Location is within 2,000 feet of a School Facility, Child Care Center, High Occupancy Building Unit, or Residential Building Unit within a Disproportionately Impacted Community;

vii) Whether the Oil and Gas Location is within High Priority Habitat; and

viii) Whether topsoil has been salvaged at the Oil and Gas Location.

C) For each Out of Service Well proposed for transfer, the Selling Operator will identify the date by which each Well will be plugged. The transfer of an Out of Service Well will place the Well on a Plugging List for the Buying Operator but will not change the deadline for plugging such Well unless the Buying Operator files a Revised Form 6A pursuant to Rule 434.d.(9).A."

2 CO Code of Regs. § 404-1-218(b).

B. Whether a state examines the transferor, the transferee, or both - A State may examine the transferor, the transferee, or both. For example, the Province of Alberta, Canada, "calculates the deemed assets and deemed liabilities of both parties associated with a transfer. If the assets are less than the liabilities for either party in a post transfer calculation, financial security must be provided to increase the assets to equivalency with the calculated liabilities." 2021 IOGCC Report, at p. 5.

C. The scope of examination - A State's examination may include well sites, the associated pipelines, facilities, and infrastructure, and/or land associated with or adjacent to wells or the associated pipelines, facilities, and infrastructure. *See, e.g.*, 2021 IOGCC Report, at p. 5. A State may also examine the transferee's ability to financially cover plugging, reclamation, or restoration costs in a particular field or area, statewide, or using other criteria.

D. State authority to condition or reject a proposed transfer - A State may condition a transfer based on analysis of risks related to orphaned wells. Examples are as follows:

- An assignee or transferee shall "not complete the acquisition until the determination is received and the bond has been filed with the supervisor." CA Pub. Resources Code § 3205.8(b).

- "No transfer of rights granted by a permit shall be made without prior approval from the director. Any approval granted by the director of a transfer of permit rights shall be conditioned upon the proposed new operator complying with all requirements of the Act, this chapter and the permit." 4 VA Code § 25-150-120(A)(1), (2).

E. Transferor maintenance of financial assurance through or beyond a transfer - A State may require the transferor to maintain financial assurance until the State releases them, or for a period of time after the transfer is complete. Examples are as follows:

- "The Supervisor shall be advised by the Owner/Operator of all transfers of wells at least thirty (30) days before the closing date of the transfer and the Supervisor retains the right for an additional thirty (30) days to evaluate pending transfer of well(s). Notice of transfer of wells must be accompanied by a list of all wells to be transferred that includes the well name, API number, legal description and well status. The purpose of the notice is to provide the Supervisor with an opportunity to evaluate the status and number of wells that may be involved in the transfer and determine the need for additional bonding by the new Owner/Operator. No later than thirty (30) days after notification, the Supervisor will notify the parties of his preliminary determination of additional bonding. The previous Owner/Operator's bond shall not be released until the new Owner/Operator provides bonding, including the additional bonding if requested. The Supervisor shall have the discretion to hold the prior bond for a period of six (6) months after the new bond has been posted to evaluate the performance and viability of the new operator. The Supervisor shall also provide thirty (30) days notice of the transfer of any well(s) to the county where the well(s) is located." WY Code R. § 3-4(a)(v).

- "All financial assurance provided to the Commission pursuant to this Series shall remain in-place until such time

as the Director determines an operator has complied with the statutory obligations described herein, or until such time as the Director determines that a successor-in-interest has filed satisfactory replacement financial assurance, at which time the Director shall provide written approval for release of such financial assurance." 2 CO Code of Regs. § 404-1-709.

F. Financial assurance adjusted for risk, including requiring over what the transferor posted - A State may reevaluate its orphaned-well-related protections, periodically, and require additional assurance. Examples are as follows:

- "If the transfer is for a gas well producing less than 25 MCF/day per AOGC records, or a well that has received an approved temporarily abandonment status in accordance with General Rule B-7, then the Current Permit Holder and New Permit Holder may file an application, on a form prescribed by the Director, requesting administrative approval of the transfer request." AR Oil and Gas Comm'n Rule B-4(h)(4).

- "The party or parties to the transfer shall, based upon the site restoration assessment, propose a funding schedule which will provide for the site-specific trust account. The funding schedule shall consider the uniqueness of each transfer, acquiring party, and oilfield site." "When transfers of oilfield sites occur subsequent to the formation of site-specific trust accounts but prior to the end of their economic life, the assistant secretary and the acquiring party shall, in the manner provided for in this Section, again redetermine cost and agree upon a funding schedule." LA Rev. Stat. § 30:88(C), (E).

Category 3: Financial assurance (*e.g.*, surety bonds, letters of credit, certificates of deposit). Based on public comments to the RFI, the IOGCC, states, and other commenters consider financial assurance to be of primary importance. OWPO is interested in the following:

A. Full-cost well-specific financial assurance, including consideration for inflation - Financial assurance requirements may account for the full cost of plugging, reclamation, and restoration. Financial assurance requirements may also account for associated pipelines, facilities, infrastructure, and the associated lands. Examples are as follows:

- "This bill would require a person who acquires the right to operate a well or production facility, whether by purchase, transfer, assignment, conveyance, exchange, or other disposition, except a well as specified, to instead file with the supervisor an individual indemnity bond for the well or production facility, or a blanket indemnity bond for multiple wells or production facilities, in an amount determined by the supervisor to be sufficient to cover, in full, all costs of plugging and abandonment, decommissioning of the facility, and site restoration, as provided." CA Assembly Bill No. 1167 ch. 359, Legislative Counsel's Digest, at p. 1.

- While in the context of wind power facilities, not oil and gas, Texas requires that "The amount of the financial assurance must be at least equal to the estimated amount by which the cost of removing the wind power facilities from the landowner's property and restoring the property to as near as reasonably possible the condition of the property as of the date the agreement begins exceeds the salvage value of the wind power facilities, less any portion of the value of the wind power facilities pledged to secure outstanding debt." TX Util. Code, Tit. 6, ch. 301.0004(b).

B. Well-specific financial assurance that considers field or area risks, including consideration for location-based inflation - A states may adjust financial assurance requirements based on risks associated with a field or area. Examples are as follows:

- "a) The division may require an operator filing an individual indemnity bond pursuant to Section 3204 or a blanket indemnity bond pursuant to Section 3205, as applicable, to provide an additional amount of security acceptable to the division based on the division's evaluation of the risk that the operator will desert its well or wells and the potential threats the operator's well or wells pose to life, health, property, and natural resources. The additional security required by the division shall not exceed the lesser of the division's estimation of the reasonable costs of properly plugging and abandoning all of the operator's wells and decommissioning any attendant production facilities in accordance with Section 3208, or thirty million dollars ($30,000,000).
  b) When making an estimation under this section of the reasonable costs of properly plugging and

abandoning an operator's well or wells and decommissioning any attendant production facilities, the division shall provide the operator with an opportunity to submit the operator's own estimation and shall consider all of the following:

1) The depth of the well or wells.
2) The accessibility and surroundings of the well or wells and any attendant production facilities.
3) Available information about the condition of the well or wells and any attendant production facilities.
4) Available information about the cost to plug and abandon a comparable well or wells.
5) Available information about the cost to decommission production facilities comparable to the production facilities attendant to the well or wells.
6) The operator's cost estimates, if provided.
7) Whether the operator is a public utility gas corporation, as defined in subdivision (a) of Section 216 of the Public Utilities Code.
8) Any other information that the division determines to be relevant to the estimation of cost.

c) The division, in evaluating the risk that the operator will desert its well or wells and the potential threats the operator's well or wells pose to life, health, property, and natural resources, shall consider all of the following:

1) The difference between the estimation of reasonable costs of plugging and abandonment under subdivisions (a) and (b) and the total amount of indemnity bonds or other financial assurances in place to ensure funding of the plugging and abandonment of the operator's well or wells.
2) The level of current production from the well or wells.
3) Available information regarding estimated reserves remaining in place associated with the well or wells.
4) Whether the well or wells are “critical,” are “environmentally sensitive,” or are in an “urban area,” as those terms are defined by the division in regulation.

5) To the extent that relevant information is available to the division, the financial status of the operator and the operator's financial capacity to plug and abandon all of the operator's wells.
6) The past record of compliance by the operator with the division.
7) The number of idle wells to be covered by the indemnity bond and the operator's record of compliance with the requirements of Section 3206 and the division's regulations related to the management of idle wells.
8) Whether the operator's well or wells are subject to any bonding or financial assurance requirements by a local government.
9) Whether the operator's well or wells are already subject to additional bond coverage by the division pursuant to Section 3270.4.
10) Any other information that the division determines to be relevant to the evaluation of the risk."

CA Pub. Res. Code § 3205.3(a)-(c).

- "Operators shall provide financial assurance to the Commission, prior to commencing any operations with heavy equipment, to protect surface owners who are not parties to a lease, surface use or other relevant agreement with the operator from unreasonable crop loss or land damage caused by such operations. The determination that crop loss or land damage is unreasonable shall be made by the Commission after the affected surface owner has filed an application in accordance with the 500 Series rules. Financial assurance for the purpose of surface owner protection shall not be required for operations conducted on state lands when a bond has been filed with the State Board of Land Commissioners." 2 CO Code of Regs. § 404-1-703.

C. Well-specific financial assurance that considers well-related risks (*e.g.*, low production, estimated costs for plugging a particular well), including consideration for relevant equipment- or materials-based- inflation - A State may adjust the financial assurance requirements depending on the production obtained from the well, or the well conditions. Examples are as follows:

- "The bonding level of $10 per foot will be adjusted every three (3) years based on the actual Commission orphan well plugging cost or by the percentage change in the Wyoming consumer price index. An Owner/Operator may request the Supervisor to set a different bonding level based on an evaluation of the specific well conditions and circumstances. The Owner/Operator shall submit a written cost estimate to provide plugging, abandonment and site remediation prepared by a Wyoming contractor with expertise in well plugging, abandonment and site remediation. At his discretion, the Supervisor may accept or reject the cost estimate when determining whether to adjust the bonding level." "The idle well bond amount will be reviewed annually or upon request of the Owner/Operator. The Supervisor may accept a detailed plan of operation in lieu of additional bonding, which includes a time schedule to permanently plug and abandon idle wells or take such action as may be necessary to remove the well(s) from idle status. As part of the plan of operation, Owner/Operators shall commit to plug or return to active status a minimum of ten percent (10%) of the idle wells each calendar year. This plan and time schedule is subject to approval by the Supervisor, and shall not exceed one (1) year from the date of filing. Approved plans filed by an Owner/Operator are binding on purchasers in the event of a sale unless the Supervisor accepts an alternate plan." WY Code R. § 3-4(b)(ii)(B), (C).

- "Notwithstanding any other provision of this chapter, a person who acquires the right to operate a well or production facility, by purchase, transfer, assignment, conveyance, exchange, or other disposition, except a well that has an average daily production level that exceeds 15 barrels of oil or 60,000 cubic feet of natural gas during the 12 months preceding the date of acquisition or a natural gas storage well, shall, as soon as possible, but not later than the date when the acquisition of the well or production facility becomes final, file with the supervisor an individual indemnity bond for the well or production facility, or a blanket indemnity bond for multiple wells or production facilities, in an amount determined by the supervisor to be sufficient to cover, in full, all costs of plugging and abandonment, decommissioning of the facility, and site restoration pursuant to Section 3208 and regulations implementing this chapter." CA Pub. Res. Code § 3205.8(a)(1).

D. Well-specific financial assurance that considers liable-party-related financial risks - A State may adjust the amount of financial assurance required to account for the aggregate risks posed by a particular party. For instance, a State may evaluate risks by comparing a company's operational costs relative to its total production (potential adjusted for decline curves). An example is as follows:

- "To the extent that an operator's inactive well count exceeds such operator's financial assurance amount divided by ten thousand dollars ($10,000) for inactive wells less than three thousand (3,000) feet in total measured depth or twenty thousand dollars ($20,000) for inactive wells greater than or equal to three thousand (3,000) feet in total measured depth, such additional wells shall be considered "excess inactive wells." For each excess inactive well, an operator's required financial assurance amount under Rule 706 shall be increased by ten thousand dollars ($10,000) for inactive wells less than three thousand (3,000) feet in total measured depth or twenty thousand dollars ($20,000) for inactive wells greater than or equal to three thousand (3,000) feet in total measured depth. This requirement shall be modified or waived if the Commission approves a plan submitted by the operator for reducing such additional financial assurance requirement, for returning wells to production in a timely manner, or for plugging and abandoning such wells on an acceptable schedule.

  In determining whether such plan is acceptable, the Commission shall take into consideration such factors as: the number of excess inactive wells; the cost to plug and abandon such wells; the proportion of such wells to the total number of wells held by the operator; any business reason the operator may have for shutting-in or temporarily abandoning such wells; the extent to which such wells may cause or have caused a significant adverse environmental impact; the financial condition of the operator; the capability of the operator to manage such plan in an orderly fashion; and the availability of plugging and abandonment services. If an increase in financial assurance is ordered pursuant to this subsection, the operator may, at its option and in compliance with these 700 Series rules, submit new financial assurance or supplement its existing financial assurance.

  Operators shall identify and list any shut-in or temporarily abandoned wells on their monthly production/injection

report. In addition, when equipment is removed from a well so as to render it temporarily abandoned, operators shall file a Sundry Notice, Form 4, with the Commission within thirty (30) days describing such activity.

Any person, other than the operator, who causes equipment from a well to be removed so as to render it temporarily abandoned shall, prior to conducting such activity, file a notice of intent to remove equipment and receive the approval of the Director. The Director may condition such approval on concurrent plugging and abandonment of the well or on provision of the financial assurance required of operators in this series."

2 CO Code of Regs. § 404-1-707(a)-(c).

E. **Multiple-well financial assurance that considers financial risks and anticipated plugging, reclamation, and restoration burdens** - A State that allows blanket financial assurance for parties with multiple wells may base the assurance required on cumulative risks. An example is as follows:

- "When the Director has reasonable cause to believe that the Commission may become burdened with the costs of fulfilling the statutory obligations described herein because an operator has demonstrated a pattern of non-compliance with oil and gas regulations in this or other states, because special geologic, environmental, or operational circumstances exist which make the plugging and abandonment of particular wells more costly, or due to other special and unique circumstances, the Director may petition the Commission for an increase in any individual or blanket financial assurance required in this series." 2 CO Code Regs. § 404-1-702(a).

F. Updating State asset/liabilities database - A State may require operators of wells to update their total financial assurance and liabilities on a periodic basis to allow a State to compare the assurance available to the State versus potential plugging, reclamation, and restoration liabilities. States may also use this information to adjust each operator's required financial assurance.

Category 4: Non-assurance State financial protections and incentives. A State may use non-financial assurance methods to mitigate orphaned well risks. OWPO is interested in the following:

A. Fees, taxes, and penalties (including enhanced or escalated enforcement of penalties) - A State may assess fees, taxes, or penalties for well and wellsite plugging and restoration. A general State tax that is assessed for production but does specifically identify orphaned well risks may not be included unless a State can show that the tax, or portion thereof, was designed to reduce orphaned well burdens. A State may also increase penalties for repeat or habitual offenders or show that it enhanced its enforcement of penalties. Examples are as follows:

- ". . . here is hereby imposed on crude petroleum produced from producing wells in this state a fee in the amount of one and one-half cents on each barrel of oil and condensate. "Oil" and "condensate" shall mean the same such oil and condensate as is taxable under the provisions of Part I of Chapter 6 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950. The fee is in addition to any tax imposed pursuant to the Louisiana Revised Statutes of 1950, Title 47. The provisions of the Louisiana Tax Code shall apply to the administration, collection, and enforcement of the fee imposed herein, and the penalties provided by that code shall apply to any person who fails to pay or report the fee. Collection of the fee shall be suspended in the manner provided by R.S. 30:86(C). Proceeds from the fee, including any penalties collected in connection with the fee, shall be deposited into the Oilfield Site Restoration Fund."

  "There is hereby imposed on gas produced from producing wells in this state a fee in the amount of three-tenths of one cent for each thousand cubic feet. "Gas" shall mean the same such gas as is taxable under the provisions of Part I of Chapter 6 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950. The fee is in addition to any tax imposed pursuant to the Louisiana Revised Statutes of 1950, Title 47. The provisions of the Louisiana Tax Code shall apply to the administration, collection, and enforcement of the fee, and the penalties provided by that code shall apply to any person who fails to pay or report the fee. Collection of the fee shall be suspended in the manner provided by R.S. 30:86(C). Proceeds from the fee, including any penalties collected in connection with the fee, shall be deposited into the Oilfield Site Restoration Fund."

  "There is hereby imposed on crude petroleum produced from producing wells in this state a fee on each barrel of oil and condensate payable upon the initial disposition of each

barrel of oil and condensate. The fee is in addition to any tax imposed pursuant to Title 47 of the Louisiana Revised Statutes of 1950. The provisions of Chapters 17 and 18 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950 shall apply to the administration, collection, and enforcement of the fee imposed in this Section, and the penalties provided by that code shall apply to any person who fails to pay or report the fee. Proceeds from the fee, including any penalties collected in connection with the fee, shall be deposited into the Oilfield Site Restoration Fund."

"There is hereby imposed on gas produced from producing wells in this state a fee in the amount of three-tenths of one cent for each thousand cubic feet. The fee is in addition to any tax imposed pursuant to Title 47 the Louisiana Revised Statutes of 1950. The provisions of the Louisiana Tax Code shall apply to the administration, collection, and enforcement of the fee, and the penalties provided by that code shall apply to any person who fails to pay or report the fee. Proceeds from the fee, including any penalties collected in connection with the fee, shall be deposited into the Oilfield Site Restoration Fund."

"The site restoration fee shall be the following:

1) a) Full rate production, which shall include all production from oil or gas wells except for production from reduced rate production wells as set forth in R.S. 47:633(7): For crude oil and condensate, the fee shall be based on the oil price on July first of each year for the ensuing twelve months based upon the average New York Mercantile Exchange Price per barrel of crude oil per month on the close of business on June thirtieth for the prior twelve months. The amount of the fee for a well that produces crude oil and condensate shall be as follows:

i) The fee shall be one and one-half cents per barrel on crude oil and condensate if the price of oil is at or below sixty dollars per barrel.

ii) The fee shall be three cents per barrel on crude oil and condensate if the price of oil is above sixty dollars and at or below ninety dollars per barrel.

iii) The fee shall be four and one-half cents per barrel on crude oil and condensate if the price of oil is above ninety dollars per barrel.

b) For natural gas and casing head gas, the fee shall be three-tenths of one cent per thousand cubic feet.

2) Reduced rate production such as stripper wells and incapable wells. The site restoration fee for each respective category of oil or gas hereunder shall be in the same proportion to the respective full rate production fees as the reduced rate severance tax to the full rate severance tax for each respective category."

LA Rev. Stat. 30:87(A), (B), (F).

- "The operator of any idle well shall do either of the following:

1) No later than May 1 of each year, for each idle well that was an idle well at any time in the last calendar year, file with the supervisor an annual fee equal to the sum of the following amounts:

A) One hundred fifty dollars ($150) for each idle well that has been an idle well for three years or longer, but less than eight years.

B) Three hundred dollars ($300) for each idle well that has been an idle well for eight years or longer, but less than 15 years.

C) Seven hundred fifty dollars ($750) for each idle well that has been an idle well for 15 years or longer, but less than 20 years.

D) One thousand five hundred dollars ($1,500) for each idle well that has been an idle well for 20 years or longer.

2) File a plan with the supervisor to provide for the management and elimination of all long-term idle wells."

CA Pub. Res. Code § 3206(a).

B. Incentives - While sometimes related to taxes or fees, a State may also provide incentives to parties for plugging wells. There are many states that indicated to the IOGCC that they have incentives relative to idle and orphaned wells.[8] Examples are as follows:

- "Operators that plug ten (10) or more wells during the calendar year immediately preceding an inactive well assessment may apply for a reduction in the inactive well assessment based on Table 2 hereof for each well plugged and abandoned based on Office of Conservation records." LA Admin. Code tit. 43 § XIX-137(A)(3)(a).

- "If the operator has eliminated more wells than required in the prior two years, the supervisor may deduct from the new requirement the net total of long-term idle wells eliminated in excess of those previously required." CA Pub. Res. Code § 3206(a)(2)(B)(iii).

C. State authority to restrict future operations of party - A State may take certain actions restricting parties' ability to conduct future oil and gas operations within the State. An example is as follows:

- "1) The assistant secretary may withhold any permit application under this Subtitle to the following:
  a) Any individual, partnership, corporation, or other entity which has been found to have violated Statewide Order 29-B.
  b) Any partnership, corporation, or other entity for which a general partner, an owner of more than twenty-five percent ownership interest, or a trustee has, within the two years preceding the date on which the permit application is filed, held a position of ownership or control in another partnership, corporation, or other entity which has been found to have violated Statewide Order 29-B.

[8] *See, e.g.*, Idle and Orphan Oil and Gas Wells: State and Provincial Regulatory Strategies 2021, at p. 19.

2) An individual or entity has committed a violation of Statewide Order 29-B if any one of the following has occurred:
   a) On order finding the violation has been entered against the individual or entity, all appeals have been exhausted and the individual or entity is not in compliance or on a schedule for compliance with an order.
   b) The assistant secretary and the individual or entity have entered into an agreed order relating to the alleged violation and the individual or entity is not in compliance or on a schedule for compliance with such order."

LA Rev Stat § 30:94(B).

D. The creation or presence of a State idle or orphaned well plugging, reclamation, and restoration funds, trusts, or other similar accounts that is funded through non-state-originated funds - A State may create a fund or trust that is maintained by the State that may be used for plugging orphaned oil and gas wells and reclaiming the associated well sites. The fund may account for the following factors: 1) the number of known and estimated unknown orphan wells in the State; 2) the calculated shortfall between the State's total orphan well liability, including reasonable estimates of future orphan wells, and its existing financial assurance holdings; 3) the statewide percentage of idle and very low producing wells; 4) the number of operators that present a high orphan well risk; and 5) the ability to expand the incoming revenue on an annual basis. Examples are as follows:

- North Dakota created an abandoned oil and gas well plugging and site reclamation fund. Money in the fund may be used for Moneys in the fund may be used for the purposes outlines in the statute, including: Contracting for the plugging of orphaned wells; Contracting for the reclamation of orphaned drilling and production sites, saltwater disposal pits, drilling fluid pits, and access roads; Defraying costs incurred in the reclamation of saltwater handling facilities, treating plants, and oil and gas-related pipelines and associated facilities; Reclamation and restoration of land and water resources impacted by oil and gas development, including related pipelines and facilities that were abandoned or were left in an inadequate reclamation status before August 1, 1983, and for which there is not any continuing reclamation responsibility under state law. ND Cent. Code ch. 38-08-04.5.

- The State of California created a Hazardous and Idle-Deserted Well Abatement Fund "to mitigate a hazardous or potentially hazardous condition, by well plugging and abandonment, decommissioning the production facilities, or both." CA Pub. Res. Code § 3206(b).

- The State of Arkansas created an Abandoned and Orphaned Well Plugging Fund. AR Oil and Gas Comm'n Rule G-1.

E. Insurance or warranty for a plug failing - A State may increase penalties or causes of action that target parties that are responsible for plugging, where the plugging fails. A State may also periodically monitor or test whether certain plugs have not failed, including monitoring for systemic failures arising from the same party, its affiliates, or entities that have some relationship.

- An example of a plugging failure is described in *Ranchero Esperanza, Ltd. v. Marathon Oil Co.*, 488 S.W.3d 354 (Tex. App. 2015). The failure occurred because of activity conducted nearby after the plugging occurred.

Category 5: Reporting and public notice of orphaned wells. The public may benefit from increased visibility of orphaned wells located in that State. The public may also benefit from having knowledge of the State's plans as it relates to orphaned wells. OWPO is interested in the following:

A. Reporting mechanisms for responsible parties, municipalities, or other members of the public - A State may require responsible parties or municipalities to report the wells that they are either responsible for or are located within their jurisdiction. A State may also require reporting of the total or estimated cost liability for plugging those wells. A State may also allow private citizens to report potential orphaned wells. Examples are as follows:

- ". . . each operator of an oil or gas well to submit a report to the supervisor that demonstrates the operator's total liability to plug and abandon all wells and to decommission all attendant production facilities, including any needed site remediation." Cal. Pub. Resources Code § 3205.7

- The State of California may require from cities or counties a list of idle wells that are located within their respective jurisdictions. Cal. Pub. Resources Code § 3206.5

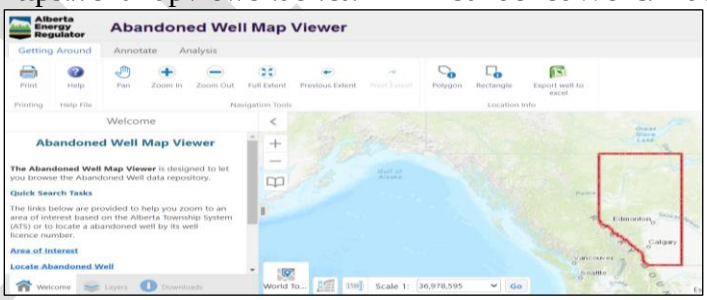
- The State of Ohio and Province of Alberta, Canada provide websites for the public to report potentially orphaned wells.[9]

B. Online notice of aggregate financial assurance by responsible party (including notice targeted for economically disadvantaged and/or non-English speaking communities) - A State may post or cause to be posted on its website the amount of financial assurance for each well. An example is as follows:

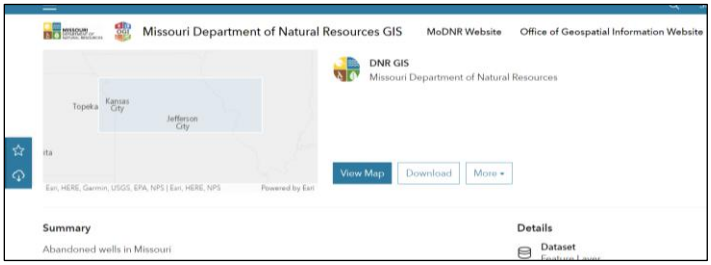
- The State of California, under CA Pub. Res. Code § 3205.8(e), committed "to post on its internet website the information on all indemnity bond determinations made by the supervisor, and shall include for each determination the bond amount and calculations used."

C. Online notice of marginal, orphaned, and all other wells by responsible party (including notice targeted for economically disadvantaged and/or non-English speaking communities) - A State may post information on a publicly available website to increase public awareness of orphaned well related issues. This may include a list of all orphaned-related violations, including surety-related inspections) for public awareness. Examples are as follows:

https://extmapviewer.aer.ca/AERAbandonedWells/Index.html

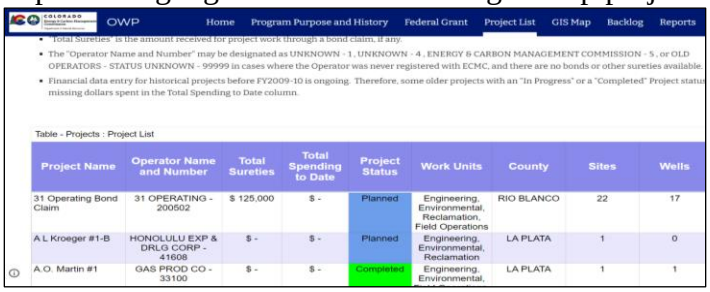


https://gis-modnr.opendata.arcgis.com/datasets/modnr::abandoned-wells/about



[9] *See* https://ohiodnr.gov/discover-and-learn/safety-conservation/about-odnr/oil-gas/orphan-wells/orphan-info and https://secure.ethicspoint.com/domain/media/en/gui/87075/index.html.

https://sites.google.com/state.co.us/cogcc-owp/project-list/.



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- "Total Sureties" is the amount received for project work through a bond claim, if any.
- The "Operator Name and Number" may be designated as UNKNOWN - 1, UNKNOWN - 4, ENERGY & CARBON MANAGEMENT COMMISSION - 5, or OLD OPERATORS - STATUS UNKNOWN - 99999 in cases where the Operator was never registered with ECMC, and there are no bonds or other sureties available.
- Financial data entry for historical projects before FY2009-10 is ongoing. Therefore, some older projects with an "In Progress" or a "Completed" Project status missing dollars spent in the Total Spending to Date column.

Table - Projects : Project List

Project Name	Operator Name and Number	Total Sureties	Total Spending to Date	Project Status	Work Units	County	Sites	Wells
31 Operating Bond Claim	31 OPERATING - 200502	$ 125,000	$ -	Planned	Engineering, Environmental, Reclamation, Field Operations	RIO BLANCO	22	17
A L Kroeger #1-B	HONOLULU EXP & DRLG CORP - 41608	$ -	$ -	Planned	Engineering, Environmental, Reclamation	LA PLATA	1	0
A.O. Martin #1	GAS PROD CO - 33100	$ -	$ -	Completed	Engineering, Environmental,	LA PLATA	1	1

D. State notice of future plans for orphaned wells (including notice targeted for economically disadvantaged and/or non-English speaking communities) - A State may inform the public of its plan to address orphaned wells located in the State in a specific future time period. Examples are as follows:

- The State of Michigan, in MI Compiled Law § 324.61604, states "the supervisor shall prepare and submit to the legislature a list of the oil or gas wells that should be plugged and those at which response activities or site restoration should be performed with money in the fund. The list shall be compiled in order of priority. The list shall be accompanied by estimates of total project costs for the proposed plugging, response activity, site restoration, internal administration, and potential emergency contingencies. Additionally, the supervisor shall include with the list a statement of the criteria used in listing and assigning the priority of these proposed actions."

- The State of Colorado, on a publicly available website, lists the orphaned well projects that it has planned, are in progress, or are completed. https://sites.google.com/state.co.us/cogcc-owp/project-list/

E. State notice of ongoing and relatively recent completed orphaned well activities (including notice targeted for economically disadvantaged and/or non-English speaking communities) - A State may commit to reporting to the public the marginal and orphaned wells located in the State, and the steps the State has taken to address those wells. Examples are as follows:

- The State of North Dakota, under ND Cent. Code § 38-08-04.5, must report the balance of its orphaned well fund and expenditures.

- The State of Louisiana, under LA Rev. Stat. § 30:90, requires that an annual report be publicly available that contains: "(1) The number of wells plugged by the

department. (2) The number of orphaned oilfield sites, including a breakdown of those which have been identified during the preceding year and those at which site restoration has been completed during the preceding year. (3) The number of producing and nonproducing oilfield sites. (4) The status of enforcement proceedings for all sites in violation of the assistant secretary's rules and the time period during which the sites have been in violation, including the status of the assistant secretary's attempts to recover reimbursement for restoration costs. (5) A report on the progress of the commission's three-year plan. (6) A projection of the amount of oilfield cleanup funds needed for the next year for site restoration. (7) The status of implementation of the provisions of this Part relating to possession and sale of equipment to recover site restoration costs."

- The State of California, under CA Pub. Res. Code §§ 3215, 3227.5, collects and publishes on its website associated with reach specific well, including plugging and abandoning information. The State of California is also required to "publish monthly statistics . . . showing the amount of oil and gas produced in the state by field and pool, together with the number of wells producing or idle, all separately stated as to field and pool, with any other information that the supervisor deems proper."

Category 6: Considerations for air, groundwater, and other natural resources, as well as public safety and general environmental or economic justice. Orphaned wells may create adverse effects on air, groundwater, and other natural resources. Wells may also have adverse effects on public safety and environmental and economic justice. A State may implement changes to mitigate these effects. OWPO is interested in the following:

A. Considerations for surface and groundwater or soil, including hazardous materials or other contamination - A State may create, revise, or remove authorities to strengthen groundwater protection. Examples are as follows:

- The State of California, under CA Pub. Res. Code § 3206.1, explicitly adjusts its idle well testing and management requirements to account for the proximity of wells to underground sources of drinking water.

- The State of Colorado, under 2 CO Code of Regs. § 404-1-319(a), provides heightened protection groundwater.

B. Special considerations for oil and gas wells converted to water wells - Because of the demonstrated risks they pose, a State may provide additional considerations for oil and gas wells that were converted to water wells. Examples are as follows:

- The State of Colorado, under 2 CO Code of Regs. § 404-1-319(a) has extra protections for oil or gas wells that have been converted to water wells. In this case, written consent is required from the landowner, and the landowner assumes responsibility over the well.
- The State of Arkansas, under AK Oil and Gas Comm'n Rule B-11(b), rules specifically targeting oil or gas wells being converted to water wells.

C. Considerations for air quality, including methane, other emissions, and visual resource protection - A State may create, revise, or remove authorities to account for air quality. Examples are as follows:

- The State of California, by and through CA Pub. Res. Code § 3206.2, has demonstrated its intent to adjust its orphaned and idle well program to account for air quality.

D. Considerations for public safety and general environmental or economic justice - A State's orphaned well schema may provide consideration for public safety and aspects of environmental or economic justice. Examples are as follows:

- CA Pub. Res. Code §§ 3208.1, 3224.5, State of Washington Health Environment for All (WA S.B. 5141 (2021), and New Jersey's Environmental Justice Law, N.J.S.A 13:1D-157, *et seq.*

E. Provisions to address climate impacts of plugging, reclamation, or restoration, such as restrictions on equipment emissions for construction, alternative materials with reduced footprint, and restoration to climate resilient landscapes - A State may implement statutes or other authorities or policies to address the climate impacts of plugging, reclamation, or restoration. While not necessarily applicable to wells or related infrastructure located on State or private lands, or wells or infrastructure commenced, modified, or constructed during all time periods, Title 40 C.F.R., ch. 1, subchapter C, part 60, subpart OOOO may inform states as to potentially relevant considerations for their respective situations.

F. Land use controls for high-contamination or other categories of orphaned well sites - A State may implement administrative

and legal authorities that encourage restriction of well sites, and sites that contain associated infrastructure. *See, e.g.*, https://www.epa.gov/fedfac/land-use-controls-lucs.

Category 7: Internal and external workforce development. Orphaned wells present an opportunity to for a State to facilitate the creation of jobs and other aspects of workforce development. OWPO is interested in the following:

A. State internal workforce enhancements - A State may hire additional staff or train or reassign existing staff to monitor or inspect wells that are at risk of becoming orphaned. A State may also hire additional staff or train or reassign existing staff to enforce compliance activities related to well plugging. *See, e.g.*, https://ecmc.state.co.us/documents/sb19181/Rulemaking/Financial%20Assurance/2021-03_Financial_Assurance_OWP_FAQ.pdf (indicating that Colorado intended to increase or increased its staff for its orphaned well program).

B. Amending State contracting process - A State may streamline its contracting procedures as they pertain to or effect orphaned well plugging, reclamation, or restoration, or removal or decommissioning of the associated infrastructure. A State may incentivize contractors to hire current or former employees of the oil and gas industry or economically distressed communities. A State may revise the structure of its contracting process in a manner that targets increased efficiencies on a local or statewide basis, or to facilitate the creation of a market for well plugging, reclamation, or restoration services.

C. Oversight of vendors, including certificate programs - A State may implement changes to oversee the quality of work performed by its vendors, which may include a certification program. A State may implement changes to determine whether a contractor is "responsible," such as a responsible contractor ordinance. A State may also implement pre-qualification requirements or similar programs. A State may create or expand its training programs that target increased efficiencies and reducing the costs for plugging. This also includes programs to identify a specific contractor or responsible party's systemic plugging failures.

D. External workforce training programs, including those considering economic justice factors - A State may create or expand its related workforce training programs, including pre-apprenticeships, registered apprenticeships, local and economic hire agreements for workers, and engagement with relevant labor unions that the State intends to conduct outreach to, partner with, or fund.

C. A RIG application must show and support the amount and proposed use of the federal RIG funds that the State is applying for.

A RIG application must include all of the items described below.[10]

1. **Application for Federal Assistance (Form SF-424)**. A State should contact DOI's Interior Business Center (IBC) if it has any questions as to how to complete this form.

2. **The appropriate Plugging Standards or Program Improvement Scoresheet**. Each Scoresheet contains categories and subcategories of actions relevant to the applicable kind of RIG. A State must score itself using the Scoresheet appropriate for the kind of RIG the State is applying for. A State must submit the authorities it relies on for the points it claims in its Scoresheet.

3. **Project Abstract Summary**. This includes: a high-level summary of the grant's purpose for the general public; activities to be performed under the grant; expected deliverables or outcomes; intended beneficiaries; and any known subrecipient activities.

4. **Key Contacts Form**. This includes the applying States's point of contact (POC), for the purposes of its application. The POC is the individual DOI will contact to resolve any questions or concerns that it may have.

5. **The RIG Amount (Form SF-424A)**. This contains the total amount of federal RIG funds that the State is applying for. This amount will be supported by the documents listed in No. 5, immediately below, and is subject to DOI review, verification, and/or audit. DOI anticipates a SF-424A form will be provided in GrantSolutions.gov.

6. **Documents that support a State's SF-424A**

   a. **Budget Detail for federal RIG Funds**. The budget detail must include a detailed narrative description of the budget categories and a clear delineation between project costs and administrative costs. This information supports and identifies the estimated costs provided in the SF-424A and includes an itemized budget breakdown with unit costs for the period of the RIG funding and the costs of personnel salaries, fringe benefits, project staff travel, materials and supplies, equipment, and consultants and contracts, *e.g.*, for well plugging, site remediation, and site reclamation. The budget must include planned obligations and estimated costs per fiscal year. States are encouraged to use a DOI-approved template, which DOI anticipates will be provided in GrantSolutions.gov.

[10] OWPO and IBC may require additional items.

b. **Work Plan/Proposal for federal RIG Funds (Work Plan)**. A Work Plan: 1) explains the applicant State's RIG-funded activities in detail, including outcomes and data collection methods; 2) provides a basis for the State's technical approach; 3) details the State's goals and objectives; 4) describes the public benefit and statement of need; 5) describes how success will be measured or evaluated by the State; 6) may include maps of affected areas and a list of wells; 7) includes the timeline for completion and milestones; and 8) contains the State's monitoring plan for subrecipients or contractors. States are encouraged to use a DOI-approved template. *A State may request a grant amount less than it is entitled to. If a State elects to do so, a State must indicate as such in its Work Plan/Proposal for RIG Funds.*

The costs contained in the activities included in a State's Work Plan, as well as any other uses of awarded federal BIL funds, are subject to DOI review, verification, and/or audit, and the State must maintain all records to support the amounts stated in its application, including those generated by contractors.

Similar to the Work Plans for Phase 1 State Formula and Matching Grants, a RIG Work Plan includes:

i. A description of:

aa. The State's program for orphaned well plugging, remediation, and restoration, including legal authorities, data and processes the State currently uses to identify and prioritize orphaned wells, procurement mechanisms, and other program elements demonstrating the readiness of the State to carry out proposed activities using the grant, including summary descriptions of:

l. The State's plugging standards, including the witnessing requirements (*e.g.*, qualifications of witnesses, documentation).

ll. How salvaged material and equipment will be reused, recycled, or sold for scrap, with any resulting income reported to DOI and incorporated into the grant budget for eligible activities upon approval by DOI.

lll. The State's authorities to enter private property, or the State's procedures to obtain landowner consent to enter such property,

and in the event that any wells to be plugged will be accessed from federal or Tribal land, how the State will gain access.

bb. How the State will prioritize (*i.e.*, rank for remediation activity) orphaned wells based on: addressing environmental injustices, threats to public health and safety, environmental harm - particularly harms due to methane emissions, and other land use priorities, including the remediation of hazardous sites in disadvantaged communities.[11]

cc. How the State will place a higher priority on the use of the RIG funds to lower unemployment in the State, including workforce development activities related to orphaned well plugging, remediation, and reclamation.

dd. How the State will place a higher priority on the use of the RIG funds to improve economic conditions in economically distressed areas of the State, provided the use of the funds is related to orphaned well plugging, remediation, and reclamation.

ee. The details of each activity to be carried out with the grant, including a preliminary work schedule covering the period of performance of the RIG and an identification of the estimated health, safety, habitat, and environmental benefits of plugging, remediating, or reclaiming orphaned wells. Each activity must include a schedule and resources needed for getting the work completed, which must cover the entire relevant period.

ff. Proposed performance goals including a schedule of milestones for completing the activities of (ee), above, and to achieve the objectives of the workplan.

gg. The means by which the information regarding the activities of the State under this grant will be made available on a public website.

hh. The process the State follows to identify and pursue all potentially responsible parties that may be

[11] The CJEST should be used to identify disadvantaged communities. https://screeningtool.geoplatform.gov.

legally liable for plugging, remediating, or restoring orphaned wells in the State.

ii. Describe the general tasks that will be performed by subrecipients and contractors (*e.g.*, State agencies other than the grantee agency, consultants, and vendors), if applicable.

ii. An estimate, which DOI acknowledges is a snapshot in time and subject to change as circumstances on the ground dictate, of:

aa. The number of orphaned wells or sites, categorized by the county, parish, or other applicable subdivision (*e.g.*, oil and gas districts) in the State that the State forecasts may be plugged, remediated, or reclaimed using RIG funds.

bb. The projected cost, including the basis of estimates, of:

l. Plugging, remediating, or reclaiming orphaned wells.

ll. Remediating or reclaiming adjacent land.

lll. Decommissioning or removing associated pipelines, facilities, and infrastructure.

cc. The amount of projected cost that will be offset by the forfeiture of financial assurance instruments, the estimated salvage of well site equipment, or other proceeds from the orphaned wells and adjacent land.

dd. The number of jobs that will be created or saved through the activities to be funded under this grant and the assumptions and methodology to develop the estimate.

ee. To the extent possible, the miles and diameters of associated pipelines and number and description of associated facilities and infrastructure assets that will be decommissioned or removed.

iii. To the maximum extent practicable, the latitude/longitude, type of well, the well ID (API or US well number), surface ownership, and mineral ownership for those wells that are

likely to be plugged, remediated, or reclaimed with RIG funds.

iv. The definitions and processes used by the State to formally identify a well as:

aa. An orphaned well; or

bb. If the State uses different terminology, otherwise eligible for plugging, remediation, and reclamation by the State.

v. Details of how the State will identify and prioritize the highest methane emitters.

vi. Details of how the State will identify and prioritize well plugging and site reclamation that are intended to reduce health or environmental burdens for disadvantaged communities (including Federally recognized Tribes and communities identified as disadvantaged using the CEJST), such as through plugging wells and remediating sites that are within 0.5 miles of a disadvantaged community.[12] The State may also identify and address how it will address any disproportionate burden of adverse human health or environmental impacts of orphaned wells on disadvantaged communities, consistent with all applicable legal requirements. Decision points and underlying assumptions, such as the number and type of environmental indicators, must be described in the application.

vii. The methodology, including field indicators, sampling, and modeling approaches, to be used by the State to measure and track contamination of groundwater and surface water associated with orphaned wells, including how the State will assess the effectiveness of plugging activities in reducing or eliminating such contamination.

viii. Methods to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure, including a description of how salvaged material and equipment will be reused, recycled, or sold for scrap (with any resulting income reported to DOI).

[12] https://screeningtool.geoplatform.gov.

ix. Methods the State will use to solicit recommendations from local officials and the public regarding the prioritization of well plugging and site remediation activities, and any other processes the State will use to solicit feedback on the program from local governments and the public.

x. How the State will use funding to locate currently undocumented orphaned wells.

xi. Plans the State has to engage third parties in partnerships around well plugging and site remediation, or any existing similar partnerships the State currently belongs to.

xii. Plans the State has to support opportunities for all workers and vendors, including workers underrepresented in well plugging or site remediation, workers in traditional energy communities impacted by changing markets and technology, and workers from disadvantaged and underserved communities, to be trained and placed in good-paying jobs directly related to activities funded by the grant, including through workforce development programs.

xiii. A description of:

aa. Training programs, including pre-apprenticeships, registered apprenticeships, local and economic hire agreements for workers, and engagement with relevant labor unions with which the State intends to conduct outreach, partner, or fund in well plugging or site remediation. A State should discuss, any particular skills, abilities, fields of knowledge, or training requirements that the State believes to be in short supply in the well plugging workforce based on the State's engagement with contractors and that the State believes may hinder activities funded by the RIG it applies for.

bb. Plans the State may or may not have to use procurement processes that incentivize contractors to hire current or former employees of the oil and gas industry.

cc. Whether the State plans to bundle and aggregate activities into larger State-wide or regional contracts as part of their procurement processes.

dd. Whether the State plans to support safe, equitable, and fair labor practices by adopting, requiring, or

encouraging contractors to adopt collective bargaining agreements, local hiring provisions, labor agreements, and community benefits agreements.

ee. Whether, and if so, how, the State plans to use a program to help determine if a contractor is "responsible," such as a responsible contractor ordinance, pre-qualification requirements or similar programs.

xiv. Procedures the State will use to coordinate with federal or Tribal agencies to determine whether efficiencies may exist by combining field survey, plugging, or surface remediation work across private, State, federal, and Tribal land.

xv. A plan to monitor the reclaimed locations to ensure remediation and reclamation success. Such plan should include methodology and chronology of monitoring, data collection, and a plan for additional reclamation should the initial attempt be unsuccessful, and the activities outlined in the plan should be incorporated into the work schedule.

xvi. Details on the impact Endangered Species Act and National Historic Preservation Act compliance on the State's budget and workplan. A State should discuss whether it will bring on new subject matter experts, work with state government experts in different program areas, or establish contracts with outside vendors in order to ensure compliance.

xvii. If the State received financial assistance, under the Inflation Reduction Act of 2022, to address marginal conventional wells, details on how the use of those funds may intersect and overlap with the State's use of RIG funds, including as it relates to overcoming workforce challenges.

7. **Federal Approved Indirect Cost Rate Agreement**. A federally approved Indirect Cost Rate Agreement that requires the United States to pay an established rate to the State for indirect or incurred costs that are reasonable, allocable, and allowable.

8. **Certifications**. A State must submit the certification in Appendix A as part of its RIG application.

9. **Disclosure of Lobbying Activities (Form SF-LLL)**. A State uses this form to disclose when: it uses non-federal funds to lobby in connection with the grant application; and the federal share of the grant exceeds $100

thousand. If the two criteria are not met by the applicant State, it should mark "N/A" in the SF-LLL it submits as part of its RIG application.

10. **Certification Regarding Lobbying**. *See* Appendix C, Certification Regarding Lobbying and Disclosure Requirements. A State may contact IBC if it has any questions as to how to complete this form.

V. DISTRIBUTION OF GRANT FUNDS FOR APPROVED APPLICATIONS

States are required to register in and receive payment through the Department of the Treasury's Automated Standard Application for Payments (ASAP), unless approved for a waiver. A State will be notified of the ASAP enrollment process, or if already enrolled, the process to link its ASAP account to receive the funds.

VI. STATE REPORTING REQUIREMENTS AND POST-AWARD OBLIGATIONS

A. State technical and financial reporting requirements

1. Periodic status reporting is a condition of a RIG award. **As such, periodic reporting to DOI will be required, the frequency of which will be based on DOI's determination.** Financial Reporting requires the use of an Office of Management and Budget (OMB) approved SF-425. A State must also submit a Technical Performance Report within the same timeframe as its SF-425 that:

    a. Contains the grant number, in accordance with 2 C.F.R. § 200.329, Monitoring and reporting program performance.

    b. Covers the period of performance and the period the report covers.

    c. Lists and describes progress towards achieving all performance goals and milestones included in the approved workplan, and in the notice of award.

    d. Contains a comparison of actual accomplishments compared to the performance goals and milestones of the grant work plan, which includes the use of the federal RIG funds to lower unemployment and improve economic conditions in economically distressed areas in the State, including those areas with environmental justice concerns.

    e. States reasons performance goals and milestones were not achieved.

    f. Includes additional relevant information regarding the work, as appropriate.

Instructions on where and how to submit Technical Performance Reports will be included in the notice of award. The data described in Data Collection and Reporting must be submitted with these reports.

2. A State is required to annually submit a Tangible Personal Property Report, Form SF-428, if grant funds are used to purchase equipment.

3. Significant Developments, under 2 C.F.R. § 200.329(e): Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, a State must inform DOI as soon as the following become known:

    a. Problems, delays, or adverse conditions that will materially impair the State's ability to meet the milestones or objectives of the federal award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

    b. Favorable developments that either: 1) enable quicker achievement of milestones or objectives; or at less cost than anticipated; or 2) producing more or different beneficial results than originally anticipated.

    c. Under 2 C.F.R. § 200.308, any revisions of budget and program plans, changes in scope of effort, or work leaders or partners must receive the prior written approval of the appropriate DOI official.

4. Under 2 C.F.R. § 200.344, a State must submit its final financial and performance reports within 120 calendar days of the period of performance.

    a. The narrative for final technical performance reports must provide a detailed summary of all goals and accomplishments for the grant's period of performance.

    b. States are advised to submit requests for extensions in writing at least five business days prior to the deadline, but extensions must be received prior to the deadline.

    c. Must contain a comparison of actual accomplishments compared to the performance goals of the award.

    d. Must include additional relevant information regarding the activities funded by the grant, as appropriate. States are encouraged to include relevant best practices and lessons learned over the course of the period of performance of the grant in each report.

e. Instructions on submitting the final technical performance reports will be included in the notice of award.

5. Data Collection and Reporting - To standardize reporting requirements and ensure federal resources are used consistent with federal law and authorities, and the terms and conditions of the grant, each State must track and submit the applicable and required information to OWPO using the Data Reporting Template.

   States must submit to DOI a Data Reporting Template, with their respective updated information, quarterly. States are required to use the approved Data Reporting Template, consistent with OMB Control No: 1093-0012.

   OWPO updated the Data Reporting Template in October 2023, following engagement between DOI and the IOGCC/Groundwater Protection Council Orphan Well Data Management Workgroup (Workgroup). OWPO incorporated the feedback and recommendations of the Workgroup. The OWPO will continue to engage with the Workgroup and, as appropriate, adjust this Template.

   States applying for a RIG should note that non-sensitive information regarding the activities performed under such a grant are required to be posted on a public website.

6. After providing the grantee an opportunity to redact personally identifiable or proprietary information, DOI may post awarded-grant applications on a publicly available website.

7. DOI may publish a summary of performance accomplishments on a publicly available web site.

B. State post-award annual recertification requirements

Under Section 40601(c)(5)(E)(iii):

> A State that receives a [RIG] shall reimburse the Secretary in an amount equal to the amount of the grant in any case in which, during the 10-year period beginning on the date of receipt of the grant, the State enacts a law or regulation that, if in effect on the date of submission of the application . . ., would have prevented the State from being eligible to receive the grant

Consequently, beginning on the anniversary of when a RIG is awarded, and on that same day for nine years thereafter, a recipient State must submit the relevant Scoresheet capturing the changes it made since the last Scoresheet it submitted (Annual Recertification). In an Annual Recertification, a State should use the Scoresheet it last submitted, and revise it to account for any changes. A State must submit supporting

documentation for the Annual Recertification Scoresheet it submits. A State need only provide support for the subcategories that are changed.

C. Standards for measurement, plugging, remediation, and workforce

1. Pre- and Post-Plugging Measurement of Air and Water Pollution

   a. A State must inspect each orphaned well site being considered under a grant: 1) to screen for leaks of methane and other gases, and if identified, to measure the rate of such leaks; and 2) to identify potential surface water or groundwater contamination. Inspections may be performed immediately prior to commencement of plugging and abandonment, provided the requisite pre-plugging information is documented.

   A State will conduct or supervise post-plugging inspections within 12 months of the plugging activity to verify: 1) the lack of gaseous emissions and water contamination from plugged wells; and 2) the achievement of vegetation performance standards that are appropriate to the site's future land uses, if applicable.

   A State-approved qualified arms-length entity may also conduct post-plugging inspections. Post-plugging inspections must be documented to create a verifiable record. To the extent practical, each well should be physically or electronically tagged after it is plugged, with tags indicating the date the well was plugged and the State entity or contractors responsible for the plugging.

   b. States will follow, as the minimum standard, the DOI methane emission guidelines (and subsequent revisions), including all recommendations therein.[13] The technology and approaches for methane detection, quantification, and monitoring are rapidly improving and evolving. As such, the DOI methane emission guidelines and requirements will also evolve over time in a manner intended to reduce the costs and burdens on states of detecting and quantifying methane emissions from orphaned wells, including the use of models and estimation tools while achieving the goals of Section 40601.

   c. Pre- and post-plugging values of gaseous emissions (particularly methane), water contamination, and acres restored must be included, per well, in the State's quarterly Data Reporting Template and in its periodic performance reports.

[13] Assessing Methane Emissions from Orphaned Wells to Meet Reporting Requirements of the 2021 Infrastructure Investment and Jobs Act: Methane Measurement Guidelines, July 2023 Version. https://doi.gov/sites/doi.gov/files/orphaned-wells-methane-measurement-guidelines-july-2023-version.pdf.

2. Well Plugging and Site Remediation Standards

   a. A State with established and documented well plugging standards and regulations will require their contractors to meet those requirements. For a State that does not have established well plugging standards, the work must meet or exceed the plugging standards in either 43 C.F.R. § 3172.12, formerly a portion of Bureau of Land Management Onshore Oil and Gas Order No. 2, for onshore wells, or, 30 C.F.R. part 250, for offshore wells.

   b. States will meet or exceed any well plug witnessing and documentation requirements pursuant to State law and authorities.

   c. For States with established well abandonment standards (inclusive of those actions necessary to complete surface reclamation and revegetation), all well closures shall meet those requirements. If a State does not have well abandonment standards, a well site must reflect, at minimum, the Bureau of Land Management's Reclamation and Abandonment Standards. For additional details, see: https://www.blm.gov/sites/blm.gov/files/Chapter%206%20-%20Reclamation%20and%20Abandonment.pdf.

   d. Remediation and reclamation of contaminants in soil, water, or other medium resulting from orphaned wells shall be conducted in accordance with applicable State or federal law and authorities.

3. Workforce Standards. As a best practice and before establishing new contracts with RIGs, States are encouraged to reach out to and engage with organized labor representatives, vocational schools, training institutions, and workforce programs and agencies across the State to help broaden the pool of qualified and skilled workers participating in BIL-funded well plugging and site reclamation and remediation projects. The goal of this engagement should be to inform workforce leaders in each State of the employment opportunities afforded by BIL orphaned well grants and hearing from these organizations about ways to overcome potential challenges related to growing the well plugging and site remediation workforce.

   a. For activities or aggregated activities in excess of $1 million, a State is encouraged to require contractors, consistent with State applicable law, to:

      i. Certify a unionized workforce was used.

      ii. Certify a labor agreement or workforce continuity plan was used that details all of the following:

aa. How the contractor ensured it had ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality work throughout the life of the contractor's work, including a description of any required professional certifications and/or in-house training programs, and partnerships with unions, community colleges, or community-based groups.

bb. How the contractor minimized risks of labor disputes and disruptions that would have jeopardize the timeliness and cost-effectiveness of the work.

cc. How the contractor provided a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities, including descriptions of safety training, certification, and/or licensure requirements for all relevant workers (*e.g.*, OSHA 10, OSHA 30).

dd. Whether workers received wages and benefits that secured an appropriately skilled workforce in the context of the local or regional labor market.

ee. Whether the work had a community benefit agreement, with a description of any agreement.

ff. Whether local hires were prioritized.

D. Restrictions on the use of federal RIG funds

1. RIG funds are subject to the Build America, Buy America Act. Information regarding the Build America, Buy America Act can be found at: https://www.doi.gov/grants/BuyAmerica. A State may address specific questions regarding the Build America, Buy America Act, to the financial assistance officer that is assigned to that State, or his or her representative.

2. Prohibition on Generating Carbon Credits with RIG funds. States may not directly or indirectly use the reduced emissions from wells plugged with RIG funds, in whole or in part, to monetize, generate, or collect carbon credits, or otherwise use the plugging of wells funded with RIGs to generate income of any type by offsetting another party's greenhouse gas emissions. The required methane screening and quantification efforts that must take place before and after well plugging are necessary for measuring the impact on methane emissions, not for carbon credit generation.

3. Activities funded by RIGs are subject to the Endangered Species Act (ESA). Under Section 7(a)(2) of the ESA, DOI is required to ensure that activities funded by RIGs, in whole or in part, are not likely to: jeopardize species listed on the Federal List of Endangered and Threatened Wildlife and Plants, or result in the destruction or adverse modification of critical habitat designated for Federal Endangered and Threatened Wildlife and Plants. Under an ESA Section 7 implementing regulation, 50 C.F.R. § 402.08, federal agencies may designate non-federal representatives (NFR) for ESA Section 7 compliance purposes. As a condition of an award, a recipient (and, if any, the recipient's designee(s) assisting with environmental compliance with respect to the award) agrees to serve as an NFR.

4. "Undertakings" funded by RIGs are subject to Section 106 of the National Historic Preservation Act, 54 U.S.C. § 306108 (NHPA). With limited exceptions, activities funded by a RIG, in whole or in part, are "undertakings" that are subject to review under the NHPA, and its implementing regulations, 36 C.F.R. part 800. This is because the activities have the potential to affect historic properties. As a condition for receipt of a grant, the recipient must conduct the initial steps of the Section 106 process, which includes identifying and evaluating historic properties within the area of potential effects associated with specific projects and assessing effects, 36 C.F.R. §§ 800.4-.5.

E. Requirements with respect to equipment, intangible property, and supplies

1. Equipment. Equipment records shall be maintained accurately and shall include all of the following information:

   a. A description of the equipment.

   b. Manufacturer's serial number, model number, or other identification number.

   c. Source of the equipment including the award number.

   d. Whether title vests in the recipient or the federal government.

   e. Acquisition date (or date received, if the equipment was furnished by the federal government) and cost.

   f. Information from which one can calculate the percentage of DOI's share in the cost of the equipment (not applicable to equipment furnished by the federal government).

   g. Location and condition of the equipment and the date the information was reported.

h. Unit acquisition cost.

i. Ultimate disposition data including date of disposal and sale price or, when a recipient compensates DOI awarding agency for its share, the method used to determine current fair market value.

2. Intangible Property. Title to intangible property, as defined in 2 C.F.R. § 200.1, purchased or otherwise acquired under an award or sub-award vests upon acquisition in the recipient. The recipient shall use that property for the originally authorized purpose, and the recipient shall not encumber the property without approval of DOI awarding agency. When no longer needed for the originally authorized purpose, disposition of the intangible property shall occur in accordance with agency procedure.

3. Supplies. Under 2 C.F.R. § 200.314, title to tangible property, as defined in 2 C.F.R. § 200.1, purchased, or otherwise acquired under an award or sub-award vests upon acquisition in the recipient or subrecipient. The recipient or subrecipient shall use that property for the originally authorized purpose, and the recipient shall not encumber the property without approval of DOI awarding agency. When no longer needed for the originally authorized purpose, disposition of the intangible property shall occur in accordance with agency procedure.

F. State coordination with federal agencies and Indian tribes, when necessary

1. Efficiency and cost-effectiveness in well plugging and site remediation will be maximized by ensuring proper coordination in these activities among States, tribes, and the federal government. As early as practical–preferably before State grant applications are submitted–States should provide a primary contact for coordination with the Indian tribal or federal land management agencies using GrantSolutions.gov. A State may reach out to OWPO for a list of appropriate contacts for the relevant offices of Indian tribal and federal land management agencies.

2. When undertaking work on federal land under a cost sharing, good neighbor, or other arrangement with the federal government, a State must collect the data required to be reported, under the BIL, for wells plugged and sites remediated on federal land, unless all such data collection is otherwise captured in the terms of a lawful agreement between the State and the federal land manager (*e.g.*, cooperative agreement). Early coordination with federal agencies is encouraged to ensure each State collects the proper data in a format most easily transferred to the federal government.

3. When undertaking work on private or State land adjoining Indian tribal or federal land, a State is encouraged to communicate with federal agencies and Indian tribal representatives to ensure appropriate and efficient

collaboration on compliance issues (*e.g.*, cultural resources, endangered species, sacred sites) and to minimize disruption of planned events, operations, or land management activities.

4. Expenses associated with State, Indian tribal, and federal coordination, such as Indian tribal cultural monitoring, may be charged to administrative costs, or, when concerning particular activities, directly to those activities.

G. Work funded by RIGs may be subject to the Davis-Bacon Act

1. Laborers and mechanics employed by the applicant State, subrecipients, contractors or subcontractors in the performance of construction, alteration, or repair work in excess of $2 thousand funded directly by or assisted in whole or in part by funds made available under RIGs shall be paid wages at rates not less than those prevailing on similar activities in the locality, as determined by the Secretary of Labor in accordance with 40 U.S.C. § 3141 *et seq.*, which is commonly referred to as the Davis-Bacon Act (DBA).

2. Each State shall provide written assurance acknowledging the DBA requirements and confirming that all laborers and mechanics performing construction, alteration, or repair work in excess of $2 thousand funded directly by or assisted in whole or in part by and through funding under the award are paid or will be paid wages at rates not less than those prevailing on activities of a character similar in the locality as determined by the Secretary of Labor in accordance with the DBA. Such acknowledgment is included in the accompanying RIG Certification to serve as written assurance by the State applicant.

3. Recipients of grant funding are required to undergo DBA compliance training, and to maintain competency in DBA compliance. The Department of Labor offers free Prevailing Wage Seminars several times a year that meet this requirement.

H. State responsibilities regarding subrecipients or contractors

State grant recipients passing federal funds through to subrecipients and contractors are responsible for ensuring their subrecipients and contractors are aware of and comply with applicable award statutes, regulations, and agency requirements. Recipients must review their official award document for additional administrative and programmatic requirements. Recipient and subrecipient failure to comply with the general terms and conditions outlined below and those directly reflected on the official financial assistance award document can result in the DOI taking one or more of "Remedies for Noncompliance," described in 2 C.F.R. §§ 200.339-343.

I. Terms and conditions of RIGs

1. DOI Standard Award Terms and Conditions will be included in all awarded RIGs. These standard terms and conditions can be found at: Standard Award Terms and Conditions. Each State's grant, and the activities performed thereunder, are subject to DOI Standard Award Terms and Conditions.

2. Under 2 C.F.R. § 200.329(f), the federal awarding agency may make site visits as warranted to ensure appropriate fiscal accountability, surveillance, and monitoring. A State shall provide the federal awarding agency access to relevant documentation, facilities, and work sites in, to the extent allowable under State law and authorities.

3. DOI's Freedom of Information Act Office provides guidelines to requestors of grant applications around what information may be redacted from applications. This information includes patent rights, confidential financial information, personally identifiable information, and detailed budget, consultant, and business assets information. Title 2 C.F.R. § 200.338 places limitations on public access to award-related documents.

4. Unmanned Aircraft Systems Drones: Pursuant to the Secretary of the Interior Order No. 3379, only specific models of unmanned aircraft that have capabilities that are considered trusted and secure by the Department of Defense are authorized for use of federal funds under this award. A list of approved unmanned aircraft and technology packages may be found at https://www.diu.mil/blue-uas. Any equipment purchases related to unmanned aircraft or technology-related items to support the use of unmanned aircraft, such as software, must be approved in advance and comport with Order No. 3379. Further, employee or contractor time to fly unmanned aircraft that does not meet this requirement is not an allowable expense under this award.

5. Any grant funding for the purchase or use of UAS for operations must have in place policies and procedures to safeguard individuals' privacy, civil rights, and civil liberties prior to expending such funds. The term "unmanned aircraft systems" encompasses unmanned aerial systems, drones, and similar technology, including component parts, remotely controlled and subject to Federal Aviation Administration regulations. It covers activities conducted in furtherance of DOI's mission, using DOI funds, or for purposes identified in a cooperative agreement, contract, grant, or other agreement between the Department of Defense and another party. Designated components of UAS include and are not limited to hardware and software components necessary for collecting, storing, and transmitting data or similar information.

Appendix A

The following certifications must be included, verbatim, in a State's regulatory improvement grant (RIG) application.

As part of its RIG application, the State or Commonwealth (State) certifies:

1. Any financial assurance or surety instruments available to the State to cover plugging, remediation, or reclamation costs will be used by the State for plugging, remediation, or reclamation.[14]

2. The grant funds the State applies for are subject to the Davis-Bacon Act, 40 U.S.C. § 3141 *et seq*. The State confirms all laborers and mechanics performing construction, alteration, or repair work in excess of $2 thousand, funded directly by or assisted in whole or in part, by funding under the award, are paid or will be paid wages at rates not less than those prevailing on activities of a character similar in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act.

3. On its own accord and without a request from the United States, the State shall pay back to the United States a positive dollar amount equal to the difference between 1) the RIG amount the State was awarded, pursuant to this grant application; and 2) the amount the State did not timely obligate.

   If the United States determines a State obligated and spent awarded RIG funds in violation of the Infrastructure Investment and Jobs Act, other federal law and authorities, or the grant's terms and conditions, the State must pay back to the United States the corresponding amount.

   The State acknowledges DOI, at its sole discretion, may use a federal or non-federal third party to audit, review, or investigate records associated with any RIG that the State is awarded.

4. It is the State's duty, not that of the United States, to substantiate all representations the State made in this grant application. This includes all expenditures included in the Work Plan/Proposal for RIG Funds.

   The State shall establish and maintain records as may be required to demonstrate compliance with Section 40601, other federal law and authorities, and the terms and conditions of the grant. This includes but is not limited to obtaining and maintaining records originated by the State's subcontractors or grant award subrecipients.

   Records related to or associated with the RIG a State applies for here shall be maintained in a manner consistent with federal authorities, such as 2 C.F.R. §§ 200.334-338.

[14] Available financial assurance instruments are not required to be forfeit before the State performs the work, and financial assurance instruments collected by the State may be used to plug, remediate, or reclaim orphaned wells other than the wells for which the financial assurance instrument was originally intended.

At the request of any federal officer or employee, the State shall make available to DOI, or its agents, for inspection and duplication, all records associated with the RIG.

5. Nothing in this certification shall be construed to reduce a State's responsibilities, under the 2 C.F.R. part 200, as amended, other federal law and authorities and policies, and the terms and conditions of the grant.

Grant Applicant's Signature	Individual's Name and Title	Date

United States's Signature	Individual's Name and Title	Date

Appendix B

Buy America Preference for Department of the Interior Grants

I. Buy America Domestic Procurement Preference

Under Section 70914 of the BIL, none of the funds under a federal award that are part of federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products under this program.

Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for an infrastructure project unless:

(1) All iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;

(2) All manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard that meets or exceeds this standard has been established under applicable law or regulation for determining the minimum amount of domestic content of the manufactured product; and

(3) All construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States. The construction material standards are listed below.

Incorporation into an infrastructure project. The Buy America Preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America Preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

Categorization of articles, materials, and supplies. An article, material, or supply should only be classified into one of the following categories: (i) Iron or steel products; (ii) 15 Manufactured products; (iii) Construction materials; or (iv) Section 70917(c) materials. An article, material, or supply should not be considered to fall into multiple categories. In some cases, an article, material, or supply may not fall under any of the categories listed in this paragraph. The

classification of an article, material, or supply as falling into one of the categories listed in this paragraph must be made based on its status at the time it is brought to the work site for incorporation into an infrastructure project. In general, the work site is the location of the infrastructure project at which the iron, steel, manufactured products, and construction materials will be incorporated.

Application of the Buy America Preference by category. An article, material, or supply incorporated into an infrastructure project must meet the Buy America Preference for only the single category in which it is classified.

Determining the cost of components for manufactured products. In determining whether the cost of components for manufactured products is greater than 55 percent of the total cost of all components, use the following instructions:

(a) For components purchased by the manufacturer, the acquisition cost, including transportation costs to the place of incorporation into the manufactured product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(b) For components manufactured by the manufacturer, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (a), plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the manufactured product.

Construction material standards. The Buy America Preference applies to the following construction materials incorporated into infrastructure projects. Each construction material is followed by a standard for the material to be considered "produced in the United States." Except as specifically provided, only a single standard should be applied to a single construction material.

(1) Non-ferrous metals. All manufacturing processes, from initial smelting or melting through final shaping, coating, and assembly, occurred in the United States.

(2) Plastic and polymer-based products. All manufacturing processes, from initial combination of constituent plastic or polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form, occurred in the United States.

(3) Glass. All manufacturing processes, from initial batching and melting of raw materials through annealing, cooling, and cutting, occurred in the United States.

(4) Fiber optic cable (including drop cable). All manufacturing processes, from the initial ribboning (if applicable), through buffering, fiber stranding and jacketing, occurred in the United States. All manufacturing processes also include the standards for glass and optical fiber, but not for non-ferrous metals, plastic and polymer-based products, or any others.

(5) Optical fiber. All manufacturing processes, from the initial preform fabrication stage through the completion of the draw, occurred in the United States.

(6) Lumber. All manufacturing processes, from initial debarking through treatment and planning, occurred in the United States.

(7) Drywall. All manufacturing processes, from initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels, occurred in the United States.

(8) Engineered wood. All manufacturing processes from the initial combination of constituent materials until the wood product is in its final form, occurred in the United States.

Waivers

When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. Information on the process for requesting a waiver from these requirements can be found at https://www.doi.gov/grants/buyamerica.

When DOI has determined that one of the following exceptions applies, the awarding official may waive the application of the Buy America Preference in any case in which the agency determines that:

(1) applying the Buy America Preference would be inconsistent with the public interest;

(2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or

(3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

A request to waive the application of the Buy America Preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Office of Management and Budget (OMB) Made in America Office.

There may be instances where an award qualifies, in whole or in part, for an existing waiver described at the Approved DOI General Applicability Waivers website located at https://www.doi.gov/grants/BuyAmerica/GeneralApplicabilityWaivers.

Definitions

"Buy America Preference" means the "domestic content procurement preference" set forth in section 70914 of the Build America, Buy America Act, which requires the head of each Federal agency to ensure that none of the funds made available for a Federal award for an infrastructure project may be obligated unless all of the iron, steel, manufactured products, and construction materials incorporated into the project are produced in the United States.

"Construction materials" means articles, materials, or supplies that consist of only one of the items listed in paragraph (1) of this definition, except as provided in paragraph (2) of this definition. To the extent one of the items listed in paragraph (1) contains as inputs other items listed in paragraph (1), it is nonetheless a construction material.

(1) The listed items are:

(i) Non-ferrous metals;

(ii) Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);

(iii) Glass (including optic glass);

(iv) Fiber optic cable (including drop cable);

(v) Optical fiber;

(vi) Lumber;

(vii) Engineered wood; and

(viii) Drywall.

(2) Minor additions of articles, materials, supplies, or binding agents to a construction material do not change the categorization of the construction material.

"Infrastructure" means public infrastructure projects in the United States, which includes, at a minimum, the structures, facilities, and equipment for roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property; and structures, facilities, and equipment that generate, transport, and distribute energy including electric vehicle (EV) charging.

"Infrastructure project" means any activity related to the construction, alteration, maintenance, or repair of infrastructure in the United States regardless of whether infrastructure is the primary purpose of the project. *See also* paragraphs (c) and (d) of 2 C.F.R. § 184.4.

"Iron or steel products" means articles, materials, or supplies that consist wholly or predominantly of iron or steel or a combination of both.

"Manufactured products" means:

(1) Articles, materials, or supplies that have been: (i) Processed into a specific form and shape; or (ii) Combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies.

(2) If an item is classified as an iron or steel product, a construction material, or a Section 70917(c) material under 2 C.F.R. § 184.4(e) and the definitions set forth in 2 C.F.R. § 184.3, then it is not a manufactured product. However, an article, material, or supply classified as a manufactured product under 2 C.F.R. § 184.4(e) and paragraph (1) of this definition may include components that are construction materials, iron or steel products, or Section 70917(c) materials.

"Predominantly of iron or steel or a combination of both" means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components.

"Section 70917(c) materials" means cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives. *See* Section 70917(c) of the Build America, Buy America Act.

Appendix C

This Appendix is intended to provide awareness of standard grants management requirements that are generally part of applying for a federal award.

- **Unique Entity Identifier and System for Award Management (SAM)**

  Each applicant that does not have an exemption under 2 C.F.R. § 25.110 must:

  (1) Be registered in SAM.gov before submitting an application;

  (2) Maintain a current and active registration in SAM.gov at all times during which it has an active federal award as a recipient or an application under consideration by a federal agency. The applicant or recipient must review and update its information in SAM.gov annually from the date of initial registration or subsequent updates to ensure it is current, accurate, and complete. If applicable, this includes identifying the applicant's or recipient's immediate and highest-level owner and subsidiaries, as well as providing information on all predecessors that have received a federal award or contract within the last three years; and

  (3) Include its UEI in each application it submits to the federal agency.

- **Reporting Subaward and Executive Compensation Information**

  Each applicant must have the necessary processes and systems in place to comply with the reporting requirements should they receive Federal funding.

- **Conflict of Interest Disclosure**

  Under Financial Assistance Interior Regulation (FAIR), 2 C.F.R. § 1402.112, a State in its application must state any actual or potential conflict-of-interests existing at the time of submission.

  - Applicability
    - This section intends to ensure non-federal entities and their employees take appropriate steps to avoid conflicts of interest in their responsibilities under or with respect to federal financial assistance agreements.
    - In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the provisions in 2 C.F.R. § 200.318 apply.
  - Notification

- Non-federal entities, including applicants for financial assistance awards, must disclose in writing any conflict of interest to DOI awarding agency or pass-through entity in accordance with 2 C.F.R. § 200.112.

- Recipients must establish internal controls that include, at a minimum, procedures to identify, disclose, and mitigate or eliminate identified conflicts of interest. The recipient is responsible for notifying the financial assistance officer in writing of any conflicts of interest that may arise during the life of the award, including those that have been reported by subrecipients.

- Restrictions on lobbying. Non-federal entities are strictly prohibited from using funds under a grant or cooperative agreement for lobbying activities and must provide the required certifications and disclosures pursuant to 43 C.F.R. part 18 and 31 U.S.C. § 1352.

- Review procedures. The financial assistance officer will examine each conflict-of-interest disclosure on the basis of its particular facts and the nature of the proposed grant or cooperative agreement and will determine whether a significant potential conflict exists and, if it does, develop an appropriate means for resolving it.

- Enforcement. Failure to resolve conflicts of interest in a manner that satisfies the government may be cause for termination of the award. Failure to make required disclosures may result in any of the remedies described in 2 C.F.R. § 200.339, Remedies for noncompliance, including suspension or debarment (*see also* 2 C.F.R. part 180).

- **Single Audit Reporting Statement**

  All non-federal entities expending $750 thousand or more in federal award funds in the applicant's fiscal year must submit a Single Audit report for that year through the Federal Audit Clearinghouse's Internet Data Entry System. States must state if your organization was or was not required to submit a Single Audit report for the most recently closed fiscal year in your application. If your organization was required to submit a Single Audit report for the most recently closed fiscal year, provide the EIN (Tax ID) associated with that report and state if it is available through the Federal Audit Clearinghouse website.

- **Certification Regarding Lobbying and Disclosure Requirements**

  Applicants requesting more than $100 thousand in federal funding must certify to the statements in 43 C.F.R. part 18, Appendix A-Certification Regarding Lobbying. If this application requests more than $100 thousand in federal funds, the Authorized Official's signature on the appropriate SF-424, Application for

Federal Assistance Form also represents the entity's certification of the statements in 43 C.F.R. part 18, Appendix A.

Applicants and recipients must not use any federally appropriated funds (annually appropriated or continuing appropriations) or matching funds under a federal award to pay any person for lobbying in connection with the award. Lobbying is influencing or attempting to influence an officer or employee of a federal agency, a Member of Congress, an officer or employee of the Congress, or an employee of a Member of the Congress in connection with the award. Applicants and recipients must complete and submit the SF-LLL, "Disclosure of Lobbying Activities" form, and the accompanying "Certification Regarding Lobbying" form, if the federal share of the proposal or award is more than $100 thousand and the applicant or recipient has made or has agreed to make any payment using non-appropriated funds for lobbying in connection with the application or award. The SF-LLL is available with this Funding Opportunity on Grants.gov. *See* 43 C.F.R. subpart 18.100 for more information on when additional submission of this form is required.

- **Data Availability**

  Per FAIR: 2 C.F.R. § 1402.315

  - All data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, valuation products or other scientific assessments in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual, resulting from a financial assistance agreement is available for use by DOI, including being available in a manner that is sufficient for independent verification.
  - The federal Government has the right to:
    - Obtain, reproduce, publish, or otherwise use the data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, or other scientific assessments, produced under a federal award; and
    - Authorize others to receive, reproduce, publish, or otherwise use data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, or other assessments, for federal purposes, including to allow for meaningful third-party evaluation.

- **Agency Review Process**

  The awarding agency conducts a review of the SAM.gov Exclusions Database for all applicant entities and their key personnel prior to award. The awarding agency cannot award funds to entities, or their key personnel identified in the SAM.gov, Exclusions Database that are ineligible, prohibited/restricted, or otherwise excluded from receiving federal contracts, certain subcontracts, and certain

federal assistance and benefits, as their ineligibility condition applies to this federal program.

Prior to award, the awarding agency will evaluate the risk posed by applicants as required in 2 C.F.R. § 200.206. The awarding agency documents applicant risk evaluations using DOI's "Financial Assistance Recipient Risk Assessment" form. Prior to approving awards for federal funding in excess of the simplified acquisition threshold, the awarding agency is required to review and consider any information about or from the applicant found in the federal Awardee Performance and Integrity Information System. The awarding agency will consider this information when completing the risk review. The awarding agency uses the results of the risk evaluation to establish monitoring plans, recipient reporting frequency requirements, and to determine if one or more specific award conditions in 2 C.F.R. § 200.207 should be applied to the award.

- **Additional Reporting Requirements**

  - Conflict-of-Interest Disclosures. Recipients must notify the program immediately in writing of any conflict of interest that arises during the life of their federal award, including those reported to them by any subrecipient under the award. Recipients must notify the program in writing if any employees, including subrecipient and contractor personnel, are related to, married to, or have a close personal relationship with any federal employee in the federal funding program or who otherwise may have been involved in the review and selection of the award. The term employee means any individual engaged in the performance of work pursuant to the federal award. Recipients may not have a former federal employee as a key official, or in any other substantial role related to their award, whose participation put them out of compliance with the legal authorities addressing post-Government employment restrictions. *See* the Office of Government Ethics website for more information on these restrictions. The awarding agency will examine each conflict-of-interest disclosure based on its particular facts and the nature of the activities and will determine if a significant potential conflict exists. If it does, the awarding agency will work with the recipient to determine an appropriate resolution. Failure to disclose and resolve conflicts of interest in a manner that satisfies the awarding agency may result in any of the remedies described in 2 C.F.R. § 200.339 Remedies for noncompliance, including termination of the award.

  - Other Mandatory Disclosures. Applicants must disclose, in a timely manner, in writing, to the federal awarding agency or pass-through entity, all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting a federal award. Non-federal entities that receive a federal award including the terms and conditions outlined in 2 C.F.R. part 200, Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters are required to report certain civil,

criminal, or administrative proceedings to SAM. Failure to make required disclosures can result in remedies described in 2 C.F.R. § 200.339 Remedies for noncompliance, including suspension or debarment.

- Reporting Matters Related to Recipient Integrity and Performance. If the total value of a State's currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds $10 million for any period of time during the period of performance of this federal award, then it, as the recipient during that period of time, must maintain the currency of information reported to the SAM that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information FAPIIS System ()) about civil, criminal, or administrative proceedings in accordance with Appendix XII to 2 C.F.R. part 200.