

353.562 Kentucky Abandoned Storage Tank and Orphan Well Reclamation Program -- Kentucky abandoned storage tank and orphan well reclamation fund -- Use of funds received from federal Infrastructure Investment and Jobs Act -- Initial grants -- Grant types.

- (1) (a) There is hereby created the Kentucky Abandoned Storage Tank and Orphan Well Reclamation Program. The purpose of the program is to:
 1. Remediate and reclaim abandoned storage tanks;
 2. Properly plug and abandon eligible wells; and
 3. Address imminent threats to human health, safety, or the environment posed by oil and gas facilities located in the Commonwealth.
 - (b) Reclamation of abandoned storage tank facilities and eligible wells under the program shall include:
 1. Removing necessary well and tank infrastructure;
 2. Proper plugging and abandonment of eligible wells;
 3. Proper abandonment of tanks posing an imminent threat to human health, safety, or the environment;
 4. Implementation of best management practices at sites associated with eligible wells or abandoned storage tank facilities; or
 5. Removing primary and secondary sources of contamination of the land, air, and water.
 - (c) Orphan wells and abandoned storage tank facilities determined by the cabinet to be eligible for plugging, removal, reclamation, and cleanup funds from the Kentucky abandoned storage tank and orphan well reclamation fund shall be addressed in accordance with this section and KRS 353.561, 353.563, and 353.564.
- (2) The Kentucky abandoned storage tank and orphan well reclamation fund is hereby created as an interest-bearing, restricted, agency account. The fund shall be administered by the cabinet. Interest credited to the account shall be retained in the account. Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward into the succeeding fiscal year to be used for the purposes authorized and set forth in this section and KRS 353.561, 353.563, and 353.564.
 - (3) The fund established in subsection (2) of this section may utilize and expend funds as authorized by the biennial budget.
 - (4) Moneys in the fund shall be for carrying out the purpose provided in subsection (1) of this section, including any administrative costs incurred by the cabinet during the implementation of this section and KRS 353.561, 353.563, and 353.564. The fund may receive moneys from federal and state grants or appropriations, and from any other proceeds received for the purposes of this section and KRS 353.561, 353.563, and 353.564. Separate accounts may be established within the fund to segregate moneys received and expended for different programs operated by the Kentucky Abandoned Storage Tank and Orphan Well Reclamation Program.
 - (5) (a) Funds may be expended for costs incurred in the:

1. Remediation and reclamation of abandoned storage tank facilities;
 2. Proper plugging, remediation, reclamation, and abandonment of eligible wells; or
 3. Proper remediation, reclamation, and abandonment of abandoned storage tank facilities posing an imminent threat.
- (b) These funds may be expended in accordance with this section and after the cabinet determines that:
1. The well qualifies as an eligible well as defined in KRS 353.510;
 2. There is no person identified or found with continuing legal responsibility for the abandoned storage tank facility; or
 3. Reclamation or remedial measures are necessary to respond to an imminent threat to human health, safety, or the environment, posed by an abandoned storage tank facility or improperly abandoned well.
- (6) Reclamation measures paid for by the fund shall include the following:
- (a) Removal and disposal of abandoned storage tank facilities;
- (b) Reclamation of lands affected by abandoned storage tank facilities, including:
1. Proper removal or abandonment of flow lines;
 2. Removal or treatment of contaminated soil to no more than three (3) feet in depth;
 3. Elimination of all berms, dikes, and other structures utilized as spill prevention, control, and countermeasure structures;
 4. Grading, stabilization, and seeding of the surface where the tank or tank battery was located; and
 5. Implementation of best management practices at sites associated with abandoned storage facilities; and
- (c) Reclamation of lands affected by eligible wells, including:
1. Proper removal or abandonment of flow lines;
 2. Removal and disposal of surface production equipment;
 3. Grading, stabilization, and seeding of the surface where the well was located;
 4. Implementation of best management practices at sites associated with eligible wells; and
 5. Removal or treatment of contaminated soil to no more than three (3) feet in depth.
- (7) If during the course of removing and reclaiming an abandoned storage tank facility or plugging and reclaiming an eligible well, the division observes evidence of soil contamination below three (3) feet depth, the division shall consult with the Department for Environmental Protection to determine whether further action is necessary to protect public health and the environment. Nothing contained in this section shall be construed to obligate the fund to provide additional moneys for removal or treatment of contaminated soil other than provided in subsection (6)(b)2. and (c)5. of this section.
- (8) Any person performing reclamation measures pursuant to this section shall

comply with applicable local, state, and federal laws and regulations.

- (9) The cabinet shall have the authority to:
- (a) Contract for services provided by and engage in cooperative projects with other government agencies or private parties in the furtherance of any remedial or reclamation project authorized and undertaken pursuant to this section and KRS 353.561, 353.563, and 353.564;
 - (b) Enter into agreements with those government agencies or private parties to compensate those agencies and private parties with funds from the account; and
 - (c) Accept and deposit into separate accounts within the fund any federal, state, and other funds for the purposes of subsection (10) of this section and KRS 353.561, 353.563, and 353.564.
- (10) Moneys received by the Commonwealth from the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, shall be placed into a separate account within the fund to administer and award contracts which are committed to and issued for the purposes of Pub. L. No. 117-58 and any federal rules and guidance issued pursuant thereto. Moneys received by the Commonwealth under Pub. L. No. 117-58:
- (a) May be used for the plugging and abandonment of wells and the remediation and reclamation of associated pipelines, facilities, and infrastructure eligible for funding under this section; and
 - (b) Shall be maintained and expended in a manner as provided by any federal rules and guidance issued pursuant to Pub. L. No. 117-58.
- (11) Except for the modification allowed for initial grants in subsection (12) of this section, the number of eligible wells in the vendor's scope of work for contracts issued pursuant to subsection (10) of this section for all grant types established under Pub. L. No. 117-58 shall be limited as follows:
- (a) One-third (1/3) of the contracts issued in a twelve (12) month period shall be limited to no more than ten (10) wells;
 - (b) One-third (1/3) of the contracts issued in a twelve (12) month period shall be limited to no more than twenty-five (25) wells; and
 - (c) One-third (1/3) or the remaining contracts issued within a twelve (12) month period shall not have a limit on the number of wells in the scope of work.
- (12) The cabinet may adjust the number of wells within a bid package issued pursuant to subsections (10) and (11) of this section as needed in order to comply with any deadlines imposed under Pub. L. No. 117-58 for initial grants, provided that the overall percentages required in subsection (11) of this section are achieved at the end of each twelve (12) month period.
- (13) As used in this section, "grant types" means the initial, formula, and performance grant categories that states can use to apply for moneys to clean up orphan wells described in the December 17, 2021, guidance to states issued by the United States Department of the Interior.

Effective: April 8, 2022

History: Amended 2022 Ky. Acts ch. 118, sec. 2, effective April 8, 2022; and ch. 173, sec. 2, effective April 8, 2022. -- Amended 2019 Ky. Acts ch. 21, sec. 2,

effective June 27, 2019. -- Created 2015 Ky. Acts ch. 21, sec. 2, effective June 24, 2015.

Legislative Research Commission Note (4/8/2022). This statute was amended by 2022 Ky. Acts chs. 118 and 173, which are virtually identical and have been codified together.