

KENTUCKY DIVISION OF OIL AND GAS  
INTRODUCING THE METHANE EMISSIONS  
REDUCTION PROGRAM (MERP)

as established through the  
INFLATION REDUCTION ACT (IRA)

**KENTUCKY MERP KICK OFF MEETING**

**Date: September 20, 2024**



# Inflation Reduction Act (IRA)

- ▶ On August 16, 2022, the IRA was signed into law. The IRA created the Methane Emissions Reduction Program (MERP) and directed the EPA to take action to address methane emissions from the oil and gas sector.
- ▶ On August 30, 2023, the EPA and DOE announced the availability of up to \$350 million in nationwide grant funding through MERP to monitor and reduce methane emissions from the oil and gas sector.
- ▶ The focus of this grant is to assist well operators in plugging of marginal conventional wells and to perform environmental restoration of the selected well sites.

# Methane Emissions Reduction Program (MERP)

- ▶ The Kentucky Division of Oil and Gas (KDOG) submitted a MERP application October 10, 2023 to assist in the plugging of Marginal Conventional Oil and Gas Wells (MCW's) held by private ownership.
- ▶ KDOG was awarded a \$12.9M MERP Grant on April 9, 2024, with specific and detailed DOE implementation requirements.
- ▶ Under terms of the award, all MCW sites selected will require well methane emission measurements, and compliance with the Davis Bacon Act, National Historic Preservation Act, and the Endangered Species Act.

# WHAT IS A MARGINAL CONVENTIONAL WELL (MCW)?

- ▶ An MCW is defined by DOE as an idle or producing onshore vertical or slightly deviated oil or natural gas well (excludes horizontal wells) with a known operator producing less than or equal to 15 barrels of oil equivalent per day (BOED) and/or 90 thousand cubic feet (Mcf) gas per day (over the prior 12-month period).
- ▶ Based on the criteria of 90 mcf/day or 15 BOE/day and utilizing 2022 production records, KDOG estimates 98% of all producing wells in KY would be considered "Marginal Conventional Wells".

# 1. HOW WILL MERP BE IMPLEMENTED?

- ▶ Operators will complete a Well Nomination Form & Right of Entry Consent for each well nominated.
- ▶ Nominations will be accepted beginning today through January 31, 2025.
- ▶ Forms above can be found on the KDOG website.
- ▶ Small Operators and Domestic Well Operators are encouraged to apply.
- ▶ Well Eligibility will be confirmed.
  - ▶ KDOG staff will conduct a review of well information for completeness and accuracy.
  - ▶ Staff will also conduct an operator compliance review:
    - ▶ Current with all production reporting requirements
    - ▶ Current on operator license fees
    - ▶ In material compliance with oil and gas regulations

## 2. HOW WILL MERP BE IMPLEMENTED?

- ▶ Once the initial nomination period closes, and submitted nominations have been reviewed, the eligible nominated wells will be prioritized considering factors which will include:
  - ▶ Inspector Field Assessment
  - ▶ Disadvantaged Communities Impacts
  - ▶ Active and Potential Environmental Impacts
  - ▶ Proximity to residences and facilities
  - ▶ Well configuration and geology
  - ▶ Operator size
- ▶ After prioritization, KDOG will group the wells by county and assemble packages to be put out for bid through the Finance Cabinet.

### 3. HOW WILL MERP BE IMPLEMENTED?

- ▶ Plugging Contractors will have an opportunity to bid on plugging packages through the Finance Cabinet Vendor Self Service (VSS) website.
- ▶ Bids received will be scored by a Selection Committee based on a set matrix and the contract to plug the wells will be awarded through the Finance Cabinet.
- ▶ After contract award, the Contractor shall coordinate with the operator and KDOG to access the well site, measure well emissions, plug the well and reclaim the area.
- ▶ **Please note KDOG expects that:**
  - ▶ **not all wells nominated will be found eligible for the program, and**
  - ▶ **not all eligible wells will be selected for plugging due to fund limitations.**

# How Can Contractors Bid On Wells?

## **All Bidding Will be Through the Finance & Administration Cabinet Division of Engineering and Contract Administration (DECA)**

- ▶ Competitive Bidding will be utilized for this program as it is with the Federal Orphan Well Plugging Program.
- ▶ Finance Cabinet Rules require Bid Bonds, and Performance and Payment Bonds, for all projects.
- ▶ Bidders must route Request for Proposals (RFP) package questions through DECA. KDOG cannot respond to contractor inquiries about well sites and RFP's.
- ▶ Well Sites will be presented as a PowerPoint PDF Exhibit with a summary of each well included in the package, so all bidders see the same information. Contractors are Highly Encouraged to investigate well sites prior to bidding.
- ▶ Only complete response packages per Finance Cabinet requirements will be accepted.
- ▶ The official RFPs will be posted on the Finance Cabinet VSS site at <https://vss.ky.gov>



# DOE Standard Award Terms, Davis Bacon Act & Build America Buy America Shall Apply

- ▶ DOE “Standard Award Terms and Conditions” will be required in all Grant Awards.
- ▶ For all project work under the IRA, award recipients will be required to comply with the **Davis-Bacon Act (DBA)**.
- ▶ Pursuant to the **Build America, Buy America Act (BABA)**, none of the funds under a federal award that are part of federal financial assistance for infrastructure may be obligated for a project unless **all** of the iron, steel, manufactured products, and construction materials purchased in the project are produced in the United States, unless subject to an approved waiver.

# ESA, NHPA & Pre & Post-Plugging Methane Measurements Shall Apply

- ▶ Section 7(a)(2) of the ESA requires Federal agencies to consult with the U.S. Fish and Wildlife Service to ensure that actions they fund, authorize, permit, or otherwise carry out will not jeopardize the continued existence of any listed species or adversely modify designated critical habitats.
- ▶ Section 106 of the NHPA requires federal agencies to consider the effects on historic properties of projects they carry out, assist, fund, permit, license, or approve throughout the country.
- ▶ Methane emissions measurements will be conducted pre- and post-plugging.

# Well Plugging and Abandonment General Requirements

The Kentucky state well plugging requirements are defined in Kentucky Revised Statutes Chapter 353 and 805 Kentucky Administrative Regulations (KAR) Chapter 1.

- ▶ Operators will be required to provide landowner and tenant right of entry consent for each property used to access the well, which must be submitted with the nomination form.
- ▶ KDOG will provide plugging procedures to assure protection of freshwater resources, mineable coal seams, and oil and gas productive formations.
- ▶ The wellbore must be sealed to surface and surface facilities removed along with surface flow lines.
- ▶ KDOG field inspectors must witness the plugging operations and certify the results.
- ▶ Contractors are required to reclaim and revegetate the site. A final reclamation inspection will be made one year from plugging to confirm the project site properly revegetated.

# How Can Operators Nominate Wells?

- ▶ Only the responsible Operator according to KDOG records can nominate a well.
- ▶ Well nominations will be initially limited to **no more than 3 wells per Operator.**
- ▶ Forms can be found at [Oil & Gas - Kentucky Energy and Environment Cabinet](#)
- ▶ Submit forms to the new MERP email [MERP@ky.gov](mailto:MERP@ky.gov)
- ▶ Operators must be:
  - ▶ Compliant with all production reporting requirements
  - ▶ Current on Operator License Fees
  - ▶ In material compliance with oil and gas regulations

**KENTUCKY DIVISION OF OIL AND GAS**  
**METHANE EMISSIONS REDUCTION PROGRAM (MERP)**

**MARGINAL CONVENTIONAL WELL NOMINATION FORM**

1. WELL OPERATOR NAME: \_\_\_\_\_
2. WELL OPERATOR ADDRESS: \_\_\_\_\_
3. WELL OPERATOR PHONE NUMBER: \_\_\_\_\_
4. EMAIL: \_\_\_\_\_
5. WELL PERMIT NUMBER: \_\_\_\_\_
6. WELL NAME: \_\_\_\_\_
7. WELL TYPE (GAS/OIL/OTHER): \_\_\_\_\_
8. CURRENT WELL STATUS (PRODUCING/APPROVED TEMPORARY ABANDONMENT): \_\_\_\_\_
9. IF NOT PRODUCING, EXPLAIN WHY? (e.g. downhole problems, leakage, market, access, etc.):  
\_\_\_\_\_
10. 2022 PRODUCTION AMOUNT (BARRELS OR MCF): \_\_\_\_\_
11. SURFACE OWNER NAME: \_\_\_\_\_
12. SURFACE OWNER ADDRESS: \_\_\_\_\_  
\_\_\_\_\_
13. SURFACE OWNER CONSENT TO GRANTED\* (yes/no): \_\_\_\_\_

**\*NOTE: OPERATOR MUST INCLUDE RIGHT OF ENTRY CONSENT WITH NOMINATION FORM. IF CONSENT IS NOT INCLUDED, THE NOMINATION FORM WILL BE REJECTED.**

**OPERATOR AUTHORIZED REPRESENTATIVE SIGNATURE:** \_\_\_\_\_

**PRINT NAME:** \_\_\_\_\_ **TITLE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

# Well Nomination Form

# Right of Entry Consent\*

COMMONWEALTH OF KENTUCKY  
ENERGY AND ENVIRONMENT CABINET  
DEPARTMENT FOR NATURAL RESOURCES  
DIVISION OF OIL AND GAS

## RIGHT OF ENTRY CONSENT FOR WELL PLUGGING & RECLAMATION WORK

Operator: \_\_\_\_\_ Permit Number: \_\_\_\_\_ Well Name: \_\_\_\_\_

Section 60113 of the Inflation Reduction Act (Methane Emissions Reduction Program (MERP)) amended the Clean Air Act (CAA) by adding section 136, "Methane Emissions and Waste Reduction Incentive Program for Petroleum and Natural Gas Systems" (also referred to as the "Methane Emissions Reduction Program"). Under Section 136 of the Clean Air Act and the Kentucky Revised Statutes Chapter 350, the Kentucky Division of Oil and Gas (KDOG) proposes to undertake well plugging and reclamation work to plug wells across the Commonwealth.

To achieve this objective, it will be necessary for officers, agents, employees and contractors of the Commonwealth to enter upon property owned by:

Surface Owner Name: \_\_\_\_\_

Property Physical Address (wellsite): \_\_\_\_\_

Surface Owner Mailing Address: \_\_\_\_\_

Surface Owner Telephone Number: \_\_\_\_\_

\_\_\_\_\_  
Surface Owner: I/We give this consent to enter upon the above-described property to complete the well assessment, plugging, reclamation and any site maintenance activities that may be necessary to complete this project. This consent is subject to my/our continued ownership and use of the property. **I understand this form is only for nomination of a well to request plugging assistance and does not assure in any way that the well will be accepted into the plugging program.**

\_\_\_\_\_  
Tenant: I/We give this consent to enter upon the above-described property, subject to the superior rights of the owner of record.

\_\_\_\_\_  
Access: I/We give this consent to enter upon the above-described property for the purpose of obtaining access to the above-referenced well.

NOW, THEREFORE, in consideration of the benefits which will inure to the Surface Owner and to the general public, the Surface Owner does hereby grant to KDOG, its employees, agents, contractors and subcontractors a right of entry into, over and upon the above-described property, including all necessary and convenient rights of ingress, egress and regress, with all material and equipment to conduct the proposed plugging, site reclamation, and to do any and all things necessary and convenient to effectively carry on said activities, in a good and workmanlike manner. Said right of entry is granted for the time required to conduct testing, complete the plugging, and perform reclamation subject to the surface owner's or tenant's continued ownership and use of the property. This grant of right of entry shall be binding upon the heirs, personal representatives, assigns, and successors of the surface owner/tenant.

NOW THEREFORE, in consideration of the above representations including those on the second page, the Surface Owner/Tenant hereby agrees to save and hold harmless the Commonwealth of Kentucky, its officers, agents, and employees from any and all liabilities, obligations, claims and demands in law and equity arising from the performance of the work herein contemplated or performed.

- It is understood the work performed in the project area shall be done by contractors for the Commonwealth, and the Commonwealth is without authority to assume the risk of injury to persons or damage to persons or property resulting from the action of the contractors, but the Commonwealth shall require contractors performing the work on the property to obtain and keep in force liability insurance.
- It is further understood that any agreement, verbal or written, between the Surface Owner and Operator and/or KDOG's contractor shall be solely between said parties. Since KDOG is not a party to that agreement, it is unable to enforce said agreement and assumes no liability therein.

- Execution of this Consent for Right of Entry does not obligate the Commonwealth to perform any part of the contemplated or proposed plugging and reclamation work.

**IMPORTANT, PLEASE READ:** I acknowledge receipt of this form and agree to nomination of the above-referenced well; and agree to allow KDOG and contractors access as needed if selected into the program for plugging.

IN WITNESS WHEREOF, the Surface Owner/Tenant or authorized representative has caused this Consent for Right of Entry to be executed this

\_\_\_\_\_

(WITNESS)

\_\_\_\_\_

(Surface Owner/Tenant or Representative Signature)

(WITNESS)

\_\_\_\_\_

(Surface Owner/Tenant or Representative Signature)

Rev. 8/2024

\*Must have landowner and tenant consent for each property used to access the well

# HOW WILL OPERATORS KNOW WHAT WELLS HAVE BEEN SELECTED FOR THE PROGRAM?

- ▶ KDOG will review the nominated wells to determine eligibility.
- ▶ If a nominated well is selected for the program, KDOG will notify the Operator by letter.
- ▶ Wells selected for the program will be prioritized based upon a variety of factors, some specific to terms of the DOE MERP grant award.
- ▶ To reiterate: Not all eligible wells will be selected for plugging due to fund limitations.

# Questions/Comments

- ▶ This presentation will be placed on the KDOG webpage at: <https://eec.ky.gov/Natural-Resources/Oil-and-Gas/Pages/default.aspx> .
- ▶ General questions about the MERP Program, KDOG or this presentation should be emailed to [MERP@ky.gov](mailto:MERP@ky.gov)
- ▶ Questions from interested contractors about the eProcurement process of the Finance Cabinet DECA office should be emailed to [Kristi.Sharp@ky.gov](mailto:Kristi.Sharp@ky.gov)
- ▶ Thank you for your time!