



August 21, 2023

Department of Natural Resources
Office of Conservation, Engineering Regulatory Division
617 North Third Street, Ninth Floor
Baton Rouge, LA 70802

Via email to: Mr. Chris Sandoz at: Christopher.Sandoz@la.gov

Re: Inactive Well Assessments

Dear Mr. Sandoz, Commissioner Edwards, and interested parties:

EDF appreciates the opportunity to comment on the Department of Natural Resources Office of Conservation's July 20, 2023, proposal to amend Louisiana Administrative Code 43:XIX, Subpart I, Chapter 1, § 137, Plugging and Abandonment (hereinafter, the "Proposed Rule"). The amendments are intended to "restrict the Commissioner's ability to grant an extension or exemption to Inactive, Future Utility Wells," incentivize operators to return wells to production or timely and properly abandon them, reduce future orphan wells, and increase revenue for restoring existing orphaned wells and sites.¹

EDF strongly supports DNR's stated policy objectives and believes the Proposed Rule, if adopted without significant changes, would make meaningful advances toward reducing the number of future orphaned wells in Louisiana and increase the revenue available to DNR to manage such wells.

Ensuring that inactive wells are plugged before they become orphaned wells is important for Louisiana's economy and environment. Improperly maintained unplugged wells can leak methane and air toxics to the atmosphere while contaminating surface water and ground water, and their presence can lower property values and prevent other economically and environmentally beneficial uses of the subsurface. The potential costs to Louisiana taxpayers to cover closure of Louisiana's active and idle wells that are on a pathway to become orphaned without policy change runs into the several billion dollars, and that's on top of the already steep cleanup cost for the state's current population of 4600 documented orphaned wells.

EDF appreciates that there are valid reasons for placing wells into future utility status. Some wells do ultimately return to service and produce hydrocarbons. However, most (around 80% of those in future utility status for five or more years) do not, and those that do tend to produce very little additional

¹ See Louisiana Register, Vol. 49, No. 2, p. 428, February 20, 2023; Louisiana Register Vol. 49, No. 7 July 20, 2023, p. 1342.

revenue (for wells in future utility status for five or more years, only 4% of revenue comes after a well has been placed in that status).

If operators are placing wells into future utility status in order to avoid plugging liability, that practice is inconsistent with proper stewardship of Louisiana's natural resources. On the other hand, plugging wells that no longer have a viable pathway to economic productivity can unlock a significant jobs creation boom. EDF calculates that Louisiana would generate 45,000 new job years (i.e. a full-time job for one year) from plugging the population of future utility wells, especially in northwest Louisiana and along the coast, but throughout the state (see map on p. 6 of these comments). There are 17,000 wells currently in future utility status in the state, and the vast majority of them will generate more economic activity through their proper closure (through jobs staffed by people living in the Louisiana oil patch) than from the small fraction of them that ever produce future revenue (a significant portion of which goes immediately out of state).

It is also worth noting that 380,000 people live within a mile of a future utility well in Louisiana, 170,000 of whom only live ½ mile away from such wells – these people should be protected from air and water quality contamination risks associated with these wells as they sit idle, which only increase if they become orphaned.

For these reasons, EDF supports the Proposed Rule. It is consistent with Governor John Bel Edwards' Climate Action Plan, fair and reasonable to the oil and gas industry, positive for the people and environment around this well population and will create well-paid local jobs for Louisianians.

I. The Proposed Rule Includes Meaningful Regulatory Reforms that Should Begin to Reduce Persistent Orphan Wells in the State.

The Proposed Rule makes important upgrades to the Annual Well Assessment for inactive wells, whether classified as having future utility or not.² EDF supports the implementation of a three-tiered fee structure based on depth and an incremental increase in the annual fee over time. The three-tiered fee structure is equitable, recognizing that deeper wells will be more costly to plug in most cases. Increasing the annual assessment after a well has been inactive for more than ten years will encourage operators to timely- plug inactive wells rather than mothballing them indefinitely because that is the least cost -option-.

Equally important, the increased assessment should generate greater revenue for DNR to manage existing and future orphan wells – DNR expects a revenue increase of approximately \$1.25 million per year, enabling the plugging of around 15 additional orphan wells per year. This revenue increase may also be subject to federal matching funds under the Bipartisan Infrastructure Law's orphan well closure program, enabling Louisiana to plug even more orphan wells.

Additionally, requiring an annual assessment within 90 days for inactive wells classified as having no future utility should incentivize operators to prioritize the timely plugging of such wells. These modifications to the Annual Well Assessment implement important policy tools to strengthen DNR's ability to manage existing orphan wells and begin to abate the likelihood of future orphan wells.

² See Proposed Rule Section 137.A.1.b.; 2.b.

The Proposed Rule removes the Commissioner’s discretion to indefinitely extend or exempt the requirement to plug a future utility well within five years of becoming inactive and eliminates alternative abandonment schedules.³ This adjustment should slow down the cycle of operators stockpiling uneconomic wells that are highly unlikely ever to be returned to meaningful production. Over the long haul, this should incentivize operators either to return wells to active service or permanently abandon them, thereby reducing the number of future orphan wells DNR will have to clean up, potentially at Louisiana taxpayers’ expense.

Finally, in lieu of abandonment schedules, the Proposed Rule creates additional incentives in the form of fee reductions for operators that plug ten or more wells in a year. As with other changes in this rule, this should encourage increased plugging of unproductive wells.

Adopting these provisions would fulfill, in part, recommended Action 7.3 in Governor Jon Bel Edwards’ Administration’s February 2022 Louisiana Climate Action Plan.⁴ The Plan recommended that DNR “tighten the definition and requirements of a ‘future utility’ designation in its application and limit the duration a well can remain at ‘future utility’ status.”⁵ The Plan notes that more than 400 wells classified as having future utility have been in stasis for more than 50 years without being returned to production or plugged and abandoned. More than 1500 “future utility” wells have been in the same static state for more than 25 years.⁶ These statistics underscore the importance of eliminating discretionary extensions, exemptions, and alternative abandonment schedules for plugging future utility wells within five years. We support these important upgrades to Louisiana’s Plugging and Abandonment Rule and urge DNR to adopt this provision of the Proposed Rule.

EDF notes that under both the existing and proposed rule, operators can exit future utility status by producing for three consecutive months.⁷ EDF encourages DNR to interpret this as three consecutive months of *reasonable commercial* production, and to not allow operators to produce non-paying quantities of hydrocarbons simply in order to avoid plugging requirements.

II. An Examination of Louisiana’s Future Utility Well Population to Provide a Perspective on Orphaning Risk and Jobs Creation Potential

The reforms in this Proposed Rule will help Louisiana gain control over its idle well population, reduce the potential future orphan well burden, and create jobs across the state. However, eliminating orphan wells entirely – a laudable goal with considerable economic and environmental co-benefits – will require additional reforms in the coming years, including changes to financial assurance requirements, well transfer procedures, and state orphan well closure funding mechanisms.⁸

³ See current Section 137.A.2.d

⁴ See Louisiana Climate Action Plan, February 2022, Strategy 7, pp. 65-67. Available at https://gov.louisiana.gov/assets/docs/CCI-Task-force/CAP/Climate_Action_Plan_FINAL_3.pdf.

⁵ Id. at 66-67.

⁶ Id. at 67.

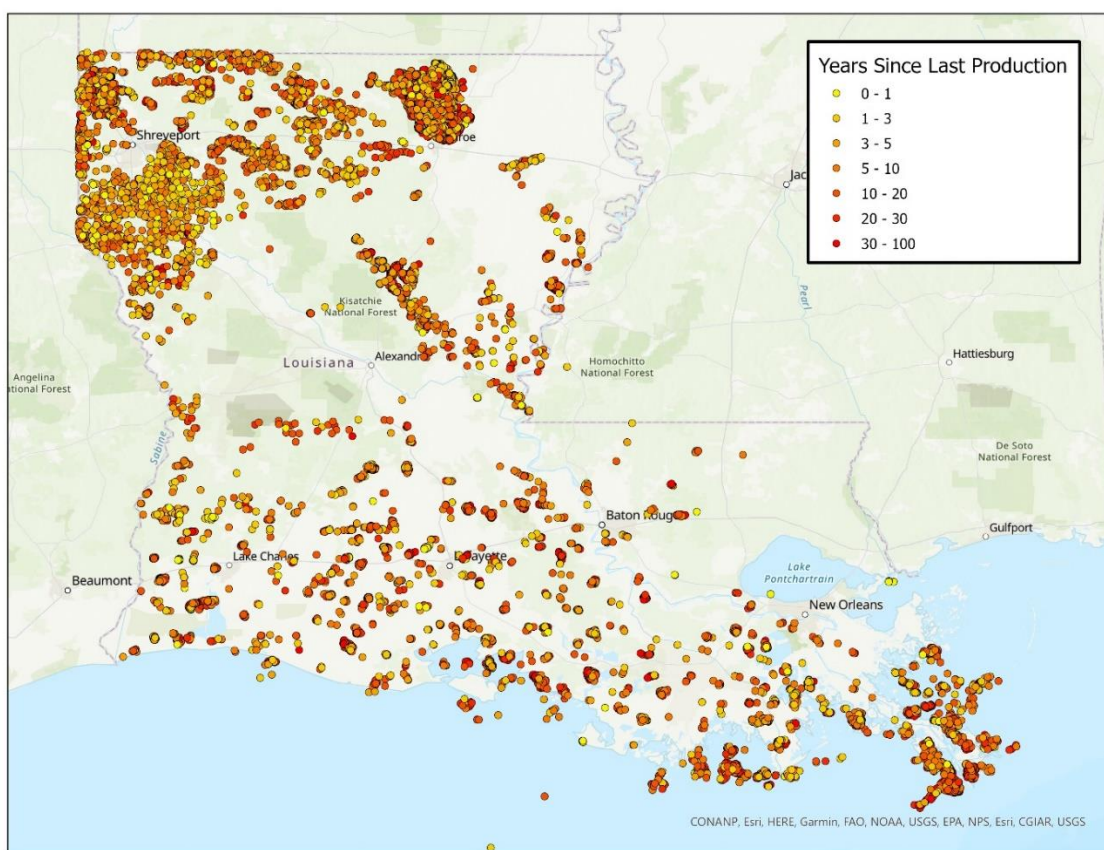
⁷ See Proposed Rule 137.A.1.d.

⁸ See EDF’s March 2023 comments on an earlier version of this proposed rule for a more fulsome discussion of other areas for potential reform, available at https://www.dnr.louisiana.gov/assets/OC/eng_div/Rules/Comments/InactiveWells/20230320EDF137.pdf.

This section of EDF's comments will provide an analysis of Louisiana's future utility well population with respect to future productivity and potential jobs creation as an input for future reform efforts.

A. The Historical Fate of Louisiana's "Future Utility" Wells

Louisiana presently has roughly 17,000 inactive wells classified as having future utility.⁹ Seventy five percent of these wells have been in this status for more than 3 years, 50% for 5 years or more and 25% for more than 10 years. Looking only at wells spud after 1990, 4,315 wells have been classified as future utility for more than five years. Of those, only 21% ever returned to production and their post future utility production was a small fraction of prior production. Looking more broadly, Louisiana is home to more than 60,000 wells that have at some point been in Future Utility status. Of these wells 45% have been plugged and abandoned, 28% remain in future utility status, and 14% are producing. While the percentage of plugging and abandonment is encouraging, it is concerning that 28% of all wells that have been in future utility at some point now remain in future utility. Although not considered orphans today, these wells have a high probability of becoming so in time.



The data also indicate that if a well switches from future utility to producing, it typically does so before 3 consecutive years in future utility. Otherwise, the well typically stays in future utility or gets plugged and abandoned. Most of Louisiana's future utility wells have been sitting idle for more than 3 years, and

⁹ The set of inactive wells classified as Future Utility include the following SONRIS well statuses: Shut-In Productive Future Utility and Shut-In Dry Hole Future Utility.

historical trends indicate it is unlikely many of these wells will produce again. The longer a well stays in future utility status the less likely it will come back into production. From the population of wells in future utility status that EDF examined that were spudded since 1990 we found that if a well was in future utility status for 2 years there was a 28% chance of the well producing again, and this likelihood went down to 24% after 3 years, 21% after 5 years, and to 18% after 10 years.

Furthermore, EDF found that the wells that came back into production for the most part produced for two years or less. The data also indicate these wells come back with marginal production at best and more than 90% of production from these wells came before they went into future utility status¹⁰. If only wells are considered that were in future utility for 5 years or more for a consecutive period, production potential declines more and 96% of production occurs prior to future utility status.

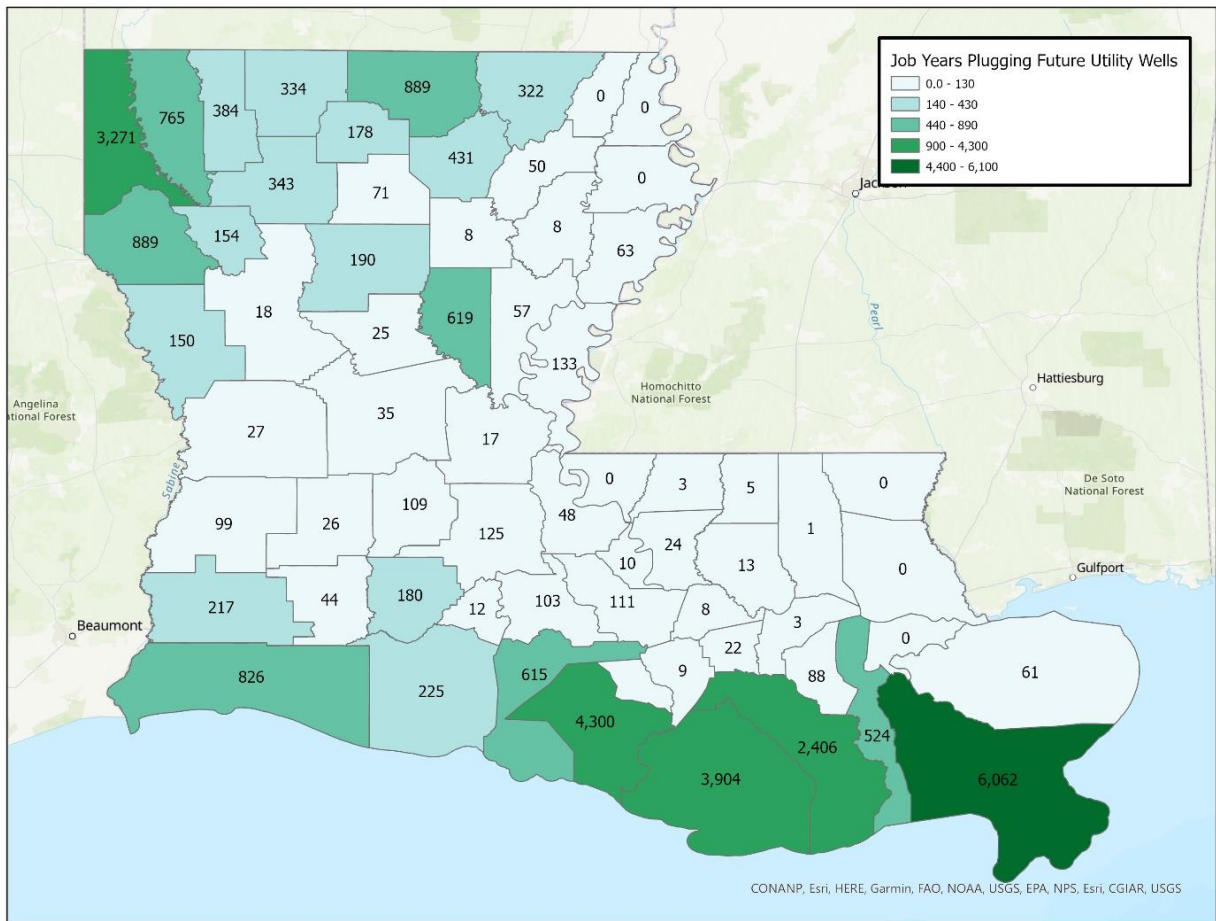
This analysis suggests that most future utility wells do not come back online, and for those that do, the vast majority of their production occurs prior to being placed in future utility status. This implies that regulatory decisions to allow wells to remain in future utility status ought not be taken lightly. Given this historical reality, and the increasing likelihood for long-term idle wells to become orphaned, DNR ought to closely scrutinize requests for this exemption from plugging, especially when those wells reach the five-year mark in future utility status.

B. The Jobs Creation Potential From Proper Closure of Louisiana's Non-Productive Wells

In addition to DNR's improved future utility rules potentially avoiding the environmental and financial cost of orphaned wells for Louisiana, there is also a tremendous job growth opportunity tied to improved regulations. While examining the fiscal and economic impact of revising Future Utility rules in the future, the DNR might consider an analysis of the jobs created by increased well-plugging incentives. Better management of Louisiana's oil and gas wells reaching the end of their life cycle may increase the costs for some operators, but it will also translate to thousands of job opportunities across Louisiana through the rapidly growing well-plugging industry. Louisiana is ramping up the state's Orphan Well Plugging program due to Federal stimulus money for plugging orphaned wells as part of the Bipartisan Infrastructure Law, which is translating into good paying energy jobs for Louisiana. There is a total of ~3800 job years created for Orphan well plugging (4588 documented orphaned wells in LA) which translates to hundreds of well-paid energy jobs for the next decade. While the estimated jobs created by the orphan well program is good news for the local economy and is helping to jump start the nascent well-plugging industry, the numbers pale in comparison to the thousands of jobs that would be created from plugging idled wells.

All told, there are an estimated total of 45,000 job years that would be created from plugging the entire current population of inactive wells (17,000 inactive wells in Louisiana), which translates to thousands of well-paying energy jobs for the next decade. Strengthening the Future Utility Rules is one step towards supporting Louisiana's well plugging industry that has the potential to create thousands of good paying energy job opportunities over the next decade and beyond. The following map shows ~30,000 potential job years by parish – there are an additional 15,000 job years estimated for state offshore wells that do not map to parishes:

¹⁰ Based on Enverus production data for Future Utility Wells identified in SONRIS that switched to production status



* * *

Thank you again for proposing these important rule changes to improve management of Louisiana’s idle wells. We look forward to constructive engagement with LDNR as it works to ensure that industry operators timely and properly plug and abandon all oil and gas wells at the end of their useful lives.

Adam Peltz
 Director and Senior Attorney
 Environmental Defense Fund
 257 Park Ave S, 17th Fl
 New York, NY 10010
apeltz@edf.org

Meg Coleman
 Policy Manager
 Environmental Defense Fund
 257 Park Ave S, 17th Fl
 New York, NY 10010
mcoleman@edf.org

Liz Russell
 State Director, Louisiana
 Environmental Defense Fund
 3801 Canal Street, Suite 400
 New Orleans, Louisiana 70119
lw Russell@edf.org



August 21, 2023

Carrie Wiebelt
Jonathan Rice
Louisiana Office of Conservation
617 North Third Street, 9th Floor
Baton Rouge, LA 70802

RE: Comments to NOI on Inactive Well Fees

Carrie & Jonathan,

We received the Notice of Intent (NOI) of the state's proposed implementation of the new regulation and fee schedule regarding Inactive Well Fees. We understand the purpose of this proposed regulation is to incentivize operators to plug and abandon (P&A) wells sooner, and this is a respectable effort to resolve a very complex subject within our industry. Our main concern is that the proposed fee increase on wells deeper than 10,000' will not serve as an incentive for operators to P&A wells, but may instead create financial burdens that could increase the number of orphan wells in the State. In our opinion, these fee increases will create the unintended consequences of increasing the number of orphan wells in Louisiana. Doubling or tripling the annual per well fee from \$250 to \$500/\$750 is unlikely to motivate an operator to accelerate spending \$100,000+ on a P&A.

While the incentive provided to plug wells in the proposed rule change is appreciated, the regulation requires an operator to plug 10 or more wells in a year to qualify for a reduction in inactive well fees. Depending on the setting, plugging 10 wells could cost between \$500,000-\$1,000,000 a year. That is a substantial investment to earn a modest fee reduction on remaining inactive wells in the subsequent year. Having said the above, we would appreciate your consideration of the bullet points below.

- We recommend that the Annual Well Assessment for wells 10,000+ inactive for 5-10 years remain at \$250 to avoid the unintended consequences of increasing the orphan well count.
- We recommend that the inactive time clock (5-10 & 10+) begins when these changes take effect. Otherwise, the fee could effectively triple overnight in some cases creating the same unintended consequences.
- We request that 137(A)(2)(d) not be stricken, to allow the Commissioner of Conservation the authority to grant extensions in his/her judgement.
- We request that 137(A)(2)(e) and 137(3)(4) not be stricken, to allow the Commissioner of Conservation the authority to consider a Schedule of Abandonment submitted by the Operator.

- On the service side of the P&A issue, many workover rig providers went bankrupt or have moved to more flourishing markets. It has been difficult contracting workover rigs that specialize in P&A. Having the two bullets point above this one would help give leeway to any rig supply issues that occur.
- We recommend the fee reduction incentive in the newly created 137 (3)(a) be offered for each well plugged, without a requirement to plug 10 or more wells in a calendar year.

LOGA recognizes the concerns attempting to be addressed and understands the complexity of the issue at hand. We thank all of you at Conservation once again for continuing to work together with our industry on challenging topics. Please let us know if you have any questions or would like to further discuss the suggestions made herein.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mike Moncla', with a stylized, cursive script.

Mike Moncla
President, Louisiana Oil & Gas Association

From: [Brooke Swain](#)
To: [Christopher Sandoz](#)
Subject: Comment on Inactive Well Assessments
Date: Monday, August 21, 2023 10:49:19 PM

EXTERNAL EMAIL: Please do not click on links or attachments unless you know the content is safe.

Comment From Rebellion Energy Solutions Regarding Title 43, NATURAL RESOURCES
Part XIX. Office of Conservation—General Operations Subpart 1. Statewide Order No. 29-B
Chapter 1. General Provisions
§137. Plugging and Abandonment

Rebellion Energy Solutions, a dedicated carbon credit developer that specializes in orphan well plugging and ecological restoration, commends Louisiana's commitment, under the visionary leadership of Governor John Bel Edwards, to take proactive steps toward curbing pollution and waste resulting from idle oil and gas wells. The proposed rules to reduce the risk of idle wells becoming orphaned – thus becoming the responsibility of the State – reflect a shared commitment to safeguarding our environment, enhancing job creation, and promoting responsible energy practices.

We fully support the state's efforts to address the issue of orphaned wells. These idle wells, left without proper closure, pose significant economic, environmental, and public health risks. Our experience in orphan well plugging underscores the potential liabilities associated with these wells if not addressed promptly. Requirements that further incentivize oil-and-gas companies to responsibly plug these inactive wells can mitigate environmental risks and also create numerous job opportunities throughout Louisiana.

The proposed rules align with our company's mission of responsible well closure and ecological restoration. They also echo the priorities set forth in Louisiana's Climate Action Plan. As a responsible industry stakeholder, we emphasize the importance of collaboration between the government, industry participants, and environmental organizations to achieve these shared goals. Our commitment to safeguarding the environment and public health aligns with Louisiana's vision of responsible well lifecycle completion.

In conclusion, we appreciate the opportunity to provide our enthusiastic support for Louisiana's proposed rules, which will undoubtedly result in less waste, reduced pollution, and increased job opportunities for the State. We applaud Governor Edwards' administration for its forward-thinking approach and willingness to address the challenges posed by orphan wells. As we stand on the brink of a transformative era for the energy industry, we believe that responsible well closure and ecological restoration will remain integral to Louisiana's sustainable development and prosperity.

Thank you for considering our perspective and expertise in this matter. We look forward to the continued collaboration between government, industry, and environmental advocates to achieve our shared goals.

Rebellion Energy Solutions

