

ADMINISTRATIVE AND LEGAL REQUIREMENTS DOCUMENT (ALRD)

DE-FOA-0003109

Inflation Reduction Act (IRA): Mitigating Emissions from Marginal Conventional Wells

Frequently Asked Questions (FAQs)

----- START BATCH 2 -----

Question 35: What DOE emissions methodology/guidance will be required? Further, when will it be incorporated into awards? Until that methodology/guidance is provided, what methods should an Entity utilize? (e.g. DOE's "Quantification of Methane Emissions from Marginal (Low Production Rate)")?

Answer 35: DOE emissions methodology / guidance is anticipated to be finalized and made available to States no later than the end of February 2024. It is anticipated that due to:

- expected timing of awards by no later than December 15, 2023;
- the time necessary to initiate program oversight and operations at the State level;
- the time needed to interact with potential well owners / operators regarding willingness to voluntarily participate in the well plugging program; and
- the time needed for the State to develop and publicly share their planned process for prioritization of wells for plugging

... that the DOE emissions methodology / guidance will be available prior to the initiation of any methane emissions measurements associated with well prioritization and well plugging and abandonment. Should a State need to conduct methane emissions measurements for screening / well prioritization purposes prior to the release of the DOE emissions methodology / guidance, States should use current industry acceptable methods until that guidance is available. Such methods may include:

- Optical gas imaging – Inspecting for leaks with an infrared camera;
- Direct source emissions measurements – Applying the analytical instrument directly on the source of the leak (e.g., high flow sampling or bag sampling);
- Fence line/mid-field measurements – Deploying an instrument from some distance away (e.g., downwind vehicle survey) to detect leaks and potentially quantify emissions;
- Flux chambers – Using static or dynamic chambers to measure methane emitted from the surface around a well; and
- Remote sensing measurements – Emission detection and quantification (e.g. via drone or aircraft).

Question 36: Will an extension be granted? An extension until October 31, 2023, will enable states to submit applications that are more complete and make the best use of this funding.

Answer 36: Per Modification 000001 of the ALRD, the revised closing date is 10/10/2023 by 5:00 PM (ET).

Question 37: Per ALRD, it states, “providing financial assistance to States to fund well owners/operators”. With that, does DOE/EPA expect well owners / operators to be treated as subrecipients or vendors? If subrecipients, it is unlikely many small operators or well owners will be capable of managing federal procurements.

Answer 37: It is the responsibility of the State to determine the contractual relationship established with well owners and operators.

Question 38: Is there any EPA or DOE guidance on determining a priority ranking for a well or is it up to the State? Is it by amount of methane emissions or may other factors be considered?

Answer 38: Priority ranking is the responsibility of the State and is to be addressed in the Technical Volume of the application. Additionally, priority ranking must be done in accordance with the guidance provided in subtask 3.1 of APPENDIX B – FEDERAL GOVERNMENT GENERATED STATEMENT OF PROJECT OBJECTIVES (SOPO), which specifically addresses the envisioned elements that should and can be included as part of the well prioritization process.

Question 39: Are Letters of Intent (LOI) required to apply to the ALRD?

Answer 39: No, LOI’s are not required.

Question 40: It seems there are 3 objectives that a Recipient needs to focus on:

- permanently plugging MCWs located on non-Federal lands
 - May also include elements of environmental restoration associated with the plugged MCWs as required for compliance with any applicable State and Federal standards and regulations for well plugging and abandonment.;
- measuring methane emissions associated with MCWs; and
- administering the Statement of Project Objectives (SOPO) identified in the grant agreement in accordance with all applicable State and Federal standards and regulations.

Does a State have to address all of these objectives, or can they select just one or two, especially a State with a lower allocation?

Answer 40: Yes, a State has to address all objectives outlined in the ALRD. The SOPO will be included as an Attachment to the Award and defines the activities through which the States are expected to meet the objectives of the funding provided under the ALRD.

Question 41: What component(s) of the Community Benefit Plan are mandatory for this application, if any?

Answer 41: A complete Community Benefits Plan (prepared in accordance with all elements defined in Section IV.C.vi of the ALRD) is required for all applications.

Question 42: Due to the short “open period” for this ALRD, is it acceptable for an applicant to apply based on its best understanding of how it plans to use the funding? Additionally, is it acceptable for an applicant to later revise the content included in its original application (such as the budget and technical plans) pending consultation with DOE/EPA.

Answer 42: Per Modification 000001, an extension has been granted, extending the closing period to 10/10/2023 by 5:00 PM (ET).

Applications shall be as complete and detailed as possible and based on plans and information available at the time of submittal.

No formal merit review will be conducted on submitted applications. As stated in Section V.A. of the ALRD, DOE will perform a Compliance Review and, if compliant, will perform a Responsiveness Review to determine that the Applicant is eligible for an award and that the technical requirements set forth in the ALRD are met. These reviews will determine if any discussions/clarifications are required with the Applicant to reach full compliance and responsiveness. If discussions/clarifications are required, NETL will work with individual applicants to address any remaining issues and changes/updates needed.

Question 43: How were the Marginal Conventional Well “numbers” in Appendix A of the ALRD arrived at? Do they include vertical coalbed methane (CBM) wells? How were “condensates” or “natural gas liquids” such as butane or pentane considered when determining if a conventional well is a marginal well?

Answer 43: Statewide counts of marginal conventional wells on non-federal lands were determined using 2022 well production data from the proprietary database Enverus, which compiles data from state agencies. Marginal conventional wells were defined as any hydrocarbon producing well type (e.g., oil, gas, CBM) with a vertical drill type and 2022 average daily production >0 and <15 barrel of oil equivalents (BOE). For Illinois and Indiana, 2022 production data were unavailable in Enverus, so 2020 data from the Illinois Environmental Protection Agency and Indiana Department of Environmental Management were used. To calculate BOE, gas production was converted to oil production using a conversion factor of 6 Mcf natural gas to 1 barrel oil; oil production includes both crude oil and condensate. A shapefile of federal lands was used to exclude wells with surface locations on federal lands.

Question 44: Will participating operators be required to forfeit their existing plugging bonds?

Answer 44: It is the responsibility of the State to determine how existing plugging bonds will be addressed under this ALRD.

Question 45: Is there an expectation that well owners / operators need to contribute funds for plugging? If so, to what extent? Can there be an agreement where the operator pays a portion of the costs?

Answer 45: Per Section III.B. of the ALRD, Cost Sharing (or Match) is not required. It is the responsibility of the State to determine the contractual relationship established with well owners / operators.

Question 46: Per Appendix A, the minimal amount allocated to some States does not seem to cover ALL costs related to the Objectives required by the ALRD. As such, are the allocations final?

Answer 46: Yes, the allocation amounts identified in Appendix A are final. However, in the event there are states that choose not to participate, the remaining funds will be reallocated to participating States based on the same formula identified on the Allocation list with non-participating State(s) removed.

A minimum base funding (\$125,000) was included as part of the identified allocation formula to provide every State with sufficient funds to complete the scope of work defined in the SOPO for at least one MCW.

Question 47: If the \$350M is not fully allocated according to the formula, will unallocated funds be redistributed within this funding opportunity or more broadly redistributed to other activities under 60113(a)(3), such as 60113(a)(3)(B) and 60113(a)(3)(C)?

Answer 47: The \$350M will be fully allocated. Any unallocated funds will be redistributed to participating States for MCW activities described in this ALRD. The remaining funds will be reallocated based on the same formula identified on the Allocation list with non-participating State(s) removed.

Question 48: Does EPA or DOE have a definition for operator/well owner?

Answer 48: EPA/DOE does not have a formal definition; however, a well owner / operator may be considered to be an individual, company, trust, or foundation responsible for the exploration, development, and production, and/or who holds ownership of an oil or gas well or lease.

Question 49: Will anyone using these funds be subject to cost recovery at any point in the future?

Answer 49: Only the allocated funding identified in the ALRD is available to cover costs associated with project activities.

Question 50: Will revenue from salvage collected during well plugging be added to the grant?

Answer 50: It is anticipated that revenue from salvage collected from well-plugging will not need to be added back to the grant.

Question 51: Are there factors that would exclude well owners / operators from participation, such as their size or compliance status?

Answer 51: EPA/DOE will not exclude well owners / operators due to their size; however, well owners / operators will have to comply with State and Federal regulations (e.g., debarment) to receive funding, under this ALRD.

Question 52: Is there a limit to the number of wells belonging to a single operator that may be plugged with these funds?

Answer 52: No, the States will follow their developed prioritization process as defined within Subtask 3.1 of APPENDIX B – FEDERAL GOVERNMENT GENERATED STATEMENT OF PROJECT OBJECTIVES (SOPO)

Question 53: For States that have air quality regulations applicable to conventional oil and gas wells, will a State regulatory requirement to identify leaks and repair them block a State from applying for and using this funding?

Answer 53: No, it is anticipated this would not preclude a State from applying to this ALRD for funding.

Question 54: Is there a requirement for contractors to provide performance and payment bonds?

Answer 54: Contractors will need to follow their respective State requirements when it comes to performance and payment bonds.

Question 55: Are there any deadlines for obligation of the funds? What is the date by which the funds must be spent?

Answer 55: It is anticipated awards will be made, and all funding obligated, no later than December 15, 2023. All funds must be spent by no later than September 30, 2028.

Question 56: Are applicants required to include resumes in their application if the applicant will not be using this grant funding to pay for staff time?

Answer 56: Per Section IV.C.v. of the ALRD, resumes are required for each Project Manager and Senior/Key personnel regardless of funding account.

Question 57: Is the Prime Applicant (State) allowed to purchase gas monitoring equipment with this funding? If so, can it be charged directly? If so, is the State required to surrender the equipment to DOE/EPA at the end of the project if the market value (FMV) of each unit of equipment exceeds \$5,000?

Answer 57: Methane emissions measurements should be collected in the most cost-efficient manner. The purchase of gas monitoring equipment to conduct methane emissions measurements is not the intent of this ALRD, but this may be done if it can be demonstrated to be more cost effective than subcontracting the measurement work required to comply with requirements of the ALRD. The State will need to request disposition instructions at the end of the award where DOE will most likely authorize continued use of any equipment over the FMV of \$5K.

Question 58: Can the grant funding be used to upgrade access roads to the sites if necessary to plug the wells?

Answer 58: No. The intent of this ALRD is not to utilize grant funding for upgrading access roads to the respective site(s).

Question 59: Will there be a tracking sheet for the different requirements of the grant? Specifically, will there be one for DEIA requirements?

Answer 59: DEIA will be encapsulated under the Community Benefits Plan (See Section I.D. and IV.C.xii. of the ALRD). Additionally, awards will contain specialized Reporting Requirements and other standalone deliverables within the Statement of Project Objectives (See Section VI.B.x for preliminary information on Reporting and Appendix B – Statement of Project Objectives for other reporting and deliverables related to Scope).

Question 60: Will States that have been tracking methane tests before and after plugging for the IJJA orphan well program/grants be able to use the same format for tracking methane reduction for this program?

Answer 60: No. States are expected to report methane reductions for this program in the format provided by the DOE. States are also required to publish information regarding these emissions reductions on a public website as specified in the SOPO.

Question 61: Are FFRDCs eligible to apply as the Prime Applicant?

Answer 61: No, per Section III.A., eligibility for award is restricted to the 30 states identified in Appendix A – State Formula Allocation List.

Question 62: The ALRD states "...costs associated with administrative activities are limited to 10% of the allocation amount." The provided SOPO states "...Tasks 1-2 focus on the administrative and community engagement aspects of the award..." The question is: Are funds expended toward Task 1, Subtask 2.3 (Website Development and Maintenance), and Subtask 2.4 (Data Sharing of Community Benefits Information) the only funds that would be considered administrative?

Answer 62: Per Section IV.F.ii., for Applicants who receive an award under this ALRD, costs associated with administrative activities are limited to 10% of the allocation amount. This means a State may not use more than 10% of the allocated funds to administer the grant.

Administrative costs encompass grant expenses associated with administering the grant. These costs can be both direct and indirect. Therefore, the limitation applies to the combined claims for indirect costs and direct administration costs. Generally, direct administrative costs differ from indirect charges in that the latter are considered organization-wide costs.

Examples of direct administrative costs are salaries, benefits, and other Recipient expenses required to perform the following functions:

- Overall program management, program coordination, and office management functions including the salaries and related costs of the executive director, project director and/or project evaluator;
- Preparing program plans, budgets schedules, and related amendments;
- Preparing and monitoring of reports (e.g., project management plan, community benefits plan), programs, projects, subrecipients, and related systems and processes;
- Developing systems and procedures, including management information systems, for assuring compliance with program requirements;
- Evaluating program results against stated objectives; and
- Divisional level administrative services such as program-specific accounting, auditing, or legal activities.

Note: Costs are NOT considered administrative if they are considered “facility” costs under an approved indirect cost rate agreement (see 2 CFR §200.414).

----- **END BATCH 2** -----