

2026 Regular Session

HOUSE BILL NO. 1191

BY REPRESENTATIVE JACOB LANDRY

ENERGY/OIL & GAS WELLS: Creates a certificate of compliance process for oilfield and exploration and production sites

1 AN ACT

2 To enact R.S. 30:29.3, relative to certificates of compliance for oilfield and exploration and
3 production sites; to establish a certificate of compliance process for oilfield and
4 exploration and production sites; to provide definitions; to provide for procedural
5 requirements; to provide for certificates of compliance; to provide for corrective
6 action; to provide for venue; to authorize department fees; to authorize department
7 rulemaking; to provide for a public records exemption; to provide for applicability
8 to certain suits; to provide an effective date; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 30:29.3 is hereby enacted to read as follows:

11 §29.3. Certificate of compliance for oilfield sites and exploration and production
12 sites

13 A. Definitions. As used in this Section, the following terms shall have the
14 following meanings:

15 (1) "Certificate of compliance" means the document issued by the
16 departments pursuant to this Section certifying that a site is in compliance with
17 applicable laws at the time of evaluation.

18 (2) "Corrective action period" means the six-month period following the
19 departments' issuance of a report of noncompliance pursuant to Subparagraph

1 (B)(8)(b) of this Section, during which the requesting parties may take corrective
2 actions to achieve compliance.

3 (3) "Departments" means the Department of Conservation and Energy and
4 the Department of Environmental Quality.

5 (4) "Environmental damage" shall have the same meaning as provided in
6 R.S. 30:29(I)(2).

7 (5) "Most feasible plan" shall have the same meaning as provided in R.S.
8 30:29(I)(4).

9 (6) "Notice" means the written joint notice filed by the requesting parties
10 with the departments pursuant to Paragraph (B)(1) of this Section to initiate the
11 voluntary pre-litigation evaluation process pursuant to this Section.

12 (7) "RECAP" means the Risk Evaluation / Corrective Action Program
13 promulgated by the Department of Environmental Quality in LAC 33:I.1301 et seq.
14 as minimum remediation standards pursuant to R.S. 30:2272.1.

15 (8) "Requesting parties" means the surface owner, or their authorized
16 representative, and the operator of interest of a historic oilfield site or exploration
17 and production site subject to regulation under applicable law, acting jointly. A
18 certificate of compliance shall not be issued unless both the surface owner and the
19 operator of interest join in the notice to the departments and in all subsequent phases
20 of the evaluation process. Where the surface owner and operator of interest are the
21 same person or entity, a single applicant shall satisfy this requirement and be
22 considered a "requesting party".

23 (9) "Review period" means the one-year period commencing upon the
24 departments' receipt of the notice, or any extension thereof granted pursuant to
25 Paragraph (B)(7) of this Section, during which the requesting parties may submit
26 data and documentation and the department shall conduct an evaluation of the site.

27 (10) "Site" means any location, including any facility, structure, installation,
28 equipment, or construction of any type at the location, and any environmental media
29 at the location, including soil, surface water, ground water, and sediment, that is

1 subject to regulation under applicable law. The boundaries and depth of the "site"
2 may be delineated by the parties.

3 (11) "Statewide Order 29-B" means the General Operations rules
4 promulgated by the Department of Conservation and Energy in LAC 43:XIX.101 et
5 seq.

6 B. Notice and evaluation process.

7 (1) To initiate the certificate of compliance process, the requesting parties
8 shall jointly file a written notice with the departments. The process is strictly
9 voluntary and may not be initiated during any pending litigation making a judicial
10 demand arising from or alleging environmental damage with respect to the site. The
11 notice shall include the following:

12 (a) Identification of the requesting parties by name and in what capacity each
13 is acting.

14 (b) Identification of the site to be evaluated, including its location by section,
15 township, range, and parish and any delineation of boundaries and depth to which
16 the requesting parties have agreed if applicable.

17 (c) A map, plat, or survey which clearly delineates the boundaries of the site.

18 (d) A statement that the requesting parties jointly and voluntarily seek a
19 certificate of compliance for the site pursuant to this Section.

20 (2) Until such time as the departments promulgate rules in accordance with
21 the Administrative Procedure Act providing a method for filing and considering a
22 notice, the notice shall be filed by certified mail, signed by both requesting parties,
23 addressed to the secretaries of both departments.

24 (3) The joint filing shall constitute notice to and consent by the surface
25 owner for all purposes, including satisfaction of any notification requirements
26 otherwise applicable under R.S. 30:29.1.

27 (4) The review period shall commence upon receipt of the notice by the
28 departments. During the review period, the requesting parties may submit to the
29 departments any data, environmental sampling results, testing reports, operational

1 records, and other documentation relevant to the compliance status of the site. The
2 requesting parties shall retain custody of all such data and documentation and shall
3 not be required to submit any materials to the departments; however, the requesting
4 parties may voluntarily submit such materials for consideration by the departments.
5 Submission of a notice, data, or documentation to the departments pursuant to this
6 Section shall not constitute an admission of liability with respect to any condition at
7 the site.

8 (5) During the review period, agents of the departments shall conduct at least
9 one visual inspection of the site, which shall be coordinated in advance with the
10 requesting parties, and a representative of each requesting party shall be present
11 during the inspection. The departments may conduct subsequent site visits as they
12 deem necessary for the evaluation, provided that the requesting parties are given
13 reasonable advance notice of each visit and an opportunity to monitor.

14 (6) Prior to the issuance of a certificate of compliance or a report of
15 noncompliance, the requesting parties shall jointly execute an affidavit attesting to
16 the completeness and accuracy of all data and documentation submitted to the
17 departments pursuant to this Section. The affidavit shall be executed by an
18 authorized representative of each requesting party. Submission of a materially false
19 affidavit shall void any certificate of compliance issued in reliance thereon and shall
20 not bar any claim the departments otherwise have under applicable law.

21 (7) The departments may extend the review period for up to six additional
22 months upon a written request submitted by the requesting parties prior to the close
23 of the initial one-year review period. The request for extension shall state the basis
24 therefor, and the departments shall grant or deny the request within thirty days of
25 receipt. If the departments do not act on the request within thirty days, the extension
26 shall be deemed granted.

27 (8) Within sixty days after the close of the review period, including any
28 extension thereof, the departments shall issue to the requesting parties a full or
29 partial certificate of compliance or report of noncompliance.

1 (a) A full or partial certificate of compliance shall state that the departments
2 have evaluated the site and determined that it is in compliance with applicable law,
3 including the RECAP and Statewide Order No. 29-B, as they exist at the time of
4 evaluation.

5 (b) A full or partial report of noncompliance shall describe with particularity
6 each item of noncompliance identified and the actions required to achieve
7 compliance. Upon issuance of a report of noncompliance, the corrective action
8 period shall commence in accordance with Subsection D of this Section.

9 C. Effect of certificate of compliance.

10 (1) The issuance of a certificate of compliance shall foreclose future judicial
11 or administrative action by the departments or any other governmental entity for
12 fees, penalties, or monetary damages relating to site conditions that existed prior to
13 the time of certification. Nothing shall preclude the departments from issuing
14 appropriate orders to require corrective action relating to environmental site
15 conditions arising after the date of the certificate. The departments may pursue only
16 administrative remedies to address environmental noncompliance that arises after the
17 date of the certificate.

18 (2) In any private litigation filed relating to a site for which a certificate of
19 compliance has been issued, and notwithstanding R.S. 30:29(H)(1), the following
20 shall apply:

21 (a) The certificate of compliance shall be admissible evidence creating a
22 rebuttable presumption that operation of the site was reasonable, prudent, and in
23 conformance with industry standards and state requirements as of the date of
24 certification.

25 (b) No claim for environmental damage as defined in R.S. 30:29(I)(2), nor
26 any claim for property damage arising from or related to oilfield operations or
27 exploration and production activities, shall be maintained by any party with respect
28 to site conditions that existed prior to the date of the certificate of compliance.

1 (3) The issuance of a certificate of compliance for a site shall satisfy and
2 foreclose the requirements of R.S. 30:29 and R.S. 30:29.2 as to any environmental
3 damage or property damage claim relating to environmental site conditions that
4 existed prior to the date of the certificate. Where a certificate of compliance has
5 been issued, a most feasible plan shall not be required under R.S. 30:29 for
6 pre-certification conditions, and the certificate shall constitute conclusive evidence
7 that the site meets applicable regulatory standards, including RECAP and Statewide
8 Order No. 29-B, as of the date of certification.

9 (4) When a certificate of compliance is asserted as an affirmative defense in
10 any subsequently filed litigation, the court may conduct a threshold determination
11 of the validity of the certificate before requiring compliance with the notice, stay, or
12 plan procedures of R.S. 30:29 or the alternative dispute resolution procedures of R.S.
13 30:29.2. The presumption created by a certificate of compliance may be rebutted
14 only upon clear and convincing evidence that the certificate was procured by fraud
15 or material misrepresentation by the requesting parties. A certificate found valid by
16 the court shall be dispositive as to all claims relating to pre-certification site
17 conditions.

18 (5) The bar on claims established by Subsection (C)(2)(b) shall not apply to
19 a claim brought solely to enforce an express contractual provision providing for
20 remediation to original condition or to some other specific remediation standard, as
21 preserved by Subsection (G)(1), unless the surface owner has voluntarily waived
22 such contractual rights in writing prior to the issuance of the certificate of
23 compliance. A written waiver of such contractual rights shall be binding upon the
24 surface owner and any subsequent purchaser or transferee of the surface estate upon
25 recordation in the conveyance records of the parish in which the site is located.

26 D. Corrective action period.

27 (1) Upon issuance of a report of noncompliance pursuant to Subparagraph
28 (B)(8)(b) of this Section, the corrective action period shall commence. During the
29 corrective action period, the requesting parties may take such corrective actions as

1 are necessary to bring the site into compliance with applicable law, including but not
2 limited to RECAP and Statewide Order No. 29-B. Either requesting party may
3 request reinspection by the departments at any time during the corrective action
4 period.

5 (2) During the corrective action period, all data, environmental sampling
6 results, testing reports, operational records, correspondence, and other documentation
7 generated, submitted to, exchanged with, or reviewed by the departments, the
8 requesting parties, or their agents or consultants in connection with the evaluation
9 of the site shall be confidential and shall not be subject to the Public Records Law,
10 R.S. 44:1 et seq. The requesting parties may, by mutual written agreement, waive
11 confidentiality as to any specific document or communication.

12 (3) All judicial proceedings pending or subsequently initiated that assert
13 claims for environmental damage or property damage relating to pre-certification site
14 conditions shall be stayed during the corrective action period. Any party may apply
15 to the Nineteenth Judicial District Court to enforce the stay provided by this
16 Subsection. The stay shall terminate automatically upon the earliest of the
17 following:

18 (a) Issuance of a certificate of compliance by the departments.

19 (b) Issuance of a final report of noncompliance by the departments pursuant
20 to Paragraph (5) of this Subsection.

21 (c) Expiration of the corrective action period without the departments having
22 issued a certificate of compliance or a final report of noncompliance.

23 (4) The departments shall not assess penalties or issue compliance orders
24 pertaining to the items of noncompliance identified in the report of noncompliance
25 during the corrective action period, except that the departments shall not be
26 prohibited from making any order necessary to address an imminent and substantial
27 threat to public health or safety.

28 (5) Following reinspection after completion of corrective actions, or at the
29 close of the corrective action period if reinspection has not been requested, the

1 departments shall issue either a certificate of compliance or a final report of
2 noncompliance. A final report of noncompliance shall describe each item of
3 noncompliance that remains unresolved as of the date of reinspection or the close of
4 the corrective action period and shall be admissible in any pending or subsequent
5 judicial or administrative proceeding relating to the site.

6 E. The venue for any lawsuit or administrative proceeding involving, arising
7 from, or challenging a certificate of compliance issued pursuant to this Section or a
8 boundary determination regarding the site, including any proceeding in which the
9 certificate is asserted as an affirmative defense or in which a party seeks to enforce
10 or dissolve the stay of judicial proceedings provided by Paragraph (D)(3) of this
11 Section, shall be exclusively in the Nineteenth Judicial District Court.

12 F. Fees and rulemaking.

13 (1) The departments are authorized to promulgate rules in accordance with
14 the Administrative Procedure Act to implement the provisions of this Section,
15 including but not limited to rules establishing the following:

16 (a) A schedule of fees to be charged to requesting parties for the evaluation
17 and certification process, including the costs of inspections and reinspections.

18 (b) Procedures for filing and processing the notice and for subsequent phases
19 of the evaluation process, including the designation of a single point of contact and
20 procedures for voluntary data submission.

21 (c) Standards and protocols for the evaluation of sites for compliance with
22 applicable law, including the application of RECAP and Statewide Order No. 29-B,
23 and protocols for the assessment of saltwater and brine contamination at oilfield and
24 exploration and production sites, consistent with any saltwater and oil assessment
25 program administered by the Department of Conservation and Energy.

26 (d) Procedures governing the corrective action period, including timelines
27 and requirements for reinspection requests.

28 (2) Until such time as the departments promulgate rules pursuant to this
29 Subsection, the procedures set forth in Subsections B and D of this Section shall

1 govern the filing of the notice, the voluntary evaluation process, and the corrective
2 action period.

3 G. Voluntary waiver of remediation standard.

4 (1) Nothing in this Section shall be construed to impede or limit express
5 contractual provisions providing for remediation to original condition or some other
6 specific remediation standard. However, a surface owner may, at any time prior to
7 the issuance of a certificate of compliance, voluntarily execute a written waiver of
8 such contractual rights with respect to pre-certification site conditions, which waiver
9 shall be binding upon the surface owner and any subsequent purchaser or transferee
10 of the surface estate upon recordation in the conveyance records of the parish in
11 which the site is located. In the absence of an express contractual provision
12 providing otherwise, a party's legal responsibility is satisfied by meeting the
13 standards set forth in applicable regulatory requirements.

14 (2) To be effective, a waiver executed pursuant to this Subsection shall
15 conform to the following:

16 (a) Be in writing and signed by the surface owner or its duly authorized
17 representative.

18 (b) Be expressly identified as a voluntary waiver of remediation to original
19 condition or other specific remediation standard if applicable.

20 (c) Describe with reasonable specificity the site or portion thereof to which
21 the waiver applies.

22 (d) Be filed with the departments as part of, or as an attachment to, the
23 notice, or filed separately with the departments at any time prior to the issuance of
24 a certificate of compliance, with a copy delivered to the operator of interest.

25 (3) A waiver executed and filed pursuant to this Subsection shall be recorded
26 by the surface owner in the conveyance records of the parish in which the site is
27 located within thirty days of filing with the departments. Upon recordation, the
28 waiver shall be binding upon the surface owner and any subsequent purchaser or
29 transferee of the surface estate with respect to pre-certification site conditions.

Proposed law provides for the issuance of reports of noncompliance and certificates of compliance and provides for the effects of each.

Proposed law provides a process for addressing reports of noncompliance and establishes timelines for a corrective action period. Further authorizes a stay of judicial proceedings during the corrective action period.

Proposed law provides that the issuance of a certificate of compliance will foreclose future claims and administrative actions regarding site conditions existing prior to the certificate of compliance.

Proposed law authorizes the filing of a certificate of compliance as admissible evidence in a claim for environmental damage and as an affirmative defense to certain claims.

Proposed law establishes the proper venue for claims involving certificates of compliance as the 19th Judicial District Court.

Proposed law authorizes the departments to promulgate rules to implement the certificate of compliance process, to establish fees for the evaluation and certification process, and to establish standards for site evaluations.

Proposed law provides for a voluntary waiver of non-regulatory remediation standards that the surface owner may otherwise benefit from and specifies the process required to make such a waiver.

Proposed law emphasizes that this is a voluntary process.

Proposed law provides that if certificates of compliance and voluntary waivers are recorded in the appropriate conveyance records, they will be binding on third parties.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 30:29.3)