

New Mexico's Financial Assurance Bonding Rule Changes

Summary of Financial Assurance Rulemaking Hearing, July 19 to 20, 2018

The New Mexico Oil Conservation Division (OCD) and the Independent Petroleum Association of New Mexico (IPANM) were the only two parties represented at the July 19 to 20, 2018 Financial Assurance Rulemaking Hearing. OCD presented two witnesses to support their tier proposal. IPANM, represented by attorney Gary Larson of Hinkle-Shanor, filed pre-hearing statements and participated in the rulemaking hearing with the sole purpose of arguing for IPANM's initial tier proposals, per the specific instructions of the IPANM Board of Directors.

IPANM cross-examined the primary OCD witness for over an hour to make a strong case against the OCD's proposed tiers based on the disproportional burden the higher cash bonds would place on smaller operators. Two small operators (not representing IPANM) also offered passionate public comments on their own behalf to outline the potential damaging financial impact of higher bonding amounts to their operations. Despite a strong cross-examination and closing statement by IPANM, the New Mexico Oil Conservation Commission (OCC) approved language that kept single well bonds and blanket well bonding tiers at the same levels as proposed by OCD.

Final OCC Approved New Mexico Financial Assurance Bonding for Oil & Gas Wells

- A one well financial assurance in the amount of \$25,000 plus \$2 per foot of the projected depth of a proposed well or the depth of an existing well.
- For blanket bonds, refer to the table below:

Well Count	Amount
1-10 Wells	\$50,000
11-50 Wells	\$75,000
51-100 Wells	\$125,000
100+ Wells	\$250,000

- In determining the amount of the blanket plugging financial assurance, if an operator can demonstrate that it has federal wells that move the operator into a higher tier, the division shall reduce the amount of the operator's blanket plugging financial assurance by the amount of the federal statewide blanket bond, provided that the amount of the blanket plugging financial assurance cannot be less than the amount required for the total number of the operator's state and private wells.

However, the OCC did establish that the state blanket bonding tiers will not include the number of wells on federal land owned by an operator. This differs from the existing state FA rule, which bonds on total cumulative number of wells on state and private land, plus federal land.

Once accepted and published to the New Mexico State Register, the new rule will go into effect in October 2018, with new bonding amounts due in January 2019.



Summary & Background Information

Since the passage and signing of SB 189 in February 2018, the OCD has been given the authority to propose, develop and submit updates to set bonding, per the new statute, “up to \$250,000” for wells for oil and gas producers.

Anticipating the new bonding levels to be established through an OCC rulemaking hearing, the IPANM Board of Directors met on March 8, 2018 and proposed recommended bonding amounts based on the total number of wells owned by an operator¹, similar to “tiered” approaches taken by other oil and gas producing states. After submitting and lobbying for our tier proposals to the state of New Mexico Energy, Minerals & Natural Resources Division (EMNRD) in March, the OCD informed IPANM of their first draft proposal they intended to submit to the OCC for the rulemaking hearing.²

IPANM responded unfavorably to the first draft of OCD’s proposed tiers, reengaged in further discussions with OCD for more consideration for independents, and enlisted state representatives to also lobby EMNRD’s Secretary to consider the disproportionate burden that OCD’s first draft tiers would put on smaller operators.³ As a result of these efforts by IPANM, OCD did add an additional tier, with lower bonding requirements for operators who owned between 11 to 50 wells.⁴

¹ See [Appendix A](#) for a summary of IPANM first draft tier proposal, submitted to OCD in March 2018 for consideration. (Appendix A also includes Sub-Appendices A2, A3 & A4.)

² See [Appendix B](#) for OCD’s first draft of their tier proposal for financial assurance bonding.

³ See [Appendix C](#) for IPANM’s response to OCD’s first draft of their tier proposal.

⁴ See [Appendix D](#) to see OCD’s final filed updates to the Financial Assurance Bonding rule.

APPENDIX A: IPANM First-Draft Financial Assurance Tier Proposal

IPANM Executive Board and Board of Directors has conducted some analysis regarding well counts with members. IPANM has also looked at existing tiers in surrounding states. For reasons to be discussed below, the IPANM Board of Directors is unanimously recommending a five-tier structure (below) for Financial Assurance Bonding in New Mexico, specifically developed to reduce the burden of this new rule to small, independent operators.

IPANM Proposal		
Well Count	Amount	Timing
1-10 Wells	\$25,000	Immediately
11-99 Wells	\$50,000	Immediately
100-149 Wells	\$100,000	18 Months
149-199 Wells	\$200,000	12 Months
200+ Wells	\$250,000	12 Months

Discussion Points

- Arguments from the administration and supporters of SB 189 commonly pointed to the State of Texas tier well levels and bonding amounts as a model for a future State of New Mexico Financial Assurance Rule. In fact, state legislators who cast key votes in support of SB 189 tell IPANM that the “Texas Rule” alone was a deciding factor in swaying their vote in favor of the bill.
- The State of Texas uses the following tier system for determining financial assurance bond levels for operators:

Texas Financial Assurance Bonds

Well Count	Amount
1-10 Wells	\$25,000
11-99 Wells	\$50,000
100+ Wells	\$250,000

- IPANM ran an analysis of existing state operators and used direct input from members to develop the proposed tier levels and bonding.
- IPANM started with a baseline of the “Texas Rule” in the development of the proposed New Mexico two lower tiers. The well count levels and bonding amounts in these tiers offer both reasonable and responsible bonding levels for smaller operators. In other words, IPANM’s proposed lower tiers will allow our start-up and small operators to remain financially solvent while also providing adequate state protection for abandoned wells.



APPENDIX A: IPANM First-Draft Financial Assurance Tier Proposal (continued)

- For the higher tiers, IPANM has determined operators with well counts above 100 need to be further differentiated to create a rule that considers and adapts to New Mexico's unique environment and size. For example:
 - The environment surrounding Texas' many different producing basins greatly vary and differ from New Mexico's Permian and San Juan Basins. Texas has many more groundwater sources, aquifers, rivers, streams, lakes and coastlines the state needs to consider along with a much greater population. By contrast, New Mexico has more isolated producing basins and considerably fewer water sources.
 - Texas and New Mexico have significant differences in the number of operators and the number of wells:
 - New Mexico currently has approximately 600 oil and gas operators. Texas currently has approximately **ten times** the amount of oil and gas operators with 6,600. (www.drillinginfo.com)
 - New Mexico has approximately 63,000 wells (NMOCD online statistics). Texas is responsible for **4.5 times** the number of wells, with over 291,000 according to the Texas RR Commission website.
 - CONCLUSION: IPANM believes the Texas highest tier level and bonding was developed to provide the regulator the ability to process much higher volumes of wells. However, New Mexico needs to create more flexible higher-end bonding tiers that recognize the state's much smaller number of midsize operators.

Attachments

Appendix A.2: Specific Tier Recommendation Narratives

Appendix A.3: Further Considerations

Appendix A.4: State Comparisons on Financial Assurance Levels



Appendix A.2: Specific Tier Recommendation Narratives

1-10 Wells at \$25,000: To encourage future development of oil & gas wells in the State of New Mexico, IPANM strongly believes there needs to be a reasonable cost of entry for a prospective independent producer to gain a foothold in the current market. It is significantly important that there be reasonable financial opportunity for a newer company to grow during its initial years of operation. It is clear that the State of Texas has come to this same conclusion thereby setting its lowest tier well count level from one to ten wells. Likewise, a bonding amount of \$25,000 offers adequate state protection to plug a well that may be abandoned by a start-up operator for some unforeseen reason. IPANM members are passionate in their conviction that this lowest tier level be up to ten wells. Many more-established IPANM members credit growth in the earlier years by not having to tie-up significant amounts of up-front capital that could more productively be used on operational costs vital to their survival.

11-99 Wells at \$50,000: This category represents a very high-percentage of IPANM's members. Our analysis and discussion saw an immediate and critical need for this group to remain a single tier. Foremost, similar to the one-to-ten tier, keeping the 11-to-99 tier at the same \$50,000 bonding level matches the lower bonding levels in the State of Texas.

Second, IPANM members have voiced concern that well counts alone are not necessarily the best benchmark for financial assurance bonding. There are small operators who have a lot of marginal, low-producing wells compared to similarly-sized operators who have fewer wells with better production. By keeping this tier in the wide range as we have proposed, IPANM feels the playing field is leveled to account for this discrepancy.

Finally, it's important to keep this group as a single tier due to the comparable competitive advantage Texas and majors have in the Permian Basin. Not only are New Mexico independents facing higher acreage costs to get in on the Permian oil play, they continue to look across the border and see more advantages to doing business in Texas. New Mexico independents need to stay in the New Mexico side of the Permian. Likewise, these independents cannot afford to have cash tied up in bonding as they compete with a growing number of majors buying up wells and leases at high prices in the Delaware Basin. In the Northwest, increasing bonding levels in this category would have serious financial consequences for our Northwest gas operators who operate many, many marginal wells in the San Juan Basin.

100-149 Wells at \$100,000: IPANM believes that the 100 well count is a significant milestone that separates moderately-sized operators from one another. Placing a higher financial assurance bond above \$100,000 in this category will do little to actually ensure more abandoned well plugging, as more established operators at this level do not pose as much of a threat to walk away from an abandoned well. However, the \$100,000 increase does *double* the existing bonding currently in place for this group of operators. IPANM feels this is a fair way of incrementally increasing bonding costs without unduly punishing the successful, responsible operators who fall into this group. As for timing implementation, IPANM is asking for 18-months before the rule kicks in for this group. IPANM wants to give operators time to plan how to proceed with the new, higher financial assurance requirements. Likewise, IPANM



Appendix A.2: Specific Tier Recommendation Narratives (continued)

recognizes the state does not have time or staff necessary to implement new bonding levels on so many different operators in such a short period of time. This implementation timeline seems the most pragmatic approach for both industry and the Oil Conservation Division.

150-199 Wells at \$200,000: Last year, the administration proposed moving the financial assurance bonding a maximum \$200,000 level. This year, the proposed maximum rose to \$250,000 for the highest tier. During the 2018 Legislative Session, state legislators told IPANM that \$200,000 was the most reasonable amount for independents in the highest tier. However, these same legislators told IPANM they decided to supported the \$250,000 as written so as to not derail the bill from getting to the Governor. While IPANM is not happy with this change, we can understand the realities of trying to get a bill passed in a 30-day session. However, we still feel strongly that a \$200,000 is much more reasonable.

Therefore, IPANM strongly feels that keeping this level of \$200,000 for 150 to 199 wells protects our midsize operators. Recognizing that this is a large monetary bonding increase, the timing for implementing this tier should be set to 12-months.

200+ Wells at \$250,000: This category is an acknowledgement by our large independent operators that they do have the financial resources to cover the 5-fold increase in bonding, but they request a 12-month implementation due to most bonds being written on an annual basis.



Appendix A.3: Further Considerations

Defining an Abandoned Well

The purpose of Financial Assurance Bonding is to allow the state regulating body, the New Mexico Oil Conservation Division (OCD), some monetary bond to be held in assurance that an abandoned oil or gas well be plugged if and when that well is no longer productive.

In New Mexico, a non-producing well is considered abandoned after 15 consecutive months of non-use by an operator. Many IPANM operators have long asserted that a well's usefulness and ability to be used for future production should extend beyond 15-months abandonment designation due to the potential to extract the same or different product, at a future time due to anticipated technological extraction improvements and/or new market demand. Therefore, the required plugging of a well after 15-months creates both an unnecessary cost burden to a small operator, and also represents a lost revenue opportunity on a well that could be stimulated at a later date, possibly for a different extractive purpose.

While these arguments will have to be made at a different time and day in the future, IPANM feels the need to remind the administration that there are these fundamental differences our association holds in respect to abandoned wells overall.

Defining Well Counts

The IPANM Board of Directors believes the well count used by the Oil Conservation Division, for the sake of financial assurance, should only cover wells that an operator owns on state or private land. The federal government already applies a system of taxes, fees and bonds for wells on federal land. To count a well on federal land for part of the assurance to plug a well on state or private land does not seem jurisdictionally appropriate.

Equally important, IPANM seeks clarify that wells covered by single plugging bonds with the state are not included in calculating the total number of operated wells. For example, an operator that has six wells either in temporarily abandoned status or plugged, but not released, are already covered by single well plugging bonds as required by the state. Including such already bonded wells in the overall well count could adversely put them into a higher well count tier.



Appendix A.4: State Comparisons on Financial Assurance Levels

Texas Financial Assurance Bonds

Well Count	Amount
0-10 Wells	\$25,000
11-99 Wells	\$50,000
100+ Wells	\$250,000

California Financial Assurance Bonds

Well Count	Amount
Single Well (less than 10,000 feet)	\$25,000
Single Well (over 10,000 feet)	\$40,000
20 to 49 Wells	\$200,000
50+ Wells	\$400,000

Colorado Financial Assurance Bonds

Well Count	Amount
Single Well (less than 3,000 feet)	\$10,000
Single Well (over 3,000 feet)	\$20,000
1-100 Wells	\$60,000
100+ Wells	\$100,000

Idaho Financial Assurance Bonds

Well Count	Amount
1-10 Wells	\$50,000
11-30 Wells	\$100,000
30+ Wells	\$150,000

North Dakota Financial Assurance Bonds

Well Count	Amount
2+ Wells	\$100,000

Alaska Financial Assurance Bonds

Well Count	Amount
Single Wells	\$100,000
Blanket Bond for 2+ Wells	\$200,000



Appendix A.4: State Comparisons on Financial Assurance Levels (continued)

Utah Financial Assurance Bonds

Well Count	Amount
2+ Wells	\$120,000

Oklahoma Financial Assurance Bonds

Well Count	Amount
2+ Wells	\$25,000

Wyoming Financial Assurance Bonds

Well Count	Amount
2+ Wells	\$100,000

Louisiana Financial Assurance Bonds

Well Count	Amount
1-10 Wells	\$50,000
11-99 Wells	\$250,000
100+ Wells	\$500,000

Arizona Financial Assurance Bonds

Well Count	Amount
General Bond	\$25,000
Single Wells (1-5)	+\$3,000/Well
6+ Wells	+\$15,000 Total

South Dakota Financial Assurance Bonds

Well Count	Amount
Single Well (less than 5,500 feet)	\$30,000
Single Well (over 5,500 feet)	\$100,000

Source: http://iogcc.ok.gov/Websites/iogcc/images/Financial_Assurances_FINAL_web.pdf



APPENDIX B: NMOCD Proposed Financial Assurance Bonding Tiers -- First Draft with 3 Tiers

(Released to IPANM March 26, 2018)

19.15.8.9 FINANCIAL ASSURANCE FOR WELL PLUGGING:

...
C. The division accepts the following categories of financial assurance for wells that are not required to provide financial assurance under subsection D of 19.15.8.9 NMAC:

(1) a one well financial assurance in the amount of \$25,000 plus \$2 per foot of the projected depth of a proposed well or the depth of an existing well; or

(2) a blanket financial assurance in the following amounts covering all oil, gas or service wells drilled, acquired or operated in this state by the principal on the bond:

(a) \$50,000 for one to 10 wells;

(b) \$125,000 for 11 to 100 wells;

(c) \$250,000 for more than 100 wells.

D. An operator shall provide financial assurance with one of the following categories for a well that has been in temporarily abandoned status for more than two years or for a well that the operator is seeking approved temporary abandonment pursuant to 19.15.25.13 NMAC:

(1) a one well financial assurance in the amount of \$25,000 plus \$2 per foot of the projected depth of a proposed well or the depth of an existing well; or

(2) a blanket financial assurance for temporarily abandoned status wells in the following amounts covering all oil, gas or service wells drilled, acquired or operated in this state by the principal on the bond:

(a) \$150,000 for one to five wells;

(b) \$300,000 for six to 10 wells;

(c) \$500,000 for 11 to 25 wells; and

(d) \$1,000,000 for more than 25 wells.

E. For the purposes of calculating the one well financial assurance, the depth of a well is the true vertical depth for vertical and horizontal wells and the measured depth for deviated and directional wells.

F. When a well changes status, either by being in temporarily abandoned status for more than two years or by returning to production after being temporarily abandoned, the operator is responsible for ensuring that the well is covered by the correct form of financial assurance provided in 19.15.8.9 NMAC.

G. Operators who have on file with the division a blanket financial assurance that does not cover additional wells shall file additional one well bond financial assurance for any wells not covered by the existing blanket bond or, in the alternative, may file a replacement blanket bond.

19.15.2.7 DEFINITIONS:

M. Definitions beginning with the letter "M".

(6) "Measured depth" means the total length of the well bore.

T. Definitions beginning with the letter "T".

(3) "Temporary abandonment" or "temporarily abandoned status" means the status of a well that is inactive.

(8) "True vertical depth" means the distance from the surface to a point in the well bore which is the deepest subsurface depth drilled. True vertical depth is measured by utilizing a straight line perpendicular to the surface.

19.15.25.12 APPROVED TEMPORARY ABANDONMENT: The division may place a well in approved temporary abandonment for a period of up to five years. Prior to the expiration of an approved



APPENDIX B: NMOCD Proposed Financial Assurance Bonding Tiers -- First Draft with 3 Tiers
(continued)

temporary abandonment the operator shall return the well to beneficial use under a plan the division approves, permanently plug and abandon the well and restore and remediate the location or apply for a new approval to temporarily abandon the well. For an operator who operates more than one well, the maximum number of wells that an operator may have in approved temporary abandonment is:

A. five wells or fifty percent of the wells the operator operates, whichever is less, if the operator operates between two and 20 wells; and

B. twenty-five percent of the wells the operator operates, if the operator operates more than 20 wells.

19.15.25.13 REQUEST FOR APPROVAL AND PERMIT FOR APPROVED TEMPORARY ABANDONMENT:

A. An operator seeking approval for approved temporary abandonment shall submit on form C-103 a notice of intent to seek approved temporary abandonment for the well describing the proposed temporary abandonment procedure the operator will use. The operator shall not commence work until the division has approved the request. The operator shall give 24 hours notice to the appropriate division district office before beginning work.

B. The division shall not approve a permit for approved temporary abandonment until the operator furnishes evidence demonstrating that the well's casing and cementing are mechanically and physically sound and in such condition as to prevent:

- (1) damage to the producing zone;
- (2) migration of hydrocarbons or water;
- (3) the contamination of fresh water or other natural resources; and
- (4) the leakage of a substance at the surface.

C. The operator shall demonstrate both internal and external mechanical integrity pursuant to Subsection A of 19.15.25.14 NMAC.

D. Upon successful completion of the work on the temporarily abandoned well, the operator shall submit a request for approved temporary abandonment to the appropriate division district office on form C-103 together with other information Subsection E of 19.15.7.14 NMAC requires.

E. The division shall not approve a permit for approved temporary abandonment until the operator provides financial assurance for the well that complies with subsection D of 19.15.8.9 NMAC.

F. The division shall specify the permit's expiration date, which shall be not more than five years from the date of approval.



Independent Petroleum Association of New Mexico

APPENDIX C: IPANM response to OCD First Draft of Proposed Financial Assurance Bonding Tiers
(Developed March 27, 2018)

TALKING POINTS

IPANM Response to the March 26, 2018 first draft proposed Financial Assurance Rule

- Our membership is not happy with the high dollar amounts assigned to the proposed tiers. This includes some of our member companies that individually supported the Financial Assurance Bill.
- While IPANM has concerns that the lower tier monetary amounts are much more unfriendly to small operators and independents:

Number of Wells	Texas Rule	Proposed NM OCD Rule	Difference
1-10	\$25,000	\$50,000	+25,000 more for NM
11-99	\$50,000	\$125,000	+\$75,000 more for NM
100+	\$250,000	\$250,000	Same

New Mexico is already less competitive due to overly burdensome regulations, BLM rules, etc. IPANM strong believes these much higher increases will either drive producers away from New Mexico, put smaller producers out of business, or both.

Also, during the 2018 Legislative Session, there was some discussion by the administration that producers in the lowest tier may actually see a slight decrease in financial assurance, lower than \$50,000. This is not reflected in the current OCD proposal.

Based on conversations with the administration, OCD estimates it costs approximately \$33,000 to plug an abandoned well. IPANM’s original proposal of tiers called for \$25,000, which is below this threshold. Therefore, we would submit that a financial assurance of \$35,000 would be more reasonable for this lowest tier. Likewise, a \$125,000 financial assurance for 11-99 wells represents a very significant monetary jump that threatens the financial solvency of our independents. Therefore, based on conversations with our board members and membership today, IPANM respectfully requests OCD to reconsider one of these two alternative options. While we are not happy about even these numbers, we feel these represent a reasonable compromise.

Option A

Number of Wells	Financial Assurance
1-10	\$35,000
11-99	\$75,000
100+	\$250,000

Option B

Number of Wells	Financial Assurance
1-10	\$35,000
11-50	\$75,000
51-99	\$100,000
100+	\$250,000



APPENDIX C: IPANM response to OCD First Draft of Proposed Financial Assurance Bonding Tiers
(continued)

- There is a **5x** increase for Financial Assurance for a TA well in the oil and gas producing counties of New Mexico:

CURRENT RULE: “Chaves, Eddy, Lea, McKinley, Rio Arriba, Roosevelt, Sandoval and San Juan counties, New Mexico: \$5000 plus \$1 per foot of projected depth of proposed well or measured depth of existing well.”

OCD PROPOSED RULE: “a one well financial assurance in the amount of \$25,000 plus \$2 per foot of the projected depth of a proposed well or the depth of an existing well”

- Temporary Abandoned Wells –The tiers remain the same as existing rule:
 - \$150,000 for one to five wells;
 - \$300,000 for six to 10 wells;
 - \$500,000 for 11 to 25 wells; and
 - \$1,000,000 for more than 25 wells.

In New Mexico, a non-producing well is considered abandoned after 15 consecutive months of non-use by an operator. Many IPANM operators find wells to be productive beyond a 15-month abandonment time frame. Therefore, the required plugging of a well after 15-months creates both a cost burden to a small operator and also represents a lost revenue opportunity on a well that could be stimulated at a later date, possibly for a different extractive purpose.



APPENDIX D: OCD'S Final Filed Financial Assurance Rule

(Submitted March 28, 2018)

PROPOSED AMENDMENTS TO RULES 19.15.2, 19.15.8, AND 19.15.25 NMAC

A. Proposed amendments to 19.15.2.7 NMAC (subsections M and T only)

19.15.2.7 DEFINITIONS:

M. Definitions beginning with the letter "M".

(1) "Marginal unit" means a proration unit that is incapable of producing top proration unit allowable for the pool in which it is located.

(2) "Market demand percentage factor" means that percentage factor of 100 percent or less as the division determines at an oil allowable hearing, which, when multiplied by the depth bracket allowable applicable to each pool, determines that pool's top proration unit allowable.

(3) "MCF" means a thousand cubic feet.

(4) "MCFD" means a thousand cubic feet per day.

(5) "MCFGPD" means a thousand cubic feet of gas per day.

(6) "Measured depth" means the total length of the well bore.

(7) "Mg/l" means milligrams per liter.

~~(87)~~ "Mg/kg" means milligrams per kilogram.

~~(98)~~ "Mineral estate" is the most complete ownership of oil and gas recognized in law and includes the mineral interests and the royalty interests.

~~(109)~~ "Mineral interest owners" means owners of an interest in the executive rights, which are the rights to explore and develop, including oil and gas lessees (*i.e.*, "working interest owners") and mineral interest owners who have not signed an oil and gas lease.

~~(114)~~ "Minimum allowable" means the minimum amount of production from an oil or gas well that may be advisable from time to time to the end that production will repay reasonable lifting cost and thus prevent premature abandonment and resulting waste.

~~(124)~~ "Miscellaneous hydrocarbons" means tank bottoms occurring at pipeline stations; oil storage terminals or refineries; pipeline break oil; catchings collected in traps, drips or scrubbers by gasoline plant operators in the plants or in the gathering lines serving the plants; the catchings collected in private, community or commercial salt water disposal systems; or other liquid hydrocarbon that is not lease crude or condensate.

T. Definitions beginning with the letter "T".

(1) "Tank bottoms" means that accumulation of hydrocarbon material and other substances that settles naturally below oil in tanks and receptacles that are used in oil's handling and storing, and which accumulation contains in excess of two percent of BS&W; provided, however, that with respect to lease production and for lease storage tanks, a tank bottom shall be limited to that volume of the tank in which it is contained that lies below the bottom of the pipeline outlet to the tank.

(2) "TDS" means total dissolved solids.

(3) "Temporary abandonment" or "temporarily abandoned status" means the status of a well that is inactive.

(4) "Top proration unit allowable for gas" means the maximum number of cubic feet of gas, for the proration period, the division allocates to a gas producing unit in an allocated gas pool.

(5) "Top proration unit allowable for oil" means the maximum number of barrels for oil daily for each calendar month the division allocates on a proration unit basis in a pool to non-marginal units. The division shall determine the top proration unit allowable for a pool by multiplying the applicable depth bracket allowable by the market demand percentage factor in effect.



APPENDIX D: OCD'S Final Filed Financial Assurance Rule

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(6) "TPH" means total petroleum hydrocarbons.

(7) "Treating plant" means a plant constructed for the purpose of wholly or partially or being used wholly or partially for reclaiming, treating, processing or in any manner making tank bottoms or other waste oil marketable.

(8) "Tribal lands" means those lands for which the United States government has a trust responsibility to a native American tribe or a member of a native American tribe. This includes reservations, pueblo land grants, tribal trust lands and individual trust allotments.

(9) "Tribal leases" means those leases of minerals or interests in or rights to minerals for which the United States government has a trust responsibility to a native American tribe or a member of a native American tribe.

(10) "Tribal minerals" means those minerals for which the United States government has a trust responsibility to a native American tribe or a member of a native American tribe.

(11) "True vertical depth" means the distance from the surface to a point in the well bore which is the deepest subsurface depth drilled. True vertical depth is measured by utilizing a straight line perpendicular to the surface.

~~(121)~~ "Tubingless completion" means a well completion in which the production string of casing has an outside diameter of 2.875 inches or less.

~~(1312)~~ "Tubingless multiple completion" means completion in which two or more common sources of supply are produced through an equal number of casing strings cemented in a common wellbore, each such string of casing having an outside diameter of 2.875 inches or less, with the production from each common source of supply completely segregated by cement.

B. Proposed amendments to 19.15.8.9 and .14 NMAC

19.15.8.9 CATEGORIES AND AMOUNTS OF FINANCIAL ASSURANCE FOR WELL PLUGGING:

A. A person who has drilled or acquired, is drilling or proposes to drill or acquire an oil, gas or injection or other service well on privately-owned or state-owned lands within this state shall furnish a financial assurance acceptable to the division in the form of an irrevocable letter of credit, plugging insurance policy, or cash or surety bond running to the state of New Mexico conditioned that the well be plugged and abandoned and the location restored and remediated in compliance with division rules.

B. A financial assurance shall be conditioned for well plugging and abandonment and location restoration and remediation only, and not to secure payment for damages to livestock, range, crops or tangible improvements or any other purpose.

C. ~~The division accepts three forms of financial assurance: a one well financial assurance that covers a single well, a blanket financial assurance that covers multiple wells, and a blanket plugging financial assurance for wells in temporarily abandoned status. The operator shall cover a well that has been in temporary abandonment for more than two years by either a one well financial assurance or a blanket plugging financial assurance for wells in temporarily abandoned status, except that the division may waive the requirement of a one well financial assurance for a well that is shut in because of the lack of a pipeline connection. The division may release the one well financial assurance upon the operator's or surety's written request after the well is returned to production if a blanket financial assurance covers the well. The division may release a blanket plugging financial assurance for wells in temporarily abandoned status upon the operator's or surety's written request after the wells are plugged and~~



APPENDIX D: OCD'S Final Filed Financial Assurance Rule

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abandoned in accordance with 19.15.25 NMAC or are returned to production if a blanket financial assurance covers the wells or if the operator files a one well financial assurance for each well of the operator's wells in temporarily abandoned status; upon the operator's or surety's written request, the amount of the operator's blanket financial assurance for wells held in temporarily abandoned status may be reduced in accordance with the number of wells the operator elects to cover by said financial assurance.

The division accepts the following categories of financial assurance for wells that are not required to provide financial assurance under subsection D of 19.15.8.9 NMAC:

- (1) a one well financial assurance in the amount of \$25,000 plus \$2 per foot of the projected depth of a proposed well or the depth of an existing well; or
- (2) a blanket plugging financial assurance in the following amounts covering all oil, gas or service wells drilled, acquired or operated in this state by the principal on the bond:
 - (a) \$50,000 for one to 10 wells;
 - (b) \$75,000 for 11 to 50 wells;
 - (c) \$125,000 for 51 to 100 wells;
 - (d) \$250,000 for more than 100 wells.

D. Amounts:

- (1) A blanket financial assurance shall be in the amount of \$50,000 covering all oil, gas or service wells drilled, acquired or operated in this state by the principal on the bond.
- (2) A one well financial assurance shall be in the amounts stated below in accordance with the well's depth and location:
 - (a) Chaves, Eddy, Lea, McKinley, Rio Arriba, Roosevelt, Sandoval and San Juan counties, New Mexico: \$5000 plus \$1 per foot of projected depth of proposed well or measured depth of existing well.
 - (b) All other counties in the state: \$10,000 plus \$1 per foot of projected depth of proposed well or measured depth of existing well.
- (3) The appropriate division district office may approve revised plans for an actively drilling well for drilling as much as 500 feet deeper than the depth stated on the well's financial assurance. A well to be drilled more than 500 feet deeper than the depth stated on the well's financial assurance shall be covered by a new financial assurance in the amount prescribed for the new projected depth.
- (4) The amount of the one well financial assurance required for an intentionally deviated well shall be determined by the well's measured depth, and not its true vertical depth.
- (5) If an operator elects to cover wells held, or which may be held, in temporary abandonment by a blanket plugging financial assurance for wells in temporarily abandoned status, the operator shall do so in the amounts stated below in accordance with the number of wells covered by the blanket plugging financial assurance for wells in temporarily abandoned status:
 - (a) A blanket financial assurance for the first five wells shall be in the amount of \$150,000.
 - (b) A blanket financial assurance for the six to 10 wells shall be in the amount of \$300,000.
 - (c) A blanket financial assurance for the 11 to 25 wells shall be in the amount of \$500,000.

APPENDIX D: OCD'S Final Filed Financial Assurance Rule

(continued)

~~(d) A blanket financial assurance for more than 25 wells shall be in the amount of \$1,000,000.~~

An operator shall provide financial assurance with one of the following categories for a well that has been in temporarily abandoned status for more than two years or for a well that the operator is seeking approved temporary abandonment pursuant to 19.15.25.13 NMAC:

(1) a one well financial assurance in the amount of \$25,000 plus \$2 per foot of the projected depth of a proposed well or the depth of an existing well; or

(2) a blanket plugging financial assurance for temporarily abandoned status wells in the following amounts covering all oil, gas or service wells drilled, acquired or operated in this state by the principal on the bond:

(a) \$150,000 for one to five wells;

(b) \$300,000 for six to 10 wells;

(c) \$500,000 for 11 to 25 wells; and

(d) \$1,000,000 for more than 25 wells.

E. For the purposes of calculating the one well financial assurance, the depth of a well is the true vertical depth for vertical and horizontal wells and the measured depth for deviated and directional wells.

F. Operators who have on file with the division a blanket financial assurance that does not cover additional wells shall file additional one well bond financial assurance for any wells not covered by the existing blanket bond or, in the alternative, may file a replacement blanket bond.

19.15.8.14 EFFECTIVE DATES.

A. 19.15.8 NMAC applies to wells drilled or acquired after December 15, 2005.

B. As to all other wells, 19.15.8 NMAC is effective January 1, 2008.

C. The 2018 amendments to 19.15.8.9 NMAC apply to applications for permit to drill, deepen or plug back and applications for approved temporary abandonment filed on or after July 24, 2018, and for all other wells, on October 31, 2018.

C. Proposed amendments to 19.15.25.12 and .13 NMAC

19.15.25.12 APPROVED TEMPORARY ABANDONMENT: The division may place a well in approved temporary abandonment for a period of up to five years. Prior to the expiration of an approved temporary abandonment the operator shall return the well to beneficial use under a plan the division approves, permanently plug and abandon the well and restore and remediate the location or apply for a new approval to temporarily abandon the well. For an operator who seeks approval to place more than one well in approved temporary abandonment, the operator is limited to placing no more than thirty-three and a third percent of the wells the operator operates in approved temporary abandonment.

19.15.25.13 REQUEST FOR APPROVAL AND PERMIT FOR APPROVED TEMPORARY ABANDONMENT:

A. An operator seeking approval for approved temporary abandonment shall submit on form C-103 a notice of intent to seek approved temporary abandonment for the well describing the proposed temporary abandonment procedure the operator will use. The operator shall not commence work until the division has approved the request. The operator shall give 24 hours notice to the appropriate division district office before beginning work.



APPENDIX D: OCD'S Final Filed Financial Assurance Rule

(continued)

B. The division shall not approve a permit for approved temporary abandonment until the operator furnishes evidence demonstrating that the well's casing and cementing are mechanically and physically sound and in such condition as to prevent:

- (1) damage to the producing zone;
- (2) migration of hydrocarbons or water;
- (3) the contamination of fresh water or other natural resources; and
- (4) the leakage of a substance at the surface.

C. The operator shall demonstrate both internal and external mechanical integrity pursuant to Subsection A of 19.15.25.14 NMAC.

D. Upon successful completion of the work on the temporarily abandoned well, the operator shall submit a request for approved temporary abandonment to the appropriate division district office on form C-103 together with other information Subsection E of 19.15.7.14 NMAC requires.

E. The division shall not approve a permit for approved temporary abandonment until the operator provides financial assurance for the well that complies with subsection D of 19.15.8.9 NMAC.

F. The division shall specify the permit's expiration date, which shall be not more than five years from the date of approval.