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AN ACT

RELATING TO OIL AND GAS; AMENDING A SECTION OF THE OIL AND GAS ACT TO PROVIDE FOR BLANKET FINANCIAL ASSURANCE ON ANY WELL HELD IN TEMPORARILY ABANDONED STATUS FOR MORE THAN TWO YEARS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 70-2-14 NMSA 1978 (being Laws 1977, Chapter 237, Section 3, as amended) is amended to read:

"70-2-14. REQUIREMENT FOR FINANCIAL ASSURANCE.--

A. Each person, firm, corporation or association who operates any oil, gas or service well within the state shall, as a condition precedent to drilling or producing the well, furnish financial assurance in the form of an irrevocable letter of credit or a cash or surety bond or a well-specific plugging insurance policy pursuant to the provisions of this section to the oil conservation division of the energy, minerals and natural resources department running to the benefit of the state and conditioned that the well be plugged and abandoned in compliance with the rules of the oil conservation division. The oil conservation division shall establish categories of financial assurance after notice and hearing. Such categories shall include a blanket plugging financial assurance in an amount not to exceed fifty thousand dollars (\$50,000), except for a blanket plugging

1 financial assurance for temporarily abandoned status wells,  
2 which shall be set by rule at amounts greater than fifty  
3 thousand dollars (\$50,000), and one-well plugging financial  
4 assurance in amounts determined sufficient to reasonably pay  
5 the cost of plugging the wells covered by the financial  
6 assurance. In establishing categories of financial  
7 assurance, the oil conservation division shall consider the  
8 depth of the well involved, the length of time since the well  
9 was produced, the cost of plugging similar wells and such  
10 other factors as the oil conservation division deems  
11 relevant. The oil conservation division shall require a  
12 one-well financial assurance on any well that has been held  
13 in a temporarily abandoned status for more than two years or,  
14 at the election of the operator, may allow an operator to  
15 increase its blanket plugging financial assurance to cover  
16 wells held in temporarily abandoned status. All financial  
17 assurance shall remain in force until released by the oil  
18 conservation division. The oil conservation division shall  
19 release financial assurance when it is satisfied the  
20 conditions of the financial assurance have been fully  
21 performed.

22 B. If any of the requirements of the Oil and Gas  
23 Act or the rules promulgated pursuant to that act have not  
24 been complied with, the oil conservation division, after  
25 notice and hearing, may order any well plugged and abandoned

1 by the operator or surety or both in accordance with division  
2 rules. If the order is not complied with in the time period  
3 set out in the order, the financial assurance shall be  
4 forfeited.

5 C. When any financial assurance is forfeited  
6 pursuant to the provisions of the Oil and Gas Act or rules  
7 promulgated pursuant to that act, the director of the oil  
8 conservation division shall give notice to the attorney  
9 general, who shall collect the forfeiture without delay.

10 D. All forfeitures shall be deposited in the state  
11 treasury in the oil and gas reclamation fund.

12 E. When the financial assurance proves insufficient  
13 to cover the cost of plugging oil and gas wells on land other  
14 than federal land and funds must be expended from the oil and  
15 gas reclamation fund to meet the additional expenses, the oil  
16 conservation division is authorized to bring suit against the  
17 operator in the district court of the county in which the  
18 well is located for indemnification for all costs incurred by  
19 the oil conservation division in plugging the well. All  
20 funds collected pursuant to a judgment in a suit for  
21 indemnification brought under the provisions of this section  
22 shall be deposited in the oil and gas reclamation fund.

23 F. An operator required to file financial assurance  
24 for a well pursuant to this section is considered to have met  
25 that requirement if the operator obtains a plugging insurance

1 policy that includes the specific well and that:

2 (1) is approved by the office of superintendent  
3 of insurance;

4 (2) names the state of New Mexico as owner of  
5 the policy and contingent beneficiary;

6 (3) names a primary beneficiary who agrees to  
7 plug the specified wellbore;

8 (4) is fully prepaid and cannot be canceled or  
9 surrendered;

10 (5) provides that the policy continues in  
11 effect until the specified wellbore has been plugged;

12 (6) provides that benefits will be paid when,  
13 but not before, the specified wellbore has been plugged in  
14 accordance with rules of the oil conservation division in  
15 effect at the time of plugging; and

16 (7) provides benefits that are not less than an  
17 amount equal to the one-well financial assurance required by  
18 oil conservation division rules.

19 G. If, subsequent to an operator obtaining an  
20 insurance policy as provided in this section, the one-well  
21 financial assurance requirement applicable to the operator's  
22 well is increased, either because the well is deepened or the  
23 rules of the oil conservation division are amended, the  
24 operator is considered to have met the revised requirement  
25 if:

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(1) the existing policy benefit equals or exceeds the revised requirement;

(2) the operator obtains an amendment increasing the policy benefit by the amount of the increase in the applicable financial assurance requirement; or

(3) the operator obtains financial assurance equal to the amount, if any, by which the revised requirement exceeds the policy benefit."

SECTION 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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