

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AN ACT

RELATING TO NATURAL RESOURCES; AMENDING THE OIL AND GAS ACT;
INCREASING THE MAXIMUM AMOUNT OF FINANCIAL ASSURANCE REQUIRED
FOR THE PLUGGING OF ABANDONED WELLS; MAKING STYLISTIC AND
CONFORMING CHANGES.

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

SECTION 1. Section 70-2-12 NMSA 1978 (being Laws 1978,
Chapter 71, Section 1, as amended) is amended to read:

"70-2-12. ENUMERATION OF POWERS.--

A. The oil conservation division of the energy,
minerals and natural resources department may:

- (1) collect data;
- (2) make investigations and inspections;
- (3) examine properties, leases, papers,
books and records;
- (4) examine, check, test and gauge oil and
gas wells, tanks, plants, refineries and all means and modes
of transportation and equipment;
- (5) hold hearings;
- (6) provide for the keeping of records and
the making of reports and for the checking of the accuracy of
the records and reports;
- (7) limit and prorate production of crude
petroleum oil or natural gas or both as provided in the

1 Oil and Gas Act; and

2 (8) require either generally or in
3 particular areas certificates of clearance or tenders in
4 connection with the transportation of crude petroleum oil or
5 natural gas or any products of either or both oil and
6 products or both natural gas and products.

7 B. The oil conservation division may make rules
8 and orders for the purposes and with respect to the subject
9 matter stated in this subsection:

10 (1) to require dry or abandoned wells to be
11 plugged in a way to confine the crude petroleum oil, natural
12 gas or water in the strata in which it is found and to
13 prevent it from escaping into other strata; pursuant to
14 Section 70-2-14 NMSA 1978, the division shall require
15 financial assurance conditioned for the performance of the
16 rules;

17 (2) to prevent crude petroleum oil, natural
18 gas or water from escaping from strata in which it is found
19 into other strata;

20 (3) to require reports showing locations of
21 all oil or gas wells and for the filing of logs and drilling
22 records or reports;

23 (4) to prevent the drowning by water of any
24 stratum or part thereof capable of producing oil or gas or
25 both oil and gas in paying quantities and to prevent the

1 premature and irregular encroachment of water or any other
2 kind of water encroachment that reduces or tends to reduce
3 the total ultimate recovery of crude petroleum oil or gas or
4 both oil and gas from any pool;

5 (5) to prevent fires;

6 (6) to prevent "blow-ups" and "caving" in
7 the sense that the conditions indicated by such terms are
8 generally understood in the oil and gas business;

9 (7) to require wells to be drilled, operated
10 and produced in such manner as to prevent injury to
11 neighboring leases or properties;

12 (8) to identify the ownership of oil or gas
13 producing leases, properties, wells, tanks, refineries,
14 pipelines, plants, structures and all transportation
15 equipment and facilities;

16 (9) to require the operation of wells with
17 efficient gas-oil ratios and to fix such ratios;

18 (10) to fix the spacing of wells;

19 (11) to determine whether a particular well
20 or pool is a gas or oil well or a gas or oil pool, as the
21 case may be, and from time to time to classify and reclassify
22 wells and pools accordingly;

23 (12) to determine the limits of any pool
24 producing crude petroleum oil or natural gas or both and from
25 time to time redetermine the limits;

1 (13) to regulate the methods and devices
2 employed for storage in this state of oil or natural gas or
3 any product of either, including subsurface storage;

4 (14) to permit the injection of natural gas
5 or of any other substance into any pool in this state for the
6 purpose of repressuring, cycling, pressure maintenance,
7 secondary or any other enhanced recovery operations;

8 (15) to regulate the disposition of water
9 produced or used in connection with the drilling for or
10 producing of oil or gas or both and to direct surface or
11 subsurface disposal of the water, including disposition by
12 use in drilling for or production of oil or gas, in road
13 construction or maintenance or other construction, in the
14 generation of electricity or in other industrial processes,
15 in a manner that will afford reasonable protection against
16 contamination of fresh water supplies designated by the state
17 engineer;

18 (16) to determine the limits of any area
19 containing commercial potash deposits and from time to time
20 redetermine the limits;

21 (17) to regulate and, where necessary,
22 prohibit drilling or producing operations for oil or gas
23 within any area containing commercial deposits of potash
24 where the operations would have the effect unduly to reduce
25 the total quantity of the commercial deposits of potash that

1 may reasonably be recovered in commercial quantities or where
2 the operations would interfere unduly with the orderly
3 commercial development of the potash deposits;

4 (18) to spend the oil and gas reclamation
5 fund and do all acts necessary and proper to plug dry and
6 abandoned oil and gas wells and to restore and remediate
7 abandoned well sites and associated production facilities in
8 accordance with the provisions of the Oil and Gas Act, the
9 rules adopted under that act and the Procurement Code,
10 including disposing of salvageable equipment and material
11 removed from oil and gas wells being plugged by the state;

12 (19) to make well price category
13 determinations pursuant to the provisions of the federal
14 Natural Gas Policy Act of 1978 or any successor act and, by
15 regulation, to adopt fees for such determinations, which fees
16 shall not exceed twenty-five dollars (\$25.00) per filing.
17 Such fees shall be credited to the account of the oil
18 conservation division by the state treasurer and may be
19 expended as authorized by the legislature;

20 (20) to regulate the construction and
21 operation of oil treating plants and to require the posting
22 of bonds for the reclamation of treating plant sites after
23 cessation of operations;

24 (21) to regulate the disposition of
25 nondomestic wastes resulting from the exploration,

1 development, production or storage of crude oil or natural
2 gas to protect public health and the environment; and

3 (22) to regulate the disposition of
4 nondomestic wastes resulting from the oil field service
5 industry, the transportation of crude oil or natural gas, the
6 treatment of natural gas or the refinement of crude oil to
7 protect public health and the environment, including
8 administering the Water Quality Act as provided in Subsection
9 E of Section 74-6-4 NMSA 1978."

10 SECTION 2. Section 70-2-14 NMSA 1978 (being Laws 1977,
11 Chapter 237, Section 3, as amended by Laws 2015, Chapter 79,
12 Section 1 and by Laws 2015, Chapter 99, Section 1) is amended
13 to read:

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

15 A. Each person, firm, corporation or association
16 who operates any oil, gas or service well within the state
17 shall, as a condition precedent to drilling or producing the
18 well, furnish financial assurance in the form of an
19 irrevocable letter of credit or a cash or surety bond or a
20 well-specific plugging insurance policy pursuant to the
21 provisions of this section to the oil conservation division
22 of the energy, minerals and natural resources department
23 running to the benefit of the state and conditioned that the
24 well be plugged and abandoned in compliance with the rules of
25 the oil conservation division. The oil conservation division

1 shall establish categories of financial assurance after
2 notice and hearing. Such categories shall include a blanket
3 plugging financial assurance, which shall be set by rule in
4 an amount not to exceed two hundred fifty thousand dollars
5 (\$250,000), a blanket plugging financial assurance for
6 temporarily abandoned status wells, which shall be set by
7 rule at amounts greater than fifty thousand dollars
8 (\$50,000), and one-well plugging financial assurance in
9 amounts determined sufficient to reasonably pay the cost of
10 plugging the wells covered by the financial assurance. In
11 establishing categories of financial assurance, the oil
12 conservation division shall consider the depth of the well
13 involved, the length of time since the well was produced, the
14 cost of plugging similar wells and such other factors as the
15 oil conservation division deems relevant. The oil
16 conservation division shall require a one-well financial
17 assurance on any well that has been held in a temporarily
18 abandoned status for more than two years or, at the election
19 of the operator, may allow an operator to increase its
20 blanket plugging financial assurance to cover wells held in
21 temporarily abandoned status. All financial assurance shall
22 remain in force until released by the oil conservation
23 division. The oil conservation division shall release
24 financial assurance when it is satisfied the conditions of
25 the financial assurance have been fully performed.

1 B. If any of the requirements of the Oil and Gas
2 Act or the rules promulgated pursuant to that act have not
3 been complied with, the oil conservation division, after
4 notice and hearing, may order any well plugged and abandoned
5 by the operator or surety or both in accordance with division
6 rules. If the order is not complied with in the time period
7 set out in the order, the financial assurance shall be
8 forfeited.

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

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

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

1 provisions of this section shall be deposited in the oil and
2 gas reclamation fund.

3 F. An operator required to file financial
4 assurance for a well pursuant to this section is considered
5 to have met that requirement if the operator obtains a
6 plugging insurance policy that includes the specific well and
7 that:

8 (1) is approved by the office of
9 superintendent of insurance;

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

12 (3) names a primary beneficiary who agrees
13 to plug the specified wellbore;

14 (4) is fully prepaid and cannot be canceled
15 or surrendered;

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

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

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

25 G. If, subsequent to an operator obtaining an

1 insurance policy as provided in this section, the one-well
2 financial assurance requirement applicable to the operator's
3 well is increased, either because the well is deepened or the
4 rules of the oil conservation division are amended, the
5 operator is considered to have met the revised requirement
6 if:

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

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

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