

SENATE CONSERVATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 442

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

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

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underscored material = new
[bracketed material] = delete

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

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1 is satisfied the conditions of the financial assurance have
2 been fully performed.

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

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

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

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

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

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

7 (1) is approved by the office of superintendent
8 of insurance [~~division of the public regulation commission~~];

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

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

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

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

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

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

24 G. If, subsequent to an operator obtaining an
25 insurance policy as provided in this section, the one-well

1 financial assurance requirement applicable to the operator's
2 well is increased, either because the well is deepened or the
3 rules of the oil conservation division are amended, the
4 operator is considered to have met the revised requirement if:

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

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

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

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