

underscored material = new
[bracketed material] = delete

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

HOUSE BILL 297

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Thomas A. Garcia

AN ACT

RELATING TO NATURAL RESOURCES; INCREASING THE BLANKET PLUGGING
FINANCIAL ASSURANCE AMOUNT FOR OIL, GAS OR SERVICES WELLS;
PROVIDING REQUIREMENTS FOR APPROVED TEMPORARY ABANDONMENT
STATUS OF INACTIVE WELLS.

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

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~~] five hundred thousand dollars (\$500,000)
10 or one-well plugging financial assurance in amounts determined
11 sufficient to reasonably pay the cost of plugging the wells
12 covered by the financial assurance. In establishing categories
13 of financial assurance, the oil conservation division shall
14 consider the depth of the well involved, the length of time
15 since the well was produced, the cost of plugging similar wells
16 and such other factors as the oil conservation division deems
17 relevant. [~~In addition to the blanket plugging financial~~
18 ~~assurance, the oil conservation division may require a one-well~~
19 ~~financial assurance on any well that has been held in a~~
20 ~~temporarily abandoned status for more than two years.] All
21 financial assurance shall remain in force until released by the
22 oil conservation division. The oil conservation division shall
23 release financial assurance when it is satisfied the conditions
24 of the financial assurance have been fully performed.~~

25 B. Upon receipt of an operator's notice of intent

.184557.2

underscored material = new
[bracketed material] = delete

1 seeking approval for the temporary abandonment of an inactive
2 well, the oil conservation division shall presume the well is
3 and shall remain in approved temporary abandonment status for a
4 five-year period; provided that financial assurance is in force
5 for the well pursuant to Subsection A of this section, the
6 operator certifies on best information and reasonable belief
7 that the well has future beneficial use, and an engineer
8 certifies that the well bore has mechanical integrity
9 sufficient to ensure environmental protection. The operator
10 may apply for renewal of approved temporary abandonment status
11 for a well prior to the expiration of a five-year period. The
12 oil conservation division may challenge the approved temporary
13 abandonment status of a well at any time after receipt of the
14 operator's notice of intent upon a showing that the well is not
15 in compliance with one or more of the requirements in this
16 section. If the oil conservation division finds noncompliance,
17 the operator shall be given notice and a sixty-day opportunity
18 to cure. If the operator fails to cure, the well in
19 noncompliance shall be reinstated on the inactive well list or
20 ordered plugged and permanently abandoned pursuant to
21 Subsection C of this section.

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

.184557.2

underscored material = new
[bracketed material] = delete

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

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

9 ~~[D-]~~ E. All forfeitures shall be deposited in the
10 state treasury in the oil and gas reclamation fund.

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

22 ~~[F-]~~ G. An operator required to file financial
23 assurance for a well pursuant to this section is considered to
24 have met that requirement if the operator obtains a plugging
25 insurance policy that includes the specific well and that:

.184557.2

underscoring material = new
~~[bracketed material] = delete~~

1 (1) is approved by the insurance division of the
2 public regulation commission;

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

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

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

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

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

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

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

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

.184557.2

underscoring material = new
~~[bracketed material]~~ = delete

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

(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."