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AN ACT

RELATING TO OIL AND GAS; PROVIDING FOR FINANCIAL ASSURANCE TO
PLUG 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 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) and one-well plugging financial
assurance in amounts determined sufficient to reasonably pay
the cost of plugging the wells covered by the financial

1 assurance. In establishing categories of financial
2 assurance, the oil conservation division shall consider the
3 depth of the well involved, the length of time since the well
4 was produced, the cost of plugging similar wells and such
5 other factors as the oil conservation division deems
6 relevant. In addition to the blanket plugging financial
7 assurance, the oil conservation division may require a
8 one-well financial assurance on any well that has been held
9 in a temporarily abandoned status for more than two years.
10 All financial assurance shall remain in force until released
11 by the oil conservation division. The oil conservation
12 division shall release financial assurance when it is
13 satisfied the conditions of the financial assurance have been
14 fully performed.

15 B. If any of the requirements of the Oil and Gas
16 Act or the rules promulgated pursuant to that act have not
17 been complied with, the oil conservation division, after
18 notice and hearing, may order any well plugged and abandoned
19 by the operator or surety or both in accordance with division
20 rules. If the order is not complied with in the time period
21 set out in the order, the financial assurance shall be
22 forfeited.

23 C. When any financial assurance is forfeited
24 pursuant to the provisions of the Oil and Gas Act or rules
25 promulgated pursuant to that act, the director of the oil

1 conservation division shall give notice to the attorney
2 general, who shall collect the forfeiture without delay.

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

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

16 F. An operator required to file financial assurance
17 for a well pursuant to this section is considered to have met
18 that requirement if the operator obtains a plugging insurance
19 policy that includes the specific well and that:

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

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

24 (3) names a primary beneficiary who agrees to
25 plug the specified wellbore;

1 (4) is fully prepaid and cannot be canceled or
2 surrendered;

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

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

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

12 G. If, subsequent to an operator obtaining an
13 insurance policy as provided in this section, the one-well
14 financial assurance requirement applicable to the operator's
15 well is increased, either because the well is deepened or the
16 rules of the oil conservation division are amended, the
17 operator is considered to have met the revised requirement
18 if:

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

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

24 (3) the operator obtains financial assurance
25 equal to the amount, if any, by which the revised requirement

1 exceeds the policy benefit."

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