COLORADO
Oil & Gas Conservation Commission
Department of Natural Resources

Financial Assurance SB 19-181 Rulemaking Fact Sheet

Introduction:

The Colorado Oil & Gas Conservation Commission (COGCC) is committed to ensuring the protection of the public health, safety, welfare, wildlife and the environment in its regulation of the state's oil and gas development and production. SB 19-181 changed COGCC's mission from "fostering" to "regulating" oil and gas in a protective manner.

Financial Assurance is one of the three remaining mandated rulemakings from SB 19-181, and the legislation directed the Commission to ensure that every operator provide assurance it is financially capable of fulfilling every obligation imposed by the Act. SB 19-181 also directed the Commission to broadly consider the following elements as part of the rulemaking:

- Increasing Financial Assurance for inactive wells.
- Increasing Financial Assurance for wells transferred to a new owner.
- Requiring a financial assurance account, tied to the well in the event of a transfer of ownership, to be fully funded in the initial years of operation for each new well to cover future costs to plug and abandon a well.
- The creation and funding of an orphan well fund.

Protections from the SB 19-181 Financial Assurance Rulemaking include:

The Financial Assurance Rulemaking has created new protections, is now the strongest in the nation, and is a paradigm shift from current rules – a regulatory framework that was last overhauled decades ago. Importantly, the new and revised rules create plugging and abandoning incentives, which will allow Colorado's largest operators to commit to plugging around 4,500 wells in the most densely populated areas of Colorado, returning surface areas to other uses and eliminating associated impacts.

The protections from the new Financial Assurance Rules include:

1. Ensure each operator has the financial capability to meet all of their obligations under the Act:

- Development of an operator specific financial assurance plan (first ever) that requires a showing of financial capabilities, overall operations portfolio, liabilities associated with low producing wells, and asset retirement plans to be reviewed and, if necessary, amended annually by Commission and Staff. The Plans will be reviewed annually by the Director.
- Increasing financial assurance amounts 10 to 30 times higher than current amounts for mid to high production operators, and for operators at or below stripper well status, requiring single well financial assurance (SWFA) for all of their wells. This is full financial coverage for lower producing operators.

- Requiring SWFA for low-producing wells, which are the highest risk wells to the state, for all operators, regardless of production status. This has never been done before anywhere in the United States.
- Quadrupling the amount of blanket surface owner protection bonds ($25k to $100k).
- Increasing insurance requirements to a level 5 times higher than current requirements and requiring environmental liability insurance.
- Developing a creative Financial Assurance structure that ensures the operator continuously maintains their active assets in compliance with the Act and has the wherewithal to actively and timely retire their own assets. This effectively minimizes, to the greatest extent possible, orphaning of wells.

2. Increase Financial Assurance oversight of wells transferred to a new owner by requiring:

- The seller to maintain financial assurance until it is determined that the buying operator has the requisite financial assurance in place, which provides oversight and accountability for operators transferring low producing wells.

3. Increase Financial Assurance for inactive wells by requiring:

- SWFA for low-producing wells, in addition to all inactive wells.
- Full cost financial assurance for all operators whose wells have low average production (15 BOE, 22 MCFE), which will cover thousands of wells across the state.
- Note: Combined, these requirements likely cover over half of the wells in the state with SWFA.

4. Require financial assurance accounts for new wells funded in the initial years of operations:

- A financial assurance option structure based on the Operator's production level that requires higher amounts of financial assurance for Operators as their production rate decreases, and Operators in these options will require SWFA for new wells.
- The financial assurance amounts increase to SWFA for each well as the Operator's production declines and their wells approach the anticipated retirement age.

5. Creation of an orphan well fund:

- The Commission established a fee paid by industry that is expected to generate $10M annually, that will build over time, and is responsive to concerns that Colorado has thousands of wells that will be orphaned in the coming years.
  - This is 2-3 times more than COGCC spent annually during the last couple of years and 10-15 times more than has been historically allocated for this purpose.
  - The fund will be unlike a mill levy approach to funding orphan wells which is suspect in economic down turns, when more orphans likely show up with less mill levy revenue.
- The fee will be revisited annually or biennially, allowing the funding to increase or decrease depending on the scale of orphan well work.
- This robust orphan well funding mechanism contemplates the legislature creating an Enterprise Fund.

- This fund is in addition to the $10-15 million Colorado expects to receive and spend annually for the next ten years from the Federal Infrastructure Investment and Jobs Act.
- In total, the federal funds and the orphan well funds will likely total $100 -$115 million over the next 5 years, which is unprecedented and will be totally paid for by industry and the federal government.

6. Apply Colorado's new rules to Federal wells for the first time:

- Colorado's new financial assurance rules will apply to federal wells after the Bureau of Land Management (BLM) undertakes a review of its current regulatory framework and in a manner that recognizes BLM financial assurances and does not require a double bonding for federal wells.

7. Broaden access for local governments for the first time by allowing them to:

- Request plugging and abandonment of a low-producing well in their jurisdiction if the Commission determines the well to be no longer used and useful.
- Be reimbursed from the Orphan Well Fund if a local government plugs and abandons a well consistent with the Commission's regulatory requirements.

8. Develop a first in the nation out-of-service plugging program to:

- Incentivize and encourage operators to retire all of low producing and uneconomic wells over a 4 to 8 year time-frame, which means thousands of wells across Colorado will be plugged and abandoned, and paid for by the operators.
- Prioritize plugging wells in disproportionately impacted communities and the most critical wildlife habitats.

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