



## Financial Assurance 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. Last year, the Governor signed SB 19- 181, which 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, which directed the Commission to broadly consider changes to financial assurance. The Commission created an Informational Docket and a hearing for March 31-April 1 on Financial Assurance. The following information is being provided about Financial Assurance and to provide context for this future rulemaking.

### Financial Assurance Current Overview:

An operator must provide financial assurance to the Commission in order to conduct oil and gas operations in Colorado. Commonly, the terms “bond” or “bonding” are used to refer to the COGCC’s financial assurance requirements; however, a “bond” is also one specific type of financial assurance that an operator may use to comply with the rules. Financial assurance requirements and procedures are set out in the Commission’s [700 Series Rules](#). The Commission claims an operator’s financial assurance when an operator fails to perform statutory and regulatory obligations and releases a bond when an operator has complied with all such obligations. Note: oil and gas operations on federal or tribal lands and minerals are covered by federal bonds.

On Feb.10, 2021, COGCC Staff presented to the Commission its [Financial Assurance Overview Presentation](#) as well as Orphaned Well Program Update. The [COGCC YouTube channel](#) (accessible from COGCC website homepage) has a recording of the presentation.

### Required Bonds

The amount of financial assurance and purpose of different types of bonds within the Commission’s jurisdiction include:

“Surface Bond” for wells and associated facilities for which the surface owner neither owns the minerals nor has a lease or surface use agreement with the operator:

- Provides monetary award to surface owner for unreasonable crop loss or land damage that cannot be remediated; and
- Rule 703 requires a \$2,000 or \$5,000 individual bond by well, or a \$25,000 statewide blanket bond.

Centralized exploration and production (E&P) waste management facilities bond:

- Provides for reclamation, closure, and abandonment of facility; and
- Rule 704 requires the amount equal to the total estimated cost to properly reclaim, close, and abandon the facility, which COGCC establishes during the permitting

process pursuant to Rule 907.d.

Seismic operations bond:

- Provides for plugging of shot holes (if any) and surface reclamation; and
- Rule 705 requires a \$25,000 statewide blanket bond.

“Plugging Bond” for wells and associated facilities:

- Provides for proper protection of the soil, plugging and abandonment of the well, and reclamation of the site; and
- Rule 706 requires:
  - A \$10,000 individual bond for well less than 3000 feet deep and a \$20,000 individual bond for well equal to or more than 3000 feet deep; or
  - A \$60,000 statewide blanket bond for less than 100 wells, or \$100,000 statewide blanket bond for more than 100 wells.

Inactive wells bond:

- Provides additional financial assurance for excess inactive wells; and
- Rule 707 requires a \$10,000 bond for each excess inactive well less than 3000 feet deep, and a \$20,000 bond for each excess inactive well equal to or more than 3000 feet deep.
  - As defined in the [100 Rules Series](#), an “Inactive Well” shall mean any shut-in well from which no production has been sold for a period of twelve (12) consecutive months; any well which has been temporarily abandoned for a period of six (6) consecutive months; or, any injection well which has not been utilized for a period of twelve (12) consecutive months.
  - According to Rule 707, an operator has “excess” inactive wells if the current amount of their plugging bond is less than the amount necessary to individually bond each of their inactive wells. The determination of excess inactive wells is made by multiplying the number of “shallow” inactive wells by \$10,000, the number of “deep” inactive wells by \$20,000, and then combining those amounts. If the combined total is greater than the operator’s current plugging bond, the operator has excess inactive wells. An operator with “excess” inactive wells is required to increase the amount of their “plugging” bond to equal the total required to individually bond each inactive well.

Natural gas gathering, natural gas processing, and underground natural gas storage facilities bond:

- Ensures compliance with 900 Series Rules governing environmental impact prevention, including E&P waste management, spill and release response and cleanup, and sampling and analysis for remediation activities; and
- Rule 711 requires a \$50,000 statewide blanket bond or \$5,000 individual bond for small systems gathering or processing less than 5 million standard cubic feet of natural gas per day (MMSCFD).

Produced water transfer system bond:

- Ensures compliance with 900 Series Rules governing environmental impact prevention, including E&P waste management, spill and release response and cleanup, and sampling and analysis for remediation activities; and

- Rule 712 requires a \$50,000 statewide blanket bond or \$5,000 individual bond for small systems gathering or processing less than 700 barrels of water per day.

Surface facilities and structures associated with Class II commercial Underground Injection Control (UIC) wells bond:

- Ensures compliance with 900 Series Rules pertaining to E&P waste management, spill and release response and cleanup, and sampling and analysis for remediation activities; and
- Rule 713 requires a \$50,000 bond for each facility.

**Additional Bonding:** Rule 702.a allows the Commission to increase the required financial assurance if there is reasonable cause to believe that a facility might become orphaned based on a pattern of non-compliance, unique geological or environmental considerations, or under other special circumstances.

**General Liability Insurance:** Rule 708 requires all operators to maintain general liability insurance of \$1,000,000 per occurrence to cover property damage and bodily injury to third parties.

**Orphaned Well Program Snapshot:**

\*As of March 26, 2021

- Orphaned Sites with work planned or in progress: 535
- Remaining Wells to Plug on those Sites: 239
- Backlog by Fiscal Year: <https://sites.google.com/state.co.us/cogcc-owp/backlog>
- Budget: The program’s legislative appropriation increased from \$445,000 in Fiscal Year 2017-18 to approximately \$5,000,000 per year in Fiscal Years 2018-19 and 2019-20. Two-year spending authority and the ability to roll funds also started in Fiscal Year 2018-19 to provide spending flexibility across fiscal years.

\*\*Note: Please see the [Orphaned Well Program FAQ](#) for more information.

**What Is an Inactive Well, and How Is It Different Than an Orphan Well?:**

- Under the 100 Series Definition of an “Inactive Well,” a well is inactive if:
  - No production occurs for 12 consecutive months;
  - The well has been temporarily abandoned for 6 consecutive months; or
  - It is an injection well where no injection has occurred for 12 consecutive months
- “Inactive wells” are subject to additional regulatory requirements, including additional financial assurance (discussed above), and special mechanical integrity testing requirements under Rule 417.
- A well could be inactive for any number of reasons that include:
  - undergoing maintenance or repairs,
  - awaiting different equipment to be brought to the location,
  - changes in market conditions that make production less economic, or
  - awaiting plugging.
- An inactive well is different than an orphan well because, unlike an orphan well, an inactive well is operated by an active operator that is fully compliant with the Commission’s Rules, including maintaining all requisite financial assurance. Most inactive wells are put into inactive status by an operator that is in good standing with the Commission, and determines that it is necessary to temporarily halt production or injection activities due to market or mechanical circumstances.

### **SB 19-181 Requirements for the Financial Assurance Rulemaking:**

SB 19-181 specifically called for broad changes to Financial Assurances. As revised by SB 19-181, the Oil and Gas Conservation Act states:

“The Commission shall require every operator to provide assurance that it is financially capable of fulfilling every obligation imposed by this article 60 as specified in rules adopted on or after April 16, 2019. The rulemaking must consider: Increasing Financial Assurance for Inactive wells and for wells transferred to a new owner; requiring a financial assurance account, which must remain 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, reclaim, and remediate the well; and creating a pooled fund to address Orphaned Wells for which no owner, operator or responsible party is capable of covering the costs of plugging reclamation, and remediation.” C.R.S. § 34-60-106(13).

### **Prior SB 19-181 Rulemakings identified action in the Financial Assurance Rulemaking:**

The COGCC completed several rulemakings required by SB 19-181 In the Statements of Basis & Purpose (SBP) for the Mission Change, Wellbore Integrity and Flowline Rulemakings, the Commission identified the following topics that it intended to consider in the Financial Assurance Rulemaking:

- Definition of “used & useful”
- Amount of financial assurance required for centralized E&P waste management facilities
- What financial assurance should be required for long-term remediation projects
- Reviewing SOGRE Idle Well report and potentially implementing its recommendations
- Updating definition of inactive wells
- Amount of financial assurance required for produced water transfer systems

Full list of topics with citations to SBPs

#### **200-600 Mission Change Rulemaking:**

- P. 35 - Rule 211: “used and useful”
  - “Some stakeholders raised questions about the meaning of the term “used or useful,” or suggested parameters for defining whether a well is no longer “used or useful.” The term “used or useful” has been part of the Commission’s 200 Series Rules since 1954. However, because of uncertainty raised by stakeholders, the Commission intends to define this term, and make any other appropriate revisions to Rule 211 in its forthcoming Financial Assurance Rulemaking.”

#### **800/900/1200 Mission Change Rulemaking:**

- P. 126 - Rule 907.d: Financial assurance for centralized E&P waste management facilities
  - “The Commission did not substantively revise Rule 907.d (prior Rule 908.e), governing financial assurance for centralized E&P Waste management facilities. Numerous stakeholders provided feedback about Rule 907.d. The Commission will address those stakeholders’ concerns in the forthcoming Financial Assurance Rulemaking required by Senate Bill 19-181. C.R.S. § 34-60-106(13).”
- P. 157 - Rule 913.d: Financial assurance for remediation projects

- “Some stakeholders suggested that the Commission adopt a firm limit on the duration of remediation projects, or suggested that the Commission increase the financial assurance required for remediation projects. The Commission determined not to address this question in the 800/900/1200 Mission Change Rulemaking because the duration of a remediation project will vary depending on site-specific circumstances, and may range from several months to several years. However, the Commission recognizes the importance of limiting the duration of remediation projects because environmental contamination persists until the remediation project is completed. The Commission will therefore consider the question of whether it will require operators to provide financial assurance if remediation is not complete within a specific timeframe in its forthcoming Financial Assurance Rulemaking.”
- P. 159 - Rule 913.i: Financial assurance for remediation projects:
  - “The Commission moved prior Rule 909.f, governing financial assurance for remediation projects, to Rule 913.i, but did not revise the Rule. The Commission intends to address Rule 913.i in its forthcoming Financial Assurance Rulemaking.”

***Wellbore Integrity:***

- P. 27: List of SOGRE elements that were addressed in the Wellbore Integrity Rulemaking explains that elements 118, 119, and 120 will “be addressed in future financial assurance/idle well rulemaking”. These elements are:
  - 118: Establish time frame for plugging inactive wells
    - Recommendation: COGCC should review SOGRE Idle Well Report and assess implementation of suggested changes
  - 119: Establish process for extensions and suspensions of extensions
    - Recommendation: COGCC should review SOGRE Idle Well Report and assess implementation of suggested changes
  - 120: Establish a process for acquiring Temporary Inactive status
    - Recommendation: COGCC should review its current requirements for maintaining inactive status and ensuring ongoing integrity during inactive status to determine whether additional requirements might be necessary.

***Flowlines (2019):***

- Pp. 16-17: Rules 711, 712, & 713: Financial Assurance for produced water transfer systems
  - When the Commission updated its rules in 2018, it included produced water transfer systems as a type of facility for which the Commission would collect financial assurance to ensure compliance with the 900 Series rules. Including it in this section led to confusion as some operators thought a single blanket bond would cover both produced water transfer systems as well as any other facility listed in Rule 711. The Commission, therefore, moved the financial assurance requirements for produced water transfer systems into Rule 712 to provide clarity that the Commission requires a separate financial assurance dedicated for an operator’s produced water transfer system. The previous Rule 712 was renumbered to Rule 713. The Commission did not address adjusting financial assurance requirements in these three rules because SB 19-181 directed the

Commission to broadly consider changes to financial assurance. The Commission will undertake a review of its entire financial assurance requirements, including these, when it implements this statutory directive.

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