

ENGROSSED HOUSE
BILL NO. 1226

By: Rice of the House
and
Easley of the Senate

An Act relating to oil and gas; amending 52 O.S. 1991, Section 318.1, as amended by Section 2, Chapter 362, O.S.L. 1992 (52 O.S. Supp. 1994, Section 318.1), which relates to plugging and financial responsibility requirements; expanding types of wells subject to requirements; modifying certain surety requirements; modifying requirement for additional surety for certain operators; allowing forfeited money to be used to pay certain fines; defining certain term; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 52 O.S. 1991, Section 318.1, as amended by Section 2, Chapter 362, O.S.L. 1992 (52 O.S. Supp. 1994, Section 318.1), is amended to read as follows:

Section 318.1 A. Any person who drills or operates any well for the exploration, development or production of oil or gas, or as an injection or a noncommercial salt water disposal well, within this state, shall furnish in writing, on forms approved by the Corporation Commission, ~~his~~ an agreement to drill, operate and plug wells in compliance with the rules ~~and regulations~~ of the Commission

and the laws of this state, together with evidence of financial ability to comply with the requirements for plugging, closure of surface impoundments, removal of trash and equipment as established by the rules ~~and regulations~~ of the Commission and by law. To establish evidence of financial ability, the Commission shall require:

1. Category A surety which shall include a financial statement listing assets and liabilities and including a general release that the information may be verified with banks and other financial institutions. The statement shall prove a net worth of not less than Fifty Thousand Dollars (\$50,000.00); or

2. Category B surety which shall include an irrevocable commercial letter of credit, cash, a cashier's check, a Certificate of Deposit, Bank Joint Custody Receipt, other negotiable instrument or, a blanket surety bond. Except as provided in ~~paragraph 3 of this subsection A of this section~~, the amount of ~~such~~ the letter of credit, cash, check, certificate, bond, receipt or other negotiable instrument shall be in the amount of Twenty-five Thousand Dollars (\$25,000.00) but may be set higher at the discretion of the Director of the Oil and Gas Division. The Commission is authorized to determine the amount of Category B surety based upon the past performance of the operator and its insiders and affiliates regarding compliance with the laws of this state, and any rules ~~and regulations~~ promulgated thereto including but not limited to the drilling, operation and plugging of wells, closure of surface impoundments or removal of trash and equipment. Any instrument shall constitute an unconditional promise to pay and be in a form negotiable by the Commission.

~~3.~~ The Commission upon certification by any operator subject to Category B surety that ~~its~~ the plugging liability of the operator statewide is less than the twenty-five-thousand-dollar standard specified in this section may allow ~~said~~ the operator to provide

Category B type surety in an amount less than the required Twenty-five Thousand Dollars (\$25,000.00), but at least sufficient to cover the estimated cost of all plugging, closure, and removal operations currently the responsibility of that operator. The liability certification referred to in this ~~paragraph~~ subsection shall take the form of an affidavit from a licensed well plugger estimating the costs of all plugging, closure, and removal operations of the operator requesting such relief. This alternative amount shall be modified upward upon the assumption of additional operations by ~~said~~ the operator, the maximum amount of Category B surety to be posted not to exceed the twenty-five-thousand-dollar total unless as provided previously.

B. Operators of record as of the effective date of this act who do not have any outstanding contempt citations or fines and whose insiders or affiliates have no outstanding contempt citations or fines may post Category A surety.

New operators, operators who have outstanding fines or contempt citations and operators whose insiders or affiliates have outstanding contempt citations or fines as of the effective date of this act shall be required to post Category B surety. Operators who have posted Category B surety and have operated under this type surety and have no outstanding fines at the end of three (3) years may post Category A surety.

Operators using Category A surety who are assessed a fine of Two Thousand Dollars (\$2,000.00) or more and who do not pay the fine within the specified time shall be required to post a Category B surety within thirty (30) days of notification by the Commission.

C. For good cause shown concerning pollution or improper plugging of wells by the operator posting either Category A or B surety or by an insider or affiliate of ~~such~~ the operator, the Commission, upon application of the Director of the Oil and Gas Division, after notice and hearing, may require the filing of

additional Category B surety in an amount greater than Twenty-five Thousand Dollars (\$25,000.00) but not to exceed One Hundred Thousand Dollars (\$100,000.00) which is sufficient to cover the actual and contingent liability of the operator to plug wells, close surface impoundments and remove trash and equipment.

D. If the Commission determines that a bond required by this section shall be a blanket surety bond ~~is required~~, the bond shall be conditioned on the fact that the operator shall cause the wells to be plugged and abandoned surface impoundments to be closed, and trash and equipment to be removed in accordance with the laws of this state and the rules ~~and regulations~~ of the Commission. Each bond shall be executed by a corporate surety authorized to do business in this state and shall be renewed and continued in effect until the conditions have been met or release of the bond is authorized by the Commission.

E. The agreement provided for in subsection A of this section shall provide that if the Commission determines that the person furnishing the agreement has neglected, failed, or refused to plug and abandon, or cause to be plugged and abandoned, or replug any well or has neglected, failed or refused to close any surface impoundment or removed or cause to be removed trash and equipment in compliance with the rules ~~and regulations~~ of the Commission, then the person shall forfeit from ~~his~~ the bond, letter of credit or negotiable instrument or shall pay to this state, through the Commission, for deposit in the State Treasury, a sum equal to the cost of plugging the well, closure of any surface impoundment ~~or~~, removal of trash and equipment and a sum equal to any fines assessed by the Commission for failure to comply with the requirements of this section. The Commission may cause the remedial work to be done, issuing a warrant ~~in~~ for payment of the cost ~~thereof~~ drawn against the monies accruing in the State Treasury from the forfeiture or payment. Any monies accruing in the State Treasury by

reason of a determination that there has been a noncompliance with the provisions of the agreement or the rules ~~and regulations~~ of the Commission, in excess of the cost of remedial action ordered by the Commission, shall be credited to the Conservation Fund. The Commission shall also recover any costs arising from litigation to enforce this provision. ~~Provided, before~~ Before a person is required to forfeit or pay any monies to the state pursuant to this section, the Commission shall notify the person at ~~his~~ the last-known address of the person of the determination of neglect, failure or refusal to plug or replug any well, or close any surface impoundment or remove trash and equipment and said person shall have ten (10) days from the date of notification within which to commence remedial operations. Failure to commence remedial operations shall result in forfeiture or payment as provided in this subsection.

F. It shall be unlawful for any person to drill or operate any oil or gas well subject to the provisions of this section, without the evidence of financial ability required by this section. The Commission shall shut in, without notice, hearing or order of the Commission, the wells of any such person violating the provisions of this ~~subsection~~ section and such wells shall remain shut in for noncompliance until the required evidence of Category B surety is obtained and verified by the Commission.

G. If title to property or a well is transferred, the transferee shall furnish the evidence of financial ability to plug the well and close surface impoundments required by the provisions of this section, prior to the transfer.

H. As used in this section:

1. "Affiliate" means an entity that owns twenty percent (20%) or more of the operator, or an entity of which twenty percent (20%) or more is owned by the operator; ~~and~~

2. "Insider" means officer, director, or person in control of the operator; general partners of or in the operator; general or

limited partnership in which the operator is a general partner;
spouse of an officer, director, or person in control of the
operator; spouse of a general partner of or in the operator;
corporation of which the operator is a director, officer, or person
in control; affiliate, or insider of an affiliate as if such
affiliate were the operator; or managing agent of the operator; and

3. "Noncommercial salt water disposal well" means any well for
the disposal of salt water and/or other deleterious substances, but
which is not permitted or operated as a commercial disposal well.

SECTION 2. This act shall become effective July 1, 1995.

SECTION 3. It being immediately necessary for the preservation
of the public peace, health and safety, an emergency is hereby
declared to exist, by reason whereof this act shall take effect and
be in full force from and after its passage and approval.

Passed the House of Representatives the 2nd day of March, 1995.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1995.

President of the Senate