

DECLARATION OF EMERGENCY
Department of Natural Resources
Office of Conservation
General Operations - Statewide Order No. 29-B
General Provisions
Financial Security (LAC 43:XIX.104)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and the authority of the Commissioner of Conservation pursuant to La. R.S. 30:1, et seq., the following emergency rule is necessary to protect the public health, safety and welfare of the people of the State of Louisiana.

An audit issued by the Louisiana Legislative Auditor on May 28, 2014, included recommendations that the Office of Conservation (“Conservation”) “should consider revising its current regulations and require that all operators provide financial security or some type of financial assurance on newly permitted wells or wells with amended permits,” and that Conservation “should consider revising its current regulations to increase the amount for financial security to be more reflective of the costs to properly plug and remediate orphaned well sites. In addition, financial security amounts should be periodically reviewed and adjusted to ensure they are reflective of the costs to plug and remediate orphan well sites.” In agreeing with the same, Conservation promulgated regulations (published in LR 41:952 in May 2015) to accomplish this goal.

The Legislative Auditor’s report also stated that “Effective regulation is ... important in preventing operators from abandoning their wells. If operators abandon their wells or cannot maintain their wells in compliance with regulations, [Conservation] will orphan all of the operators’ wells...” where orphaned wells are defined as “abandoned oil and gas wells for which no responsible operator can be located or such operator has failed to maintain the well site in accordance with state regulations.”

The price of oil has dropped to historically low levels and most operators are unable to afford the increased financial security amounts promulgated in LR 41:952. Additionally, recent extensive flooding has precluded operators from producing their wells and may require the use of remaining assets to restore production. As the auditor’s report discussed “effective regulation”, if these new rules continue to be enforced they will likely result in Conservation orphaning the wells of these small operators, ultimately putting them out of business and thereby make the environmental concerns created by orphaned wells more severe. This Emergency Rule suspends the effect of these new rules until Conservation can review the matter further and amend the rule to account for these unintended consequences.

In support of these reasons, Conservation has considered the testimony of stripper operators before the House Natural Resources and Environment Committee, statements submitted and made at several public meetings and rulemaking hearings held with regard to the rules, statements submitted by Senators Barrow Peacock and Neil Riser on behalf of their constituents, and Representatives Stuart Bishop, Charles “Bubba” Chaney, Richard Burford, James “Jim” Morris, Mike Johnson, Terry Brown, and former Representative Henry Burns on behalf of their

constituents, as well as various other petitions noting the objections of approximately 760 individuals and 96 oil and gas operators.

Conservation finds that this action at this time is necessary to protect the public health, safety and welfare of the people of the State of Louisiana, but that this action is truly only the first step in working toward a more lasting solution to achieve the goals raised in the legislative auditor's report.

This Rule shall have the force and effect of law effective April 13, 2016 and will remain in effect for 120 days, unless renewed by the Commissioner of Conservation, withdrawn by the Commissioner of Conservation, or until permanent rules are promulgated in accordance with law.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation – General Operations

Subpart 1. Statewide Order No. 29-B

Chapter 1. General Provisions

§104. Financial security

A. Unless otherwise provided by the statutes, rules and regulations of the Office of Conservation, financial security shall be required by the operator of record (operator) pursuant to this Section for each applicable well as further set forth herein in order to ensure that such well is plugged and abandoned and associated site restoration is accomplished. A compliance order and/or civil penalty which has been timely satisfied shall not cause an operator to be considered a non-compliant operator for the purpose of this Section.

1. Permit to Drill

a. On or after July 1, 2000, the applicant for a permit to drill must provide financial security for such well in accordance with the following.

i. An operator who has exhibited a record of compliance with the statutes, rules, and regulations of the Office of Conservation for a period of 48 months immediately preceding the permit date of the well and who has no outstanding violations shall be exempt from providing financial security under this Section.

ii. An operator who has not been a registered operator of record for a period of 48 months immediately preceding the permit date of the well in question shall comply with the following.

(a). An operator who has not previously been an operator of a well (drilling, drilled or completed) shall provide financial security in a form acceptable to the commissioner prior to issuance of a permit to drill.

(b). An operator who has previously been an operator of a well (drilling, drilled or completed) for less than the prescribed 48 months but has otherwise exhibited a record of compliance with the statutes, rules and regulations of the Office of Conservation and who has no outstanding violations shall provide financial security in a form acceptable to the commissioner within 30 days of completion date as reported on Form Comp or Form WH-1.

iii. An operator who has not exhibited a record of compliance with the statutes, rules, and regulations of the Office of Conservation for a period of 48 months immediately preceding the permit date of the well shall provide financial security in a form acceptable to the commissioner prior to issuance of permit to drill.

2. Amended Permit to Drill/Change of Operator

a. Any application to amend a permit to drill for change of operator must be accompanied by financial security in accordance with the following.

i. An operator who has previously been an operator of a well for a period of at least 48 months immediately preceding the amended permit to drill date, who has exhibited a record of compliance with the statutes, rules and regulations of the Office of Conservation and who has no outstanding violations shall be exempt from providing financial security under this Section.

ii. Any operator who does not meet the criteria specified in §104.A.2.a.i above shall provide financial security in a form acceptable to the commissioner prior to issuance of an amended permit to drill.

3. Financial security in a form acceptable to the commissioner shall be provided prior to issuance of a permit to drill or amended permit to drill to any operator which includes a primary officer therein who is or was a primary officer of an operator assigned an orphan status.

4. The financial security requirements provided herein shall apply to Class V wells as defined in LAC 43:XVII.103 for which an application for a permit to drill or amended permit to drill is submitted on and after July 1, 2000, at the discretion of the commissioner.

B. Compliance with this financial security requirement shall be provided by any of the following or a combination thereof:

1. certificate of deposit issued in sole favor of the Office of Conservation in a form prescribed by the commissioner from a financial institution acceptable to the commissioner. A certificate of deposit may not be withdrawn, canceled, rolled over or amended in any manner without the approval of the commissioner; or

2. a performance bond in sole favor of the Office of Conservation in a form prescribed by the commissioner issued by an appropriate institution authorized to do business in the state of Louisiana; or

3. letter of credit in sole favor of the Office of Conservation in a form prescribed by the commissioner issued by a financial institution acceptable to the commissioner.

C. Financial Security Amount

1. Land Location

a. Individual well financial security shall be provided in accordance with the following.

Measured Depth	Amount
≤ 3000'	\$2 per foot
3001-10000'	\$5 per foot
≥ 10001'	\$4 per foot

b. Blanket financial security shall be provided in accordance with the following.

Total Number of Wells Per Operator	Amount
≤ 10	\$ 25,000
11-99	\$125,000
≥ 100	\$250,000

2. *Water Location—Inland Lakes and Bays*—any water location in the coastal zone area as defined in R.S. 49:214.27 except in a field designated as offshore by the commissioner.

a. Individual well financial security shall be provided in the amount of \$8 per foot of well depth.

b. Blanket financial security shall be provided in accordance with the following.

Total Number of Wells Per Operator	Amount
≤ 10	\$ 250,000
11-99	\$1,250,000
≥ 100	\$2,500,000

3. *Water Location—Offshore*—any water location in a field designated as offshore by the commissioner.

a. Individual well financial security shall be provided in the amount of \$12 per foot of well depth.

b. Blanket financial security shall be provided in accordance with the following.

Total Number of Wells Per Operator	Amount
≤ 10	\$ 500,000
11-99	\$2,500,000
≥ 100	\$5,000,000

4. An operator of land location wells and water location wells who elects to provide blanket financial security shall be subject to an amount determined by the water location requirements.

5. The amount of the financial security as specified above may be increased at the discretion of the commissioner.

D. A change of name by a compliant operator of record through acquisition, merger, or otherwise does not preclude said successor operator from meeting the requirements for exemption from financial security under this Section.

E. The commissioner retains the right to utilize the financial security provided for a well in responding to an emergency applicable to said well in accordance with R.S. 30:6.1.

F. Financial security shall remain in effect until release thereof is granted by the commissioner pursuant to written request by the operator. Such release shall only be granted after plugging and abandonment and associated site restoration is completed and inspection thereof indicates compliance with applicable regulations or upon transfer of such well to an

exempt operator. In the event provider of financial security becomes insolvent, operator shall provide substitute form of financial security within 30 days of notification thereof.


G. Plugging and abandonment of a well, associated site restoration, and release of financial security constitutes a rebuttable presumption of proper closure but does not relieve the operator from further claim by the commissioner should it be determined that further remedial action is required.

H. In the event that an operator has previously provided financial security pursuant to LAC 43:XIX.104, such operator shall provide increased financial security, if required to remain in compliance with this Section, within 30 days after notice from the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:4, et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation LR 26:1306 (June 2000), amended LR 27:1917 (November 2001), LR 41:952 (May 2015), amended LR??...

Signed at Baton Rouge, Louisiana, this 14th day of April, 2016.


Richard P. Ieyoub
Commissioner of Conservation