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RULE B-2: PROOF OF FINANCIAL RESPONSIBILITY REQUIRED TO BE FURNISHED

- a. For purposes of this rule, the person, operator, producer, or owner designated by the Director of Production and Conservation or his designee as the party responsible for compliance, and whom is the entity required to hold the permit to drill, produce, dispose or inject will be referred to as the permit holder.
- b. Financial Assurance is required to be submitted with the following applications:
 1. An application to drill an oil and/or gas well, Class II disposal well, injection well, brine production well, Class V brine disposal well, water supply well or other type of exploratory hole(s) or well(s); or
 2. An application to transfer ownership or operations of any existing oil and/or gas well, Class II disposal well, injection well, brine production well, Class V brine disposal well, water supply well or other type of exploratory hole(s) or well(s) to another permit holder.
- c. Financial Assurance is required to remain in full force and effect by the designated permit holder:
 1. for a minimum of one year after the issuance of the permit to drill in accordance with A.C.A. 15-72-214 if the well is not drilled; or
 2. if the well is drilled, until the well(s) have been plugged and associated production site(s) restored in accordance with Commission rules; or
 3. until the well(s) have been transferred to a new permit holder in accordance with Commission rules; ~~or~~
- d. Financial Assurance no longer required to remain in full force and effect in accordance with (c) above, shall only be released, if at the time of request to release, the following conditions have been satisfied:
 41. all outstanding notices of violation or orders of compliance issued against the permit holder have been satisfied; ~~or~~
 52. if applicable, the permit holder has paid annual fee assessments to the Commission in accordance with section (h) of this rule for two consecutive years; ~~and such permit holder is not in violation of the Commission's rules or statutes; or and~~
 - 63 all permit holders of record with the Commission on January 1, 2006 who were assessed annual fees in accordance with section (h) of this rule and paid such fees, and who were not in violation of any Commission order or rule at the time the fees were paid.
- e. Financial Assurance shall be submitted and payable to the Commission in the form of:
 1. A surety bond issued by a surety company authorized to transact business in Arkansas; or
 2. An irrevocable letter of credit subject to the following conditions:

- A. The letter of credit shall be issued by a bank whose deposits are insured by the Federal Deposit Insurance Corporation.
- B. The letter of credit shall provide on its face that the Commission, its lawful assigns, or the attorneys for the Commission or its assigns, may sue, waive notice and process, appear on behalf of, and confess judgment against the issuing bank (and any confirming bank) in the event that the letter of credit is dishonored. The letter of credit shall be deemed to be made in Union County, Arkansas for the purpose of enforcement and any actions thereon shall be enforceable in the Courts of Arkansas, and shall be construed under Arkansas law.
- C. The letter of credit shall be on a form prescribed by the Director of Production and Conservation.

3. A Certificate of Deposit subject to the following conditions:

- A. The Director of Production and Conservation or his designee shall require that certificate of deposit be made payable to or assigned to the Commission both in writing and upon the records of the bank issuing the certificate. If assigned, the Director of Production and Conservation or his designee shall require the banks issuing these certificates to waive the rights of setoff or liens against those certificates.
- B. The Director of Production and Conservation or his designee shall not accept an individual certificate of deposit in an amount in excess of the maximum insurable amount as determined by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.
- C. Any interest accruing on a certificate of deposit shall be for the benefit of the permit holder except that accrued interest shall first be applied to any prepayment penalty when a certificate of deposit is forfeited by the Commission.
- D. The Certificate of deposit, if a negotiable instrument, shall be placed in the Commission's possession. If the certificate of deposit is not a negotiable instrument, a withdrawal receipt, endorsed by the permit holder, shall be placed in the Commission's possession.

4. Cash submitted in the form of personal or corporate check, money order, or cashiers check to be deposited in the Commission's authorized bank account.

f. Financial Assurance shall be required for:

- 1. all holders of permits to drill and/or operate gas well(s), and all Class II disposal wells injecting fluids associated with dry gas production wells; and
- 2. all permit holders of commercial Class II disposal wells; and
- 3. all permit holders of brine production and Class V brine disposal well(s), and
- 4. all permit holders of other types of wells or exploratory holes or wells, and

5. all permit holders of liquid hydrocarbons production wells and Class II disposal and enhanced oil recovery injection wells operated in conjunction with liquid hydrocarbon wells, whom have not been a permit holder of record with the Commission for a minimum of two calendar years preceding the date of the application specified in section (b) above.

g. When a permit holder is required to submit Financial Assurance, the minimum amount of the Financial Assurance shall be:

1. ~~\$3,000 per well for an oil and/or gas production well, Class II UIC SWD well associated with liquid hydrocarbon wells, Class II UIC Enhanced Recovery well; brine production well, or water supply well used in connection with an enhanced oil recovery project, or other type of exploratory hole or well; or a blanket financial assurance for oil or gas production, Class II Enhanced Recovery and water supply wells as follows:~~

- A. ~~\$25,000 for 1-25 wells; or~~
- B. ~~\$50,000 for 26-100 wells; or~~
- C. ~~\$100,000 for 101 or more wells.~~

2. ~~\$25,000 per well for a brine production or blanket financial assurance for brine production or supply wells as follows:~~

- A. ~~\$250,000 for 1-25 wells; or~~
- B. ~~\$500,000 for 26-50 wells; or~~
- C. ~~\$1,000,000 for 51 or more wells.~~

- ~~32.~~ ~~\$25,000 per well for a Class II Disposal not associated with liquid hydrocarbon wells, or Class V Brine Disposal Injection wells; or~~

- ~~43.~~ ~~\$50,000 per well for a Class II Commercial Disposal well; or, plus an additional financial assurance for the associated surface facilities as follows:~~

- A. ~~\$50,000 for 1,000 bbls of on-site tank storage; or~~
- B. ~~\$100,000 for over 1,000 up to 2,000 bbls of on-site tank storage; or~~
- C. ~~\$250,000 for over 2,000 bbls of on-site tank storage, plus~~
- D. ~~An additional \$150,000 if a sump or dump vat is utilized at the site to off-load fluids.~~

4. ~~A blanket financial assurance as follows:~~

- E. ~~————\$25,000 for 1-25 wells; or~~

~~F. — \$50,000 for 26-100 wells; or~~

~~G. — \$100,000 for 101 or more wells.~~

5. The Director of Production and Conservation or his designee is authorized to approve administratively each financial assurance instrument required to be filed with the Commission. The Director is further authorized to require additional financial assurance based on but not limited to how long a permit holder has operated in the State, environmental consideration of the well location or surface storage facilities, and other environmental, engineering or geological factors impacting the cost of plugging the well and restoring the associated well site or storage facility, and the compliance history of the permit holder.

~~h. — The Director of Production and Conservation or his designee is authorized to approve administratively each financial assurance instrument required to be filed with the Commission. The Director is further authorized to require additional financial assurance based on but not limited to how long a permit holder has operated in the State, environmental consideration of the well location, and other factors impacting the cost of plugging the well and restoring the associated well site, and the compliance history of the permit holder.~~

h. Effective January 1, 2006, financial assurance in the form of annual fees shall be paid, by all permit holders of liquid hydrocarbon wells and any Class II Disposal or Class II Enhanced Recovery wells associated with liquid hydrocarbon wells, as follows:

1. Fees shall be assessed annually for all issued permits and wells of record as of January 1 of each year.
2. All assessed fees shall be paid in full by March 1 of each year, after which time the permit holder's Authority to Produce and Transport and Authority to Dispose and/or Inject will be terminated until all delinquent fees are paid.
3. The permit holder shall remain liable for the payment of such fees until the well or wells under permit to the permit holder are plugged and restored; or the well or wells have been transferred to a new permit holder pursuant to Commission rules. Liability for payment of annual well fees ceases on the date when the well has been plugged and restored, or on the effective date stated on the Commission's Notification of Transfer form.
4. If a permit holder's fee check is returned due to insufficient funds or because payment was stopped, the permit holder is required to repay fees for that year by cashiers check or money order.

i. A permit holder may administratively contest the amount of the fee assessment as follows:

1. By submitting a written objection to the assessment amount on or before March 1 of each year. The objection must be accompanied by the full assessed amount.
2. The objection must be in writing, signed by the permit holder, or by an individual authorized to sign for the permit holder, and must identify the nature of the objection.

The written objection must include a statement of the facts supporting the objection and copies of any relevant documents to support the objection.

3. The Director of Production and Conservation or his designee shall review the application, and has the authority to amend the fee assessment and refund any monies due the permit holder.
- j. The amount of annual fees assessed each January 1 to all permit holders of liquid hydrocarbon and associated Class II wells shall be as follows:
- | | | |
|----|------------------------------|------------------|
| 1. | 1–5 Permits or Wells | \$100/Well |
| 2. | 6–15 Permits or Wells | \$750/Operator |
| 3. | 16-50 Permits or Wells | \$1,250/Operator |
| 4. | 51-150 Permits or Wells | \$2,000/Operator |
| 5. | 151-300 Permits or Wells | \$3,000/Operator |
| 6. | 301 or more Permits or Wells | \$4,000/Operator |
- k. Permit holder’s failure to comply with the Commission’s order to plug, replug or repair a well, or to restore a well site, within thirty (30) days of the issuance of such order constitutes grounds for forfeiture of the financial assurance held by the Commission, as follows:
1. The Director shall send written notification by certified mail, return receipt requested, to the Permit Holder and the issuer of the financial assurance, if any, informing them of the Director’s determination to forfeit the financial assurance for failure to comply with the above Commission Order.
 2. The Director may allow the financial assurance issuer to undertake necessary plugging, replugging, repair or site restoration work if the financial assurance issuer can demonstrate an ability to complete such work in accordance with Commission rules. No financial assurance liability shall be released until the successful completion of all plugging, replugging, repair or site restoration ordered by the Commission.
 3. In the event forfeiture of the financial assurance is warranted under the provisions of this rule, the Director shall afford the permit holder the right to a hearing, if such hearing is requested in writing by the Permit Holder within fifteen (15) days after the forfeiture notification is mailed in accordance with subsection (1). If the permit holder does not request a hearing within the fifteen (15) day period, the Director shall issue a final decision ordering forfeiture and collection of funds. If a hearing is requested by the permit holder, the hearing shall be docketed for the next regularly scheduled Commission hearing.
 4. At the forfeiture hearing, the Director shall present evidence in support of the determination for financial assurance forfeiture. The Permit Holder shall present evidence contesting the Director’s determination. The Commission may administer oaths and affirmations, subpoena witnesses and written or printed materials, compel attendance

of witnesses or production of those materials, compel discovery, and take evidence, necessary to render a decision.

5. Within thirty (30) days after the close of the record for the forfeiture hearing, the Commission shall issue findings of fact, conclusions of law and the disposition of the case.

(Source: 1992 rule book; amended (Order 27-95) June 20, 1995; amended (Order 4-99) March 23, 1999; amended January 15, 2006; amended October 15, 2006; amended November 16, 2008; amended June 5, 2009)