**This is an amendment to 19.15.8 NMAC, Section 9, 10 and 12 effective 9/22/2026.**

**19.15.8.9 CATEGORIES AND AMOUNTS OF FINANCIAL ASSURANCE FOR WELL PLUGGING:**

**A. Applicability.** An operator who has drilled or acquired operating authority under 19.15.9.9 NMAC, is drilling or proposes to drill or acquire operating authority under 19.15.9.9 NMAC of an oil, gas or injection or other service well within this state shall furnish a financial assurance acceptable to the division in accordance with 19.15.8.9 NMAC and in the form of an irrevocable letter of credit, plugging insurance policy or cash or surety bond running to the state of New Mexico conditioned that the well be plugged and abandoned and the location restored and remediated in compliance with commission rules, unless the well is covered by federally required financial assurance. The division shall not approve and the operator shall not proceed with any proposed drilling or acquisition of operating authority under 19.15.9.9 NMAC until the operator has furnished the required financial assurance. This Subsection A applies to Subsections B through H of this section.

**B.** A financial assurance shall be conditioned for well plugging and abandonment and location restoration and remediation only, and not to secure payment for damages to livestock, range, crops or tangible improvements or any other purpose.

**C. Active wells.** An operator shall provide financial assurance for wells that [~~are covered by Subsection A of 19.15.8.9 NMAC and~~] are not subject to Subsections D, E and F of 19.15.8.9 NMAC [~~in~~] via one of the following categories:

**(1)** a one well plugging financial assurance in the amount of [~~$25,000 plus $2 per foot of the projected depth of a proposed well or the depth of an existing well; the depth of a well is the true vertical depth for vertical and horizontal wells and the measured depth for deviated and directional wells;~~] $150,000 per well; or

**(2)** a blanket plugging financial assurance in the [~~following amounts~~] amount of $250,000 covering all the wells of the operator subject to Subsection C of 19.15.8.9 NMAC.

[~~**(a)** $50,000 for one to 10 wells;~~]

~~**(b)** $75,000 for 11 to 50 wells;~~

~~**(c)** $125,000 for 51 to 100 wells; and~~

~~**(d)** $250,000 for more than 100 wells.~~]

**D. Low producing wells.** Notwithstanding the provisions in Paragraph (2) of Subsection C in this Section:

**(1)** As of September 22, 2026, a transferee operator shall provide a one well plugging financial assurance of $150,000 for each low producing well prior to transfer, unless the well being transferred is already covered by a one well financial assurance under Paragraph (2) of Subsection D, Subsection E or Subsection F of 19.15.8.9 NMAC.

**(2)** Beginning May 1, 2029, an operator shall provide a one well plugging financial assurance for each low producing well that is not covered by a one well financial assurance under Subsection E or F of 19.15.8.9 NMAC. Each operator with one or more low producing well or wells shall annually review the number of low producing wells registered to the operator and shall update the one well plugging financial assurance by May 1 of each year.

**(3)** An operator of a low producing well may request a variance to the one well plugging financial assurance requirement of $150,000 upon a demonstration satisfactory to the division that there is a physical impediment limiting the well's midstream takeaway capacity or interference from nearby operations, stimulation or drilling impacting safe or prudent pressure practices. The demonstration shall include a certification from the operator detailing the nature of the constraint, explaining why the constraint is outside the control of the operator, detailing the alternatives that were or are being explored to address the constraint, and an estimated date when the constraint will be corrected. The demonstration shall also include the notification from the midstream operator required pursuant to Subsection D of 19.15.28.8 NMAC.

**(4)** Upon receipt of an operator's written variance request, the division shall have 60 days to accept or deny the operator's variance. The division's failure to act on the variance request within such period shall be deemed a denial. If the division denies the operator's variance, the operator shall have 30 days in which to file a request for hearing with the division pursuant to 19.15.4 NMAC.

**(5)** An operator may furnish all necessary one well plugging financial assurance in the form of a single instrument.

**E. Operators with twenty percent or more of wells in inactive, approved temporarily abandoned or expired temporarily abandoned status.**

**(1)** Beginning May 1, 2029, an operator with twenty percent or more of their wells in inactive status, approved temporarily abandoned status or expired temporarily abandoned status, or a combination thereof, shall provide a one well plugging financial assurance in the amount of $150,000 for each well that is registered to the operator but not covered by a one well financial assurance under Subsection D or F of 19.15.8.9 NMAC, until the percentage of the operator's wells in such statuses is decreased below twenty percent. Each operator with wells in this financial assurance category shall annually review the number of wells in inactive status, approved temporarily abandoned status and expired temporarily abandoned status registered to the operator and shall update the one well plugging financial assurance by May 1 of each year.

**(2)** An operator may furnish all necessary one well plugging financial assurance in the form of a single instrument.

**[~~D~~] F.** [~~Inactive wells~~] **Wells that are in approved temporarily abandoned status for more than two years, inactive wells, and wells that are in expired temporarily abandoned status.** [~~An operator shall provide financial assurance for wells that are covered by Subsection A of 19.15.8.9 NMAC that have been in temporarily abandoned status for more than two years~~] An operator shall provide financial assurance for wells that are in approved temporarily abandoned status for more than two years, in inactive status, or in expired temporarily abandoned status or for which the operator is seeking approved temporary abandonment pursuant to 19.15.25.13 NMAC in one of the following categories:

**(1)** a one well plugging financial assurance in the amount of [~~$25,000 plus $2 per foot of the projected depth of a proposed well or the depth of an existing well; the depth of a well is the true vertical depth for vertical and horizontal wells and the measured depth for deviated and directional wells~~] $150,000 per well; or

**(2)** a blanket plugging financial assurance equal to an average of $150,000 per well covering all wells of the operator subject to [~~Subsection D~~] Subsection F of 19.15.8.9 NMAC.

**[~~E.~~] G.** Operators who have on file with the division a blanket plugging financial assurance that does not cover additional wells shall file additional [~~single~~] one well [~~bond~~] plugging financial assurance for any wells not covered by the existing blanket [~~bond~~] plugging financial assurance in an amount as determined by 19.15.8.9 NMAC, subject to any limitations in Section 70-2-14 NMSA 1978 or, in the alternative, may file a [~~replacement blanket bond~~] financial assurance in the form of a single instrument.

**H.** Beginning January 1, 2032, the division may adjust the financial assurance amounts provided by Paragraph (1) of Subsections C, D, E and F of this section by multiplying the financial assurance as of January 1, 2031 by a fraction, the numerator of which is the consumer price index ending in September of the previous year and the denominator of which is the consumer price index ending September 2030; provided that any financial assurance shall not be adjusted below the minimum amounts required in Paragraph (1) of Subsection C, D, E and F of this section as a result of a decrease in the consumer producer price index. By November 1, 2031, and by November 1 of each successive year, the division shall post on its website the financial assurance requirements in Subsections A through E of this section for the next year. As used in this subsection, "consumer price index" means the consumer price index, not seasonally adjusted, for all urban consumers, United States city average for all items, or its successor index, as published by the United States department of labor for a 12 month period ending September 30. The division may adjust the applicable financial assurance amounts in accordance with this section but may not do so more frequently than three years from the date of the last adjustment.

[19.15.8.9 NMAC - Rp, 19.15.3.101 NMAC, 12/1/2008; A, 6/30/2015; A, 1/15/2019; A, 9/22/2026]

**19.15.8.10 ADDITIONAL REQUIREMENTS FOR CASH AND SURETY BONDS:**

**A.** Surety bonds shall be issued by a reputable corporate surety authorized by the office of the superintendent of insurance to do business in the state. The surety shall be listed on U.S. department of the treasury circular 570.

**B.** The operator shall deposit cash representing the full amount of the bond in an account in a federally-insured financial institution located within the state, such account to be held in trust for the division. Authorized representatives of the operator and the depository institution shall execute a document evidencing the cash bond's terms and conditions. The operator shall file the document with the division prior to the bond's effective date. If the operator's financial status or reliability is unknown to the director, the director may require the filing of a financial statement or such other information as may be necessary to evaluate the operator's ability to fulfill the bond's conditions. From time to time, any accrued interest over and above the bond's face amount may be paid to the operator.

[19.15.8.10 NMAC - Rp, 19.15.3.101 NMAC, 12/1/2008; A, 6/30/2015; A, 9/22/2026]

**19.15.8.12 RELEASE OF FINANCIAL ASSURANCE:**

**A.** The division shall release a financial assurance document upon the operator's or surety's written request if all wells drilled or acquired under that financial assurance have been plugged and abandoned and the location restored and remediated and released pursuant to 19.15.25.9 NMAC through 19.15.25.11 NMAC, or have been covered by another financial assurance the division has approved.

**B.** Transfer of a property or a change of operator does not of itself release a financial assurance. The division shall not approve a request for change of operator for a well until the new operator has the required financial assurance in place <u>and is otherwise in compliance with the requirements of 19.15.9.9 NMAC</u>.

[19.15.8.12 NMAC - Rp, 19.15.3.101 NMAC, 12/1/2008; A, 9/22/2026]