

**RULES
OF THE
OIL AND GAS PROGRAM
DIVISION OF WATER RESOURCES**

**CHAPTER 0400-52-01
BOND**

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0400-52-01-.01 AMOUNT OF PLUGGING BOND.

- (1) A Plugging Bond is required to be in force for a well from the time a drilling or re-entry well permit is granted until the well is plugged and abandoned. The bond shall be for the sum of \$2000 for wells from 0 to 2500 feet in depth; \$3000 for wells that are deeper than 2500 feet, but less than or equal to 5000 feet in depth; for all wells deeper than 5000 feet the bond shall increase \$3000 at the rate of \$1.00 for every foot deeper than 5000 feet. The bonds shall be written in such a manner that the Principal and Bonding Agent hereto are firmly bound to the Department, jointly and severally, for the payment of the full penal sum of the bond so that the well shall be plugged and abandoned in accordance with the rules and regulations of the Board. An individual well bond shall be released upon the proper plugging of the well and the filing with the Supervisor of a Plug and Abandon Report (Form CN-0217), driller's log, downhole surveys, well cuttings and cores, and other data as required, or if the permit has been canceled because of lack of proper activity.

- (2) The Bonding Agent may notify the Supervisor in writing of its desire to terminate its liability under the bond by giving written notice to the Supervisor. The Supervisor shall thereupon require the Principal in the bond to file a new bond, or to effect a change of operators on the well within 60 days. If the Principal can no longer be contacted, then any interested party may seek a change of operators on the well in accordance with subparagraph (2)(a) of Rule 0400-52-02-.02. If a new bond is filed by the Principal, or a change of operators is approved by the Supervisor, liability under the original bond shall cease and terminate as to acts and operations occurring after the effective date of the new bond or approval of the change of operators, and the original bond shall be released upon written request by the Bonding Agent. If a new bond is not filed within the 60 days, or a change of operators has not been approved, the Supervisor shall revoke the permit secured by the bond and require the Principal to plug the well in accordance with the rules and regulations of the Board. In the event of the failure of the Principal to plug the well, the supervisor may issue a notice of non-compliance to the Principal and the Bonding Agent requiring the Bonding Agent either to cause the well to be plugged, or forfeit the amount of the bond to the Department. The Bonding Agent shall then have 60 days in which to plug the well. If the well has not been plugged within that time limit, then a notice of forfeiture shall be issued, as provided for under Rule 0400-52-01-.06. The Bonding Agent shall then have 21 days in which to petition the Board for a hearing relative to the bond forfeiture, pursuant to the Administrative Procedures Act, T.C.A. § 4-5-101 et seq. If a hearing is requested, no further action shall be taken against the bond until such hearing has taken place and a final order given by the Board. If the well is plugged in the interim, then the notice of forfeiture shall be canceled and the bond released.

Authority: T.C.A §§ 60-1-201 et seq., and 4-5-201 et seq. **Administrative History:** Original rule filed March 20, 2013; effective June 18, 2013.

0400-52-01-.02 BLANKET PLUGGING BOND.

- (1) In lieu of an individual bond per well, any well operator may file with the Supervisor a blanket bond in the sum of \$20,000 covering a maximum of 10 wells from 0 to 5000 feet in depth; \$30,000 covering a maximum of 10 wells that are deeper than 5000 feet, but are less than or equal to 10,000 feet in depth; and no blanket bonds for wells deeper than 10,000 feet either drilled or to be drilled by the Principal in the bond at any one time. Additional wells may be covered by the bond only if wells originally covered by the bond are plugged or transferred to another operator, on a one-for-one basis with the wells to be added to the bond. Otherwise, an additional bond shall be filed for each additional group of 10 wells. The terms of such blanket bonds shall be in full compliance with the requirements for an individual well bond. A blanket bond shall be released upon the proper plugging of all wells of the operator (Principal) covered by the bond, and the filing with the Supervisor of the Plug and Abandon Reports, driller's logs, downhole surveys, well cuttings and cores, and other data as required for such wells. A blanket bond may be canceled by the Bonding Agent, notifying the Supervisor in writing, delivered personally or by registered mail, that the operator is no longer authorized by the Bonding Agent to obtain permits under said bond. If or when all wells permitted under said bond have been plugged and abandoned according to the rules and regulations of the Board, or existing permits have been canceled because of lack of proper activity, the Supervisor shall release the bond.
- (2) The Bonding Agent may notify the Supervisor in writing of its desire to terminate its liability under the bond by giving written notice to the Supervisor. The Supervisor shall thereupon require the Principal in the bond to file a new bond, or to effect a change of operators on the well(s) within 60 days. If the Principal can no longer be contacted, then any interested party may seek a change of operators on the well(s) in accordance with subparagraph (2)(a) of Rule 0400-52-02-.02. If a new bond is filed by the Principal, or a change of operators is approved by the Supervisor on all wells covered by the bond, liability under the original bond shall cease and terminate as to acts and operations occurring after the effective date of the new bond, or approval of the changes of operators, and the original bond shall be released upon written request by the Bonding Agent. If a new bond is not filed within the 60 days, or a change of operators has not been approved on all wells covered by the bond, the Supervisor shall revoke the permit(s) secured by the bond and require the Principal to plug the well(s) in accordance with the rules and regulations of the Board. In the event of the failure of the Principal to plug the well(s), the Bonding Agent may either cause the well(s) to be plugged, or forfeit the amount of the bond to the Department. This action shall be initiated by the issuance of a notice of noncompliance, as provided for under Rule 0400-52-01-.07. The Bonding Agent shall then have 60 days in which to plug the well(s). If the well(s) have not been plugged within that time limit, then a notice of forfeiture shall be issued, as provided for under Rule 0400-52-01-.06. The Bonding Agent shall then have 21 days in which to petition the Board for a hearing relative to the bond forfeiture, pursuant to the Administrative Procedures Act, T.C.A. § 4-5-101 et seq. If a hearing is requested, no further action shall be taken against the bond until such hearing has taken place and a final order given by the Board. If the well(s) are plugged in the interim, then the notice of forfeiture shall be canceled and the bond released.

Authority: T.C.A §§ 60-1-201 et seq., and 4-5-201 et seq. **Administrative History:** Original rule filed March 20, 2013; effective June 18, 2013.

0400-52-01-.03 RECLAMATION BOND.

- (1) A reclamation bond is required to be filed with the Supervisor at the time an operator's permit application is submitted, and shall be effective from the time the initial surface disturbances begin until the well is plugged and the site and access roads are reclaimed. The bond shall be for the sum of \$1,500 per well site. The bond shall be in favor of the Department, and shall be a performance bond, conditioned that the well site and access roads shall be reclaimed in

(Rule 0400-52-01-.03, continued)

accordance with the rules and regulations of the Board. Upon satisfactory completion of regrading and revegetation of all disturbed areas except active work areas and access roads needed for oil or gas production, the Supervisor shall release one-third of the reclamation bond, or reduce the amount of the reclamation bond by one-third. Access roads that will continue to be used by the landowner for other legitimate purposes and maintained in usable condition, which condition reduces erosion to a practical minimum, shall not have to be revegetated by the operator. Such usage shall be established by the landowner by sworn affidavit. After plugging of the well and final reclamation of the well site, and after plantings have survived two growing seasons with an established ground cover of at least 90% herbaceous and/or woody species of which at least 80% are perennial species, the supervisor shall release the remainder of the reclamation bond.

- (2) This paragraph shall be applicable only when the same Bonding Agent is responsible for both the plugging and reclamation bonds on a well. The Bonding Agent may notify the Supervisor in writing of its desire to terminate its liability under the reclamation bond by giving written notice to the Supervisor. The Supervisor shall thereupon require the Principal in the reclamation bond to file a new bond, or to effect a change of operators on the well within 60 days. If the Principal can no longer be contacted, then any interested party may seek a change of operations on the well in accordance with subparagraph (2)(a) of Rule 0400-52-02-.02. If a new reclamation bond is filed by the Principal, or a change of operators is approved by the Supervisor, liability under the original bond shall cease and terminate as to acts and operations occurring after the effective date of the new bond, or approval of the change of operators, and the original bond shall be released upon written request by the Bonding Agent. If a new reclamation bond is not filed, or a change of operators has not been approved within 60 days, the Supervisor shall revoke the permit secured by the plugging and reclamation bonds and require the Principal to plug the well and reclaim the well site and access roads in accordance with the rules and regulations of the Board. In the event of the failure of the Principal to plug the well and reclaim the well site and access roads, the Bonding Agent may either cause the well to be plugged and the well site and access roads to be reclaimed, or forfeit the amount of the bonds to the Department. This action shall be initiated by the issuance of notices on noncompliance as provided for under Rule 0400-52-01-.07. The Bonding Agent shall then have 30 days in which to plug the well and reclaim the well site and access roads. If the well has not been plugged and the well site and access roads have not been reclaimed within that time limit then notices of forfeiture shall be issued as provided for under Rule 0400-52-01-.06. The Bonding Agent shall then have 21 days in which to petition the Board for a hearing relative to the bond forfeitures, pursuant to the Administrative Procedures Act T.C.A. § 4-5-101 et seq. If a hearing is requested, no further action shall be taken against the plugging and reclamation bonds until such hearing has taken place and a final order has been given by the Board. In the event the Bonding Agent causes the well to be plugged and the well site and access roads to be reclaimed the plugging bond shall be released, and the amount of the reclamation bond shall be reduced by one-third, to \$1,000, unless such reduction has previously taken place. The remainder of the reclamation bond shall be released only after plantings have survived two growing seasons with an established ground cover of at least 90% herbaceous and/or woody species provided that at least 80% are perennial species.

Authority: T.C.A §§ 60-1-201 et seq., and 4-5-201 et seq. **Administrative History:** Original rule filed March 20, 2013; effective June 18, 2013.

0400-52-01-.04 RELIEF OF RESPONSIBILITY.

A permittee's bonds and other responsibilities to a well or wells shall be relieved upon approval by the Supervisor of a successor's Application to Change Operators (Form CN-0237), furnishing bonds, and the tendering of authority on Form CN-0237 by the permittee requesting the Supervisor to approve the successor's application.

(Rule 0400-52-01-.04, continued)

Authority: T.C.A §§ 60-1-201 et seq., and 4-5-201 et seq. **Administrative History:** Original rule filed March 20, 2013; effective June 18, 2013.

0400-52-01-.05 EXECUTION.

Any of the following shall serve as bonds:

- (1) A surety bond executed by the well operator as principal and by a corporate surety authorized to do business in Tennessee; or
- (2) Cash; or
- (3) A certified check; or
- (4) A Certificate of Deposit, if it is made out exactly as follows: "Operator Name and Tennessee Department of Environment and Conservation or Tennessee Department of Environment and Conservation"; and does not contain any terms or conditions that provide that the issuing bank may charge against the deposit any debt of the depositor(s) owing to it (set-off terms); or any terms or conditions that provide that anyone whose signature appears on the signature card may withdraw funds from the account. The operator shall be entitled to any interest earned on a certificate of deposit as the same becomes due and payable. The treasurer of the State of Tennessee shall receive and hold the originals of such certificates in the name of the State of Tennessee, in trust, for the purpose for which such deposit is made, and shall at all times be responsible for the custody and safekeeping of such deposits; provided, however, that the certificate may be returned to the issuing financial institution as may be necessary for renewal from time to time; or
- (5) An irrevocable letter of credit issued by any federally insured bank or savings and loan association. The letter of credit shall comply with the format shown on Form CN-0120 (Comprehensive Bond Identification).

Authority: T.C.A §§ 60-1-201 et seq., and 4-5-201 et seq. **Administrative History:** Original rule filed March 20, 2013; effective June 18, 2013.

0400-52-01-.06 FORFEITURE.

- (1) The Supervisor shall cause a notice of noncompliance to be served upon the operator by certified mail, addressed to the permanent address shown on the application for a permit:
 - (a) If the requirements with respect to proper plugging upon abandonment of a well or wells and submission of all required records and data have not been complied with within the time limits set by the Board or Department, and/or,
 - (b) If the requirements with respect to proper reclamation of the well site(s) and access roads have not been complied with within the time limits set by the Board or Department.
- (2) The notice shall specify in what respects the operator has failed to comply with this chapter or the regulations or orders of the Board or Department.
- (3) If the operator has not reached an agreement with the Supervisor, or has not complied with the requirements set forth within 30 days after mailing the notice, the plugging bond shall then be forfeited to the Department, and the money used by the Department to properly plug the well(s), and/or the reclamation bond used to reclaim the well site(s) and access roads.

(Rule 0400-52-01-.06, continued)

- (4) In the case of the plugging bonds, such bonds are penal in nature, and the full amount of the bond shall be forfeited.

- (5) In the case of reclamation bonds, such bonds are considered to be performance bonds, and any portion of a reclamation bond not expended to perform the reclamation work shall be refunded to the operator or his Bonding Agent if the conditions of the bond are fully satisfied.

Authority: T.C.A §§ 60-1-201 et seq., and 4-5-201 et seq. **Administrative History:** Original rule filed March 20, 2013; effective June 18, 2013.

0400-52-01-.07 NOTICE OF NONCOMPLIANCE.

At any time the Supervisor causes a notice of noncompliance to be served upon an operator (principal), copies of such notice shall be mailed to the resident agent writing such bond (where the address is known) and to the Bonding Agent at the address provided to the Tennessee Department of Commerce and Insurance for receipt of notices. The Bonding Agent shall be afforded the opportunity to act in behalf of the operator (principal) within the time set forth in regard to the proper plugging of the well or wells and submission of required well records, down hole data, and plugging reports and/or reclamation of the well site and access roads. Should the operator (principal) and Bonding Agent fail to comply within the time provided, then and only in that event, the plugging bond shall be forfeited, and/or the reclamation bond used to reclaim the well site and access roads.

Authority: T.C.A §§ 60-1-201 et seq., and 4-5-201 et seq. **Administrative History:** Original rule filed March 20, 2013; effective June 18, 2013.