



## WOGCC Rulemaking – Bonding & APDs

By: [Nicol Kramer](#)

The Wyoming Oil & Gas Conservation Commission (WOGCC) is currently revising rules related to bonding and Applications for Permits to Drill (APDs). The rulemaking is part of Governor Mead’s “strengthening and streamlining” policy initiative to reduce the number of state agency rules. The rules reorganize and attempt to better define the requirements associated with the various types of bonds and guarantees. They also attempt to streamline the rules regarding how bonds and guarantees will be released, returned, or forfeited.

More significantly, the proposed revisions to bonding rules also reflect recent concerns regarding the adequacy of financial assurances in relation to the increased number of idle or abandoned wells in the state, especially after the decline in coalbed methane production. The proposed rules would increase well bonding amounts, increase WOGCC oversight of well transfers, and retain a transferor operator’s bonds for up to six months after transfer of wells.

### ***Bonds: How Much?***

In general, the proposed rules would substantially increase operational bonding amounts. Currently, individual wells are bonded at \$10,000 for wells less than two thousand feet deep and \$20,000 for deeper wells. Under the proposed rules, individual well bonds are \$10 per foot of the well bore and will be “adjusted every three (3) years based on the Wyoming consumer price index (CPI) or actual plugging costs.” Thus, individual well bonding will increase for any well deeper than 1,000 feet. A well 5,000 feet deep will require a \$50,000 bond. The alternative blanket bond (covering all of an Owner or Operator’s wells in the state) would also increase from \$75,000 to \$150,000 under the proposed rule.

The proposed rule also removes the grandfathering clause that allowed Owners/Operators to maintain their blanket bond at the level of \$25,000 if it had been posted prior to July 1, 2000. Under the proposed rules, all Owners and Operators will be required to bring their operational (well/blanket) bonding up to the levels in the final rule within one year of its effective date.

The WOGCC also proposes to modify and clarify idle well bonding. The proposed rules define idle well bonding as the additional bonding the WOGCC may require in the event a well is “not

producing, injecting, or disposing *in economic quantities.*” (Emphasis added). The increased bonding continues to be set at up to \$10.00 per foot of well bore. It is also within the Supervisor’s discretion based on the current bonding in place at the time of the determination. The Owner/Operator may still request modification of the bond recommendation based on “specific well conditions and circumstances,” by presenting expert cost estimates for well plugging, abandonment and site remediation. Idle well bonds would be reviewed annually.

Previously, in lieu of additional idle well bonding, an Owner/Operator could submit a detailed plan of operation for removing wells from idle bond status (either returning to production or plugging and abandoning). The “in lieu of” language has been removed from the proposed rules. Instead, the proposal states, “The Supervisor may accept a detailed plan of operation which includes a time schedule” for removing wells from idle status. The plan must also include a commitment to remove at least 10% of the wells from idle well status each year. It is not clear that the plan would eliminate the requirement for idle well bonding, but it seems to imply the plan could have an impact on the required bonding amounts. The proposed rules also eliminate language that allowed an operator to post any required additional bonding over the period of 18 months, upon permission from the Supervisor.

Split estate bonds and split estate seismic bond requirements have also been updated to incorporate statutory changes. In the event an Owner/Operator is required to post a split estate bond, the minimum amount is \$10,000 per well site. However, the Supervisor may require a blanket bond for roads, pipelines and production facilities. Split estate seismic bonds are a minimum of \$5,000 for the first one thousand acres or portion thereof, and \$1,000 for each additional one thousand acres or portion thereof. Pit bond requirements are basically unchanged; however, the language allowing a surface owner to waive bonding for pits used to retain water produced in association with coal bed methane has been changed to read, “water produced solely in association with the recovery of coal bed methane gas.”

Finally, the rules retain the Supervisor’s right to require “bonds in special cases in amounts greater than set out in this rule.” Although, the current rules state that such determination is made, “upon notice and hearing and for good cause shown,” while the proposed rules simply state, “upon notice.”

### ***Bonds: Who?***

The proposed rules also modify *who* is subject to bonding and how the WOGCC addresses bonding requirements when wells are transferred. These changes are likely to have repercussions in the current price environment, as purchase and sales transactions increase. For example, in Chapter 3, Section 6 the proposed rules impose all bonding requirements on both the Owner and the Operator. The language of the proposed rule seems to indicate the WOGCC could require double bonding where the Owner and Operator are different. In instances where a well has multiple Owners, there is no guidance as to whether each owner is required to be

bonded. Under current WOGCC rules, “Owner” means “the person who has the right to drill into and produce from a pool and to appropriate the oil or gas he produces therefrom either for himself or others.” “Operator” is defined as the party who is “duly authorized by the Owner as the person engaged in the business of drilling and producing wells for oil and gas.” The draft of the rule revisions does not change these definitions.

This ambiguity in the Owner bonding requirement is further confirmed by other proposed revisions to the rules, which increase the timeframes for advanced notice of transfers or changes of operatorship from 30 to 60 days. Chapter 3, Section 5 states, “Any **Owner or part Owner**. . .who shall be bound under a performance bond and who shall convey his interest to another, shall submit written notice of transfer to the Supervisor at least **sixty (60) days** prior to the closing date of transfer.” (Emphasis added).

In addition, Section 4(a)(v) requires Owners and Operators to advise the Supervisor of all transfers of wells 60 days prior to the closing date of the transfer, to allow the Supervisor to evaluate the transfer and determine the need for additional bonding by the new Owner or Operator. This is an increase from the 30 days in the current rules. The Supervisor is then required to provide the parties a “preliminary determination of additional bonding” no later than 30 days after he receives notice of the transfer (currently 15 days). The proposed changes in these time frames could have substantial impacts on property transfers and may be difficult to meet without compromising negotiations.

The previous Owner and Operator continues to remain liable for plugging the wells until the new Owner and/or Operator provides the additional bonding, just as in existing rules. However, the proposed rule allows the Supervisor discretion to hold the prior bond for up to 6 months after the new bond has been posted to “evaluate the performance and viability of the new operator.” *Id.*

### ***Applications for Permits to Drill (APDs)***

The draft rules propose to extend the term of all APDs from one to two years. However, the fee for an APD will also increase ten-fold, from \$50.00 to \$500.00, higher than neighboring states. Operators will also be allowed to renew an APD for one additional 2-year term, for another \$500.00 fee. The proposed rules also contain additional information requirements regarding horizontal well activity in a spacing unit, for use by WOGCC in evaluating APDs.

### ***Conclusion***

The complete text of the proposed rule revisions/amendments can be found at <http://wogcc.state.wy.us/>, by clicking on the bucking horse on the right side of the screen under “Rule Changes.” The WOGCC is currently taking comments through the deadline of November 20, 2015 at 5:00 PM. Comments can be submitted by **MAIL** to the State Oil and Gas Supervisor, P.O. Box 2640, Casper, Wyoming 82602-2640; by **E-MAIL** to [wogcc\\_rules@wyo.gov](mailto:wogcc_rules@wyo.gov); or by **FAX** to the State Oil and Gas Supervisor at 307-234-5306. The

proposed rules will be “addressed” by the WOGCC at its regularly scheduled meeting on Tuesday, December 8, 2015, at 9:00 A.M. The WOGCC has not scheduled a public hearing, but will be required to do so if a request is made in compliance with the Wyoming Administrative Procedures Act.

Over the next several months, oil and gas companies should also watch for new proposed rules for flaring. The WOGCC has not yet commenced rulemaking, but the staff is in the process of developing recommendations to bring to the Commission. Those recommendations may be brought forward for rulemaking consideration before the end of 2015.

If you have any questions about the status or content of WOGCC rulemaking procedures, or if you would like assistance developing comments, please contact [Mike Wozniak](#), [Nicol Kramer](#) or [James Parrot](#).