

# Alaska Oil and Gas Association

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*Kara Moriarty, President & CEO*

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Commissioner Hollis French, Chair  
Alaska Oil & Gas Conservation Commission  
333 W. 7th Avenue  
Anchorage, AK 99501  
*Submitted by E-Mail to: [jody.colombie@alaska.gov](mailto:jody.colombie@alaska.gov)*

## Re: Proposed Revisions to 20 AAC 25.025 – Bonding Regulations

Dear Commissioner French:

Thank you for the opportunity to comment on the Alaska Oil and Gas Conservation Commission's ("AOGCC" or "Commission") proposed revisions to the bonding requirements contained in 20 AAC 25.025. The Alaska Oil and Gas Association (AOGA) is the professional trade association for the oil and gas industry, representing the majority of oil and gas exploration, production, refining and transportation companies in Alaska.

AOGA's members recognize their obligations to Alaskans and the environment for responsible resource development, part of which includes the necessity for bonding to ensure the safe and sufficient plugging and abandonment of a well when it is no longer in use. Although AOGA believes the combination of current Department of Natural Resources ("DNR"), AOGCC and Federal bonding requirements are sufficient, our member companies would consider modifications to current bonding requirements. The bonding thresholds in the proposed revisions are, however, too high. AOGA respectfully opposes these proposed revisions for the following reasons.

### **The Proposed Bonding Requirements Are Too High and Could Discourage New Investment**

Currently producers with more than one well on non-federal lands, are required to have statewide bonds up to \$700,000; \$200,000 for AOGCC<sup>1</sup> and \$500,000 for DNR.<sup>2</sup> While, facially, those are the regulatory requirements, many producers are required to provide the State additional bonding or other financial assurances well beyond those amounts. These assurances often reach well into the millions.

The proposed regulations represent a graduated schedule of bonding that creates significant increases from the current scheme. For example, a small producer with two wells would see an increase of 150%, a mid-size producer with 100 wells sees an increase of 4,900% while a large producer with 500 wells sees a 6,900% increase. Increases of this order of magnitude are both unprecedented and unreasonable.

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<sup>1</sup> 20 AAC 25.025.

<sup>2</sup> 11 AAC 83.160(c).

### *Current Alaska Bonding Requirements Already Parallel or Exceed Other States*

Alaska's current bonding requirements either parallel or exceed other states. For example, New Mexico's counterpart to AOGCC has a law similar to Alaska's which allows producers to provide a "blanket plugging financial assurance" not to exceed \$250,000.<sup>3</sup> Texas is also similar to Alaska. It has a three-tiered bonding schedule which is capped at \$250,000 for producers with more than 100 wells.<sup>4</sup> Texas is also flexible in the form of assurances it accepts, allowing for letters of credit, cash deposits, escrow, insurance, etc...<sup>5</sup> North Dakota allows a blanket bond for all wells of \$100,000.<sup>6</sup> Oklahoma requires either a bond, letter of credit, certificate of deposit, cashier's check or other negotiable instrument in the amount of \$25,000,<sup>7</sup> combined with a binding agreement between the producer and the State to plug all wells in accordance with State law.<sup>8</sup> The proposed bonding requirements are not in line, and in fact far exceed, those of other states.

### *The Immediate Vesting Schedule for New Wells Unduly Burdens Small Companies*

The costs of oil production in Alaska already far exceed those of Alaska's competitor states in the Lower 48. Perhaps recognizing the burden these proposed bonding requirements would place on existing producers, AOGCC proposes a three-year vesting schedule for current producers to come into compliance. No such courtesy is given to incoming producers bringing new investment to our State. As written, the proposed changes could discourage new investment in Alaska and add to the already high barriers to entry to doing business in our State.

### **The Proposed Regulation Creates Uncertainty**

Under the current regulation, the AOGCC Commissioner must release the surety bond if the wells are plugged and abandoned in accordance with 20 AAC 25.105. The proposed revision transforms a requirement of AOGCC, specifically that it "will" release the bond when plugging and abandonment is completed, into something discretionary; AOGCC "may" release the bond in the proposed regulation. This creates an added level of uncertainty as to what is expected of AOGA's members before a bond is released.

Additionally, the proposed revision would allow AOGCC to, on its own initiative, increase or decrease the bonding requirements based on "evidence that engineering, geotechnical, environmental, or location conditions warrant an adjustment of those amounts." The ability of the Commissioner to increase the bond required is not based on clearly defined conditions and standards.

### **AOGCC Should Consider A Producer's Agreements with DNR**

Many of our member companies are required by the DNR Commissioner to address the estimated cost of dismantlement, removal and restoration ("DR&R") through Financial Assurance Agreements or DR&R Agreements (collectively, "Agreements"). These Agreements address the anticipated DR&R costs for not only wells in operation, but also anticipated future wells. The proposed revisions neither acknowledge nor require AOGCC to take these Agreements into account. If AOGCC is to have discretion in setting different bonding requirements from what is set forth in the proposed regulation, AOGCC should also consider the Agreements a producer may have with DNR.

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<sup>3</sup> NMSA 70-2-14 (A).

<sup>4</sup> Texas Admin Code, Title 16, Part 1, Chapter 3, Rule 3.78.

<sup>5</sup> Id.

<sup>6</sup> N.D. Admin. Code Section 43-02-03-15.

<sup>7</sup> 52 O.S. 318.1

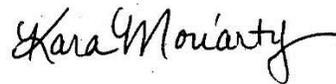
<sup>8</sup> Oklahoma Admin. Code Section 165:10-1-10, et. seq.

**AOGA Would Like to Participate in a Collaborative Approach to Revising Bonding Requirements**

AOGA would like to participate in a holistic approach to modifying current bonding requirements that also takes into account the requirements of other state agencies. AOGA encourages an approach that requires more communication among State agencies than currently exists. Any effort by AOGCC to modify current regulations should be done in conjunction with DNR, private landowners, large and small producers and other stake holders. These modifications should strike an appropriate balance between addressing the concerns of the land owners while at the same time encouraging new and continued investment in our State.

Thank you again for this opportunity and we look forward to working with the agency.

Respectfully submitted,

A handwritten signature in black ink that reads "Kara Moriarty". The signature is written in a cursive, flowing style.

KARA MORIARTY  
President & CEO