



New Mexico State Land Office Rule Relating to Financial Assurance Frequently Asked Questions

♦ **What is the purpose of the New Mexico State Land Office’s amendment to its financial assurance requirements for oil and gas leasing?** Financial assurance is a bond issued by a surety company or another instrument (such as a letter of credit issued by a bank or other financial institution) that provides a guarantee (up to the amount of the bond or other instrument) that oil and gas lessees comply with their environmental cleanup obligations and with other lease obligations. In the event the lessee does not honor their obligations, the financial assurance provides the New Mexico State Land Office (NMSLO) with a source of recovery.

The protection and long-term stewardship of trust assets – especially state trust surface land and mineral acreage – is an essential part of the Commissioner’s fiduciary duty to the state land trust and a top priority of Commissioner Garcia Richard. As a fiduciary of the state land trust, the Commissioner has an obligation to protect trust assets from damage and waste and ensure that the beneficiaries of the trust are not left with a significant fiscal burden related to cleanup costs that is properly borne by oil and gas lessees.

NMSLO’s prior financial assurance rule (19.2.100.23 NMAC) has been in place for decades. It requires oil and gas lessees to post bonds or other forms of financial assurance for the benefit of the state land trust’s beneficiaries (through NMSLO), state surface lessees, and others to protect against damage to state trust land and improvements caused by development and use of the affected lands from oil and gas production.

However, the agency’s base financial assurance levels for oil and gas lessees have remained unchanged since 1980 even as the number of inactive wells, oil and produced water spills, and other environmental harms, and the costs of addressing those harms, have all increased substantially in the same time period. Recent assessments by the Legislative Finance Committee and the New Mexico Oil Conservation Division confirm that the average cost of even a single inactive well and conducting associated site cleanup far outstrips the typical \$10,000.00 - \$25,000.00 oil and gas lease bond. *See* New Mexico Legislative Finance Committee, *Policy Spotlight: Orphaned Wells* (June 24, 2025) at 12 (indicating average per-well plugging costs alone were \$163,000.00 – in fiscal year 2024); New Mexico Oil Conservation Division, *FY 26 Plugging Program Update* (July 13, 2026) at 15 (OCD plugging costs averaged \$193,000.00 per well). In fact, most NMSLO oil and gas lessees have been able to post a single \$25,000.00 bond to cover an unlimited number of leases, so that the actual amount of financial assurance on a per-lease level may be as low as \$35.00.

NMSLO has taken a number of steps to address the pervasive damage caused by oil and gas operations on state land, including the launch of the Accountability and Enforcement Program in 2020 and the

creation of the Environmental Compliance Office in 2022. Through these and other efforts, NMSLO has obtained the plugging of more than 930 inactive wells to date, at an estimated cost savings upwards of \$100 million, the cleanup of a significant number of spills, and the establishment – for the first time in the agency’s history – of meaningful and enforceable expectations that lessees must fully restore the state-owned land they have used for oil and gas production.

These existing efforts, however, are not sufficient to adequately protect state trust lands and other resources (such as water, wildlife, and habitat); although NMSLO has filed nearly 50 enforcement lawsuits and a nearly equal number of bond claims, many lease sites remain contaminated and unreclaimed, preventing the restoration of the natural landscape and the full use of the land for other leasing purposes, and many irresponsible oil and gas producers have rendered themselves effectively judgment-proof by dissipating assets, flipping marginal wells and other properties to shell companies or poorly capitalized successors, filing for bankruptcy protection, and other maneuvers. To protect the financial interest of the state land trust and its beneficiaries, the Commissioner proposed and has now promulgated the Rule to ensure that available financial assurance moves closer toward (although it still does not reach) the actual costs associated with responsibly restoring state trust lands impacted by oil and gas development.

♦ **Where can I find the text of the Rule?** The Rule is a section within NMSLO’s Rule 100, Relating to Oil and Gas Leases (19.2.100 NMAC). The Rule is available on NMSLO’s website at <https://www.nmstatelands.org/bonding> along with related materials. It is also available on the State Records Center and Archives website at <https://www.srca.nm.gov/nmac-home/new-mexico-register/volume-xxxvii-issue-18/>

♦ **Who does the Rule apply to?** The Rule applies generally to entities or individuals who hold one or more NMSLO-issued oil and gas leases.

♦ **How did NMSLO develop and finalize the Rule?** NMSLO published a preliminary discussion draft of the Rule on its website in October 2025 and held a series of stakeholder meetings (noticed on the agency’s website) in Santa Fe on November 6 and 12, 2025, in Hobbs on November 14, 2025, and in Farmington on November 17, 2025 and a follow-up meeting in Santa Fe on January 21, 2026, to address questions and receive verbal and written comments. These stakeholder meetings informed a number of changes NMSLO made to the text of the proposed Rule prior to its publication.

NMSLO published the proposed Rule on April 7, 2026, and invited written public comment to be submitted by May 26, 2026, as well as in-person or virtual participation in the public rule hearing on May 27-28, 2026. The Commissioner and NMSLO staff considered all feedback received and incorporated some proposed written revisions into the final Rule.

♦ **What are the basic requirements of the Rule and how is the amended Rule different from the prior version?**

The Rule ...

Minimum Financial Assurance Requirements (19.2.100.23(A))

- Replaces the existing rule structure, which currently provides insufficient financial assurance minimums for different categories: \$10,000.00 (single lease bond); \$20,000.00 (multi-lease blanket bond); \$25,000.00 (multi-lease “megabond” covering oil and gas operations and other types of activities).
- Sets the new minimum per lease financial assurance requirement at \$150,000.00 (\$100,000.00 for mineral-only estate leases).

Heightened Financial Assurance Requirements (19.2.100.23(B))

- Provides heightened financial assurance requirements based on various risk categories, including the number of inactive wells, extremely marginal wells and unremediated spills on a lease, a pattern of spills or releases on state land, and other compliance factors.
- Caps the amount of financial assurance required at total estimated plugging, remediation, and reclamation costs.
- Allows for a deferral of the heightened financial assurance requirement if a lessee demonstrates that the conditions triggering the heightened requirement are being diligently addressed in a manner that is acceptable to the NMSLO.
- Provides that subject to heightened bond requirements may be subject to additional reporting requirements and the leases will be posted on the NMSLO’s public website.

Bulk Financial Assurance (19.2.100.23(C))

- Allows lessees to bundle financial assurance for multiple leases, with a modest discount available for leases in full compliance with NMSLO requirements.
- Caps the total financial assurance required of any single lessee at \$40 million for compliant leases (that is, leases not subject to heightened financial assurance requirements).

Annual Reporting (19.2.100.23(D))

- Establishes an annual report requirement so that lessees are in regular communication with the NMSLO about lease infrastructure, status of operations (e.g., inactive wells, plugged wells, spills) and other conditions that may affect financial assurance requirements and NMSLO management of acreage held by oil and gas leases.
- If there has been no change in conditions from the prior year’s report, allows lessees to certify to that effect rather than submitting an entirely new report.
- Sets an annual reporting deadline of July 1 of each year to report on activities occurring within the previous calendar year (January 1 – December 31).
- Permits operators of communitized wells subject to Commissioner-approved communitization agreements to submit annual reports for affected leases, under certain conditions.

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Periodic Adjustment and Review of Financial Assurance Levels (19.2.100.23(E))

- Provides for inflationary adjustments to financial assurance levels every five years.
- Specifies that the adequacy of financial assurance for each lease shall be reviewed no less frequently than every five years and provides that the NMSLO may adjust the required amount based on changes to compliance profile or other circumstances; lessees will be provided with

the reason(s) for any proposed adjustment and have an opportunity to respond to the issues raised.

- Offers downward adjustments to financial assurance requirements in the event the NMSLO gains access to Oil Conservation Division plugging bonds in the future.

Forms of Financial Assurance (19.2.100.23(F))

- Specifies alternative forms of financial assurance that may be permitted in lieu of a surety bond, including irrevocable letter of credit, cash deposit, or other forms of financial assurance determined to be appropriate on a case-by-case basis.
- Makes clear that self-insurance (which is not insurance) cannot be an acceptable form of financial assurance.

Waivers (19.2.100.23(G))

- Allows a lessee to request a waiver of financial assurance if the lessee does not intend to conduct or allow development on the lease acreage, and if there is no oil and gas related infrastructure or impacts (such as spills) already present on the lease acreage – with the caveat that the lessee must secure a financial assurance within 30 days of commencement of operations.

Riders Limited (19.2.100.23(H))

- Provides that the NMSLO will not accept riders or amendments to financial assurance instruments that change the name of the lessee or scope of coverage, or that add multiple leases to the same instrument without specific written approval from the NMSLO.

Claims on Financial Assurance (19.2.100.23(I))

- Details the steps NMSLO will take to file claims against bonds or other financial assurance instruments, including providing notice to the lessee.
- Allows operators of communitized wells subject to Commissioner-approved communitization agreements to submit financial assurance for affected leases, under certain conditions.

Notifications (19.2.100.23(J))

- Specifies that a lease cancellation notification for failing to secure an adequate financial assurance will be made by certified mail; notifications related to heightened bonding requirements, adjustments to financial assurance levels, the phase-in schedule or claims against a financial assurance shall be made by certified mail or courier.
- All other notifications or communications by the agency may be made certified mail or courier, regular mail, or email.

Release of Financial Assurance (19.2.100.23(K))

- Provides that financial assurances shall only be released upon a substitute instrument being approved or if the lessee no longer holds state oil and gas leases and there are no outstanding compliance issues.

Phase-in Schedule (19.2.100.23(L))

- Provides a phased-in schedule for the new financial assurance requirements: 90 days for leases subject to heightened financial assurance requirements; March 1, 2027 for lessees holding 50 or more leases; and June 1, 2027 for all other lessees.

♦**When does the Rule take effect?** The Rule was officially published and incorporated into New Mexico law (the New Mexico Administrative Code), on September 22, 2026, and becomes effective on September 28, 2026. The Rule, however, provides extended time for lessees to complete the undertakings that the Rule requires: March 1, 2027 is the deadline by which most larger lessees (lessees holding 50 or more leases) must post the financial assurance required by this Rule; June 1, 2027 is the deadline by which most smaller lessees must post the financial assurance required by the Rule; and July 1, 2027 is the deadline for 2026 annual reports.

♦**Are there exceptions to the Rule?** Some of the individual provisions of the Rule contain modifications or exceptions. By way of example, oil and gas lessees do not need to post financial assurance for leases that do not have any oil and gas development or spills located on them and where the lessee does not initiate oil and gas-related development or use (for instance, if the lessee is a broker that has purchased a lease for the purpose of selling it to another party).

♦**I am the oil and gas lessee but not the operator of record for wells on my lease; why am I subject to the Rule?** NMSLO looks to the lessee of record (the person or entity with whom NMSLO has a contractual relationship) to ensure compliance with lease provisions and with NMSLO laws and rules. The lessee is ultimately responsible for plugging wells, remediating spills, and reclaiming disturbance caused by oil and gas operations under the lease, whether or not the lessee is the operator of a given well and whether or not the lessee caused a spill or other contamination or disturbance. Financial assurance is important for this very reason – to ensure that NMSLO and the trust beneficiaries have protection from liability for harms caused by oil and gas operations on state trust land.

♦**Will NMSLO provide more guidance on how lessees can comply with the Rule?** Yes. The Rule provides that annual reports will be submitted in a form or format prescribed by the Commissioner, which may include electronic submission; guidance on reporting format will be provided in advance of the July 1, 2027 annual report deadline. NMSLO's bond forms will also be updated to account for the changes in the Rule. Updated forms will be made publicly available prior to the dates by which lessees have to submit financial assurance required by the Rule. Lessees should check the NMSLO website for updates, and in addition all individuals and organizations who provided comments on the proposed Rule will receive notifications about these implementation updates.

♦**Who do I contact if I have more questions?** If you have questions related to financial assurance requirements for oil and gas lessees or compliance with the Rule, please contact NMSLO's Oil, Gas and Minerals Division – Denise Gallegos (dagallegos@nmslo.gov) or Loriann Gurule (lgurule@nmslo.gov).