

**STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY**

SUPERVISOR OF WELLS INSTRUCTION 1-2024

CONFORMANCE BONDS AND ACTIVE OIL AND GAS WELL MANAGEMENT

Purpose

The purpose of this Supervisor of Wells Instruction is to provide consistent standards for actively managing oil and gas wells and to establish the number of wells allowed on a blanket bond for oil and gas wells, under the authority of Part 615, Supervisor of Wells, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), and the administrative rules promulgated thereunder.

Applicable Statute and Rule

Section 61506 of Part 615 states:

The supervisor shall prevent the waste prohibited by this part. To that end, acting directly or through his or her authorized representatives, the supervisor is specifically empowered to do all of the following:

- (a) To promulgate and enforce rules, issue orders and instructions necessary to enforce the rules, and do whatever may be necessary with respect to the subject matter stated in this part to implement this part, whether or not indicated, specified, or enumerated in this or any other section of this part.

Section 61506(p) of Part 615 gives the Supervisor of Wells authority:

To require the filing of an adequate surety, security, or cash bonds of owners, producers, operators, or their authorized representatives in such reasonable form, condition, term, and amount as will ensure compliance with this part and with the rules promulgated or orders issued under this part and to provide for the release of the surety, security, or cash bonds.

The following rules address bonding authority:

R 324.1301 of the administrative rules promulgated under Part 615 states:

The supervisor, under section 61506 of the act, may do any of the following:

- (a) Enforce all rules, issue orders, determinations, and instructions necessary to enforce the rules and regulations, and do whatever may be necessary with respect to the subject matter stated in these rules to carry out the purposes of these rules and the act, whether or not the orders, determinations, or instructions are indicated, specified, or enumerated in the act or rules...

R 324.212 of the administrative rules promulgated under Part 615 states:

A person who drills or operates a well shall file a conformance bond with the supervisor for the following amounts, as applicable:

- (a) Single well conformance bonds shall be filed in the following amounts, as applicable:
- (i) \$20,000.00 for wells up to and including 2,000 feet deep, true vertical depth.
 - (ii) \$40,000.00 for wells deeper than 2,000 feet, but not deeper than 4,000 feet, true vertical depth.
 - (iii) \$50,000.00 for wells deeper than 4,000 feet, but not deeper than 7,500 feet, true vertical depth.
 - (iv) \$60,000.00 for wells deeper than 7,500 feet, true vertical depth.

(b) A person may file single well conformance bonds in an amount equal to 1/2 of the amount specified in subdivision (a) of this rule for wells where well completion operations have not commenced. A person shall not file single well conformance bonds under this subdivision for more than 5 wells. A person shall file single well conformance bonds in the full amount specified in subdivision (c) of this rule or file a blanket conformance bond as specified in subdivision (c) of this rule or submit a statement of financial responsibility pursuant to R 324.210 before the commencement of well completion operations on any well.

(c) Blanket conformance bonds may be filed as an alternative to single well conformance bonds. If a blanket conformance bond is utilized, then the permittee shall provide the supervisor with a list of wells covered by the blanket conformance bond. A maximum of 100 wells may be covered by a blanket conformance bond. If the permittee has more than 100 wells in a category, then the additional wells may be covered by single well conformance bonds or additional blanket conformance bonds. Blanket conformance bonds shall be filed in the following amounts, as applicable:

- (i) \$100,000.00 for wells up to and including 2,000 feet deep, true vertical depth.
- (ii) \$200,000.00 for wells deeper than 2,000 feet, but not deeper than 4,000 feet, true vertical depth.
- (iii) \$250,000.00 for wells deeper than 4,000 feet, true vertical depth.

(d) A person shall not be required to file a blanket conformance bond or bonds in an aggregate amount of more than \$250,000.00. When the aggregate amount of the conformance bonds is \$250,000.00, the

permittee may file 1 blanket conformance bond of \$250,000.00 to cover all of his or her wells.

The following rules address matters involving transfer and other active management of oil and gas wells:

R 324.206(8) of the administrative rules promulgated under Part 615 states:

If the permittee of a well is under notice because of unsatisfactory conditions at the well site involved in the transfer, then the permit for a well shall not be transferred to a person until the permittee has completed the necessary corrective actions or the acquiring person has entered into a written agreement to correct all of the unsatisfactory conditions.

R 324.205 of the administrative rules promulgated under Part 615 states:

Rule 205. The supervisor shall not issue or transfer a permit, other than as provided by R 324.206(7) and (8), to a person who has been determined to be in violation of any of the following:

- (a) The act.
- (b) These rules.
- (c) Permit conditions.
- (d) Instructions.
- (e) Orders of the supervisor.
- (f) An order of the Department of Environmental Quality.

R 324.209 of the administrative rules promulgated under Part 615 states:

1. A permittee of a well that has not been used for its permitted purpose during 12 consecutive months shall plug the well unless the well is granted temporary abandonment status. Temporary abandonment status shall be allowed only upon written application to, and approval of, the supervisor or authorized representative of the supervisor.
2. The term of the initial temporary abandonment status shall not be more than 12 months, unless the well is shut-in awaiting the connection of a sales line. For a well that is shut-in awaiting connection of a sales line, the term of the initial temporary abandonment status shall be up to and including 60 months.
3. Extensions for temporary abandonment status beyond the initial term provided in subrule (2) of this rule may be granted by the supervisor if, after application by the permittee, the supervisor determines that waste shall be prevented. When approving the extensions, the supervisor may require special actions and monitoring by the permittee to ensure the prevention of waste.

R 324.903 of the administrative rules promulgated under Part 615 states:

- (1) A permittee of a well shall commence plugging operations within 90 days after drilling completion or well completion as a dry hole, when the well has not

economically produced or has not been utilized for its permitted use for more than 12 consecutive months, when a change of well status has not been granted, or when the permitted use has been suspended for more than 12 consecutive months. The supervisor may require, or a permittee may submit, proof that is necessary to determine if the well is being economically produced.

(2) After receiving a written request showing just cause why the well should not be plugged, the supervisor or authorized representative of the supervisor may grant temporary abandonment status pursuant to R 324.209 or require completion of the plugging operations.

(3) A permittee may petition the supervisor for a hearing to show cause why the well should not be plugged.

Background

Part 615 requires the Supervisor of Wells (Supervisor) to prevent waste. Part 615 also gives the Supervisor authority to require adequate financial assurance for compliance with the part (statute), administrative rules, orders, and instructions of Part 615. Part 615 specifically empowers the Supervisor all of the following:

- (a) To promulgate and enforce rules, issue orders and instructions necessary to enforce the rules, and do whatever may be necessary with respect to the subject matter stated in this part to implement this part, whether or not indicated, specified, or enumerated in this or any other section of Part 615.

Recently, there has been a consolidation of well ownership in the oil and gas industry. This consolidation has caused a decrease in the number of operators owning wells which has resulted in a corresponding decrease in the total amount of blanket conformance bonds in the aggregate. Generally, consolidation of well ownership has been caused by fluctuating commodity prices, regulatory changes, the waning economic life of wells, insolvency, and other industry factors. This consolidation has caused an increase in the transfer of large numbers of wells. Michigan's oil and gas wells are now owned by less operators and thus covered by fewer blanket conformance bonds. Companies must also produce wells with adequate surety and in a manner that assures that compliance, incidents, and final plugging will be addressed as required by Part 615.

In 2018, Part 615 Administrative Rule R 324.212 was updated to fully double required single well bond amounts. At that time, blanket bonds were not addressed. Currently, R 324.212 (c) and R 324.212 (d) appear to be inconsistent concerning the maximum number of wells that may be covered by a blanket bond. R 324.212(c) provides for blanket bonds in differing amounts for well categories based on true vertical depth. Each separate depth category is limited to a maximum of 100 wells of the corresponding depth limitation. Additional wells over the 100 well limit per depth category may be covered by single well conformance bonds or additional blanket conformance bonds. Notwithstanding R 324.212(c), R 324.212(d) limits total conformance bonds to a maximum of \$250,000. When

the aggregate amount of the conformance bonds is \$250,000, the permittee may file 1 blanket bond of \$250,000 to cover all of his or her wells. To address the industry consolidation and to provide for the filing of adequate surety, security, or cash bonds as will ensure compliance with Part 615 and with the rules promulgated or orders issued under this part and to prevent waste, it is prudent to place a limitation on the number of wells that can be covered by a blanket conformance bond under R 324.212(d). Like the 100 well limit applied to depth limitations, there should be a limit of 100 wells drilled or transferred under the R 324.212(d) blanket conformance bond moving forward. Under R 324.212(d), blanket conformance bonds in the amount of \$250,000 will cover up to and including 100 wells. Additional wells, in excess of 100 wells, will need either single well bonds or an additional \$250,000 blanket bond.

In 2023, Supervisor Instruction 1-2004(Amended) was updated to address similar concerns related to conditions for approval of Temporary Abandonment Status. This Supervisor Instruction works in tandem with that Supervisor Instruction to reduce future plugging liability for oil and gas wells regulated under Part 615 to prevent waste and reduce the potential of orphaned wells. In reference to Supervisor Instruction 1-2004 (Amended) which provides, in part, that not more than 10% of a permittee's Part 615 wells may be held under temporary abandonment status at one time, it is noted that the 10% limit is a maximum allowance, intended to reduce a permittee's temporary abandonment percentage and potential to become orphaned. Supervisor Instruction 1-2004 (Amended) is not amended by this Instruction.

This Supervisors of Wells Instruction sets forth a limit of 100 wells per blanket bond on all new wells permitted (drilled or transferred) to an owner/operator and provides instruction on active well management to help ensure that wells will neither cause waste nor become orphaned.

Definitions

As used in this Instruction and according to administrative rules:

“Active Well Management” means a concept of working proactively with companies to address future plugging liability, ensure ongoing compliance with operations, prevent waste, and reduce potential orphaned wells.

“Final completion” means the time when locating, drilling, deepening, converting, operating, producing, reworking, plugging, and proper site restoration have been performed on a well in a manner approved by the supervisor, including the filing of the mandatory records, and when the conformance bond has been released.

“Wells Not Utilized for Permitted Use” means wells not being utilized and is in a status of shut-in, temporary abandonment status, or plugging complete (PLC) (plugged but site has not been approved for plugged and abandoned, meaning there are remaining issues, and the financial assurance has not been released).

Other terms used in this Instruction have the same meaning as in the administrative rules promulgated under Part 615.

Applicability of Instruction

This Instruction applies to oil and gas wells permitted, drilled, or transferred after the effective date of the Instruction. This Instruction is issued in addition to and in conjunction with all other applicable provisions of Part 615, and all applicable administrative rules promulgated thereunder. It does not affect, amend, or modify existing blanket bonds held by operators or existing formal written consent agreements (including transfer settlement agreements) with the Supervisor.

Instruction

PART I. Blanket Bonds

After the effective date of this Instruction, blanket conformance bonds will cover a maximum of 100 wells per \$250,000 blanket conformance bond under R 324.212(d). This applies to all new wells permitted/drilled by or transferred to an operator after the effective date of this Instruction. This Instruction does not apply to the existing wells on an operator's blanket conformance bond or supplemental bonding in place prior to the effective date. All wells in excess of 100 wells covered by a blanket conformance bond existing prior to the effective date of this Instruction shall remain covered by the pre-existing blanket conformance bond and are unaffected by this Instruction. This means that if an operator with an existing blanket conformance bond has 100 or more wells currently under a blanket conformance bond, the next and following well(s) they drill or acquire after the date of this Instruction will require either a single well bond or a new blanket conformance bond. This Instruction does not apply to the existing supplemental bonds on file with the Supervisor prior to the effective date. For wells permitted, drilled, or transferred after the effective date, this Instruction modifies the intent and applicability of R 324.212(d). This Instruction prudently addresses adequate financial surety and plugging liability in Michigan's oil and gas fields, prevents waste and orphaned wells, and is consistent with the intent of R 324.212(c) and R 324.212(d) by limiting the numbers of wells on a blanket conformance bond.

PART II. Active Well Management

The Michigan Department of Environment, Great Lakes, and Energy's Oil, Gas, and Minerals Division (OGMD) and operators shall implement Active Well Management to ensure proactive and ongoing review of oil and gas operator's performance in accord with its statutory and regulatory authority.

The OGMD, as the Supervisor's authorized representative shall perform annual entity reviews to determine if the organizational report and data are current, determine the company's Temporary Abandonment, Plugging Complete, and Shut-In Well counts, determine operators Temporary Abandonment and Shut-In ratio to producing wells, determine monitoring and reporting compliance, and identify any other compliance issues with the operator based on database records.

The OGMD may schedule an annual meeting with the operator to review items of non-compliance or PLC/Temporary Abandonment/Shut-In ratios higher than 10%. The OGMD shall also follow the Department and Division Compliance and Enforcement Policy.

The OGMD and Operator may enter into written administrative consent agreements or judgements as necessary to address issues of non-compliance and establish plugging plans or other compliance paths to ensure that no more than ten percent of a permittee's Part 615 wells are held under temporary abandonment status at one time. The 10% ratio of wells not being used for intended purpose is a maximum, subject to the just cause provisions of R 324.903, and companies should reduce the ratio below this limit when prudent, practicable, and when waste can be avoided. The statutory and administrative rules to plug wells are not obviated by anything in this Instruction. Administrative consent agreements and judgements may require supplemental bonding. Active Well Management should be used collaboratively to help companies reduce the number of their temporary abandonment wells. When considering just cause for the continuation of Temporary Abandonment, factors including, but not limited to, prevention of waste, economics, potential enhanced recovery, existence of private voluntary plugging funds, penalty status and compliance history, consent agreements, judgments, and supplemental bonding may be considered through Active Well Management.

Pursuant to administrative rule R 324.206(8), if the permittee of a well is under notice because of unsatisfactory conditions at the well site involved in the transfer, then the permit for a well shall not be transferred to a person until the permittee has completed the necessary corrective actions or the acquiring person has entered into a written agreement to correct all the unsatisfactory conditions.

As part of active well management, a continued demonstration of established and irrevocable escrow accounts for a well's plugging may be incorporated into written administrative consent agreements or judgements to further address an operator's temporary abandonment ratio.

Part III. Transfers

When reviewing applications for transfer of a well, the OGMD may review the commercial value or potential for use in enhanced recovery operations in the future. As a condition of transfer, the Supervisor may require additional supplemental bonding associated with a shut in well, a temporarily abandoned well, or a well in conjunction with a written administrative consent agreement or judgement to ensure the well is brought into regular production or to final completion.

Exceptions

The Supervisor may grant an exception to the provisions of this Instruction if necessary to protect the environment, public safety, or worker safety.

THIS INSTRUCTION IS EFFECTIVE June 4, 2024.

June 4, 2024

Date: _____



ADAM W. WYGANT
ASSISTANT SUPERVISOR OF WELLS

(Note: Lessening of these requirements within 10-years of the effective date of the Instruction, unless codified into administrative rule, could have implications for federal orphan well plugging funding)