

IDAPA 20.07.02 Draft #1 and #2 Response to Comments (05/16/2024)

Rule Topic	Rule Number	Comment	Reply
Definitions - Surface Casing	20.07.02.010.038	Better define the term to state that the actual casing does not act to seal off freshwater zones, but rather the cement or grout which seals off the zones. (4/29/2024)	Added the term "and cemented in place" to clarify the definition. Source: Hyne, Norman J. 2014. Dictionary of Petroleum Exploration, Drilling & Production, Second Edition. Pennwell Publishing, 769 p., page 521.
Public Comment	20.07.02.040	15 days is already problematic for -the public- to be both informed and to formulate a response to anything; making it 10 days is like making it none. That extra 5 days is nothing for the industry; for a private commenter (whose jobs -aren't- to do with gas&oil industry or administration), it's a major difference. Please do NOT reduce any public commenting or notification period!	Public comment period is now defined in Idaho Code § 47-316(1)(c) as ten (10) days. Reductions from fifteen days to ten days aligns Rule with statutory requirements. Revision remains.
Geophysical Operations	20.07.02.100.02.g	It is absurd that only 6"+ diameter trees cut -without permission- would be compensated for to landowners. The author of this may have been thinking of woodlots, but in any other situation, any living tree that was purposefully -planted- by a landowner would cost big bucks to replace; they should -all- be compensated. (You could call it up to -1"- in diameter. Many pricey nursery trees are that small.)	Permits for seismic operations do not grant any access rights to owners, operators, or contractors conducting seismic operations. Surface use is governed through a separate agreement or lease between the owner, operator, or contractor and the private landowner. These private parties are free to agree to terms of access, including limitations on disruptions to vegetation or landscaping. This rule is intended to set a minimum standard for tree removal and compensation but does not prevent the parties from agreeing to more restrictive standards.
Permit to Drill, Deepen or Plug Back - Permit Denial	20.07.02.200.05	Keep the denial reasons as part of the Rule or they may not be enforced, or there might be a question at a later date.	<p>a. Application fee was not submitted - this is addressed in Idaho Code § 47-316(1) and IDAPA 20.07.02.200.02</p> <p>b. Application is incomplete - this is addressed in IDAPA 20.07.02.200.04</p> <p>c. Failure to post required bonds - this is addressed in IDAPA 20.07.02.220</p> <p>d. Proposed well will result in a waste of oil or gas, a violation of correlative rights, or the pollution of freshwater supplies. - this is addressed in Idaho Code § 47-315 and Idaho Code § 47-316(1)(b) Department policy is to provide the reason for denial in a letter, citing the appropriate Statute or Rule as noted above. The enumerated listing of reasons for which a permit may be denied were removed because those requirements were already provided for in rule or statute. Added language to 20.07.02.200.01 to clarify that permits may be suspended or revoked and applications denied, for failure to comply with these rules, the Act, or orders of the Commission or Department.</p>

Well Treatments	20.07.02.210.03	Keep the denial reasons as part of the Rule or they may not be enforced, or there might be a question at a later date (same concern as 20.07.02.200.05)	<p>a. Application does not contain the information in Subsection 210.01 of these rules - self explanatory</p> <p>b. Application fee was not submitted - this is addressed in Idaho Code § 47-316(1) and IDAPA 20.07.02.200.02</p> <p>c. Proposed well will result in a waste of oil or gas, a violation of correlative rights, or the pollution of freshwater supplies. - this is addressed in Idaho Code § 47-315 and Idaho Code § 47-316(1)(b) Department policy is to provide the reason for denial in a letter, citing the appropriate Statute or Rule as noted above. Same comment as above and the language inserted into 200.01 covers all permits and applications issued under Subchapter C, including well treatment applications.</p>
Hydraulic Fracturing - Well Integrity	20.07.02.211.03	No doubt you wish to use "MIT" in place of "mechanical integrity test" here, since you're doing such with other acronyms in the Definitions.	Revision made, along with other instances of replacing "mechanical integrity test" with "MIT."
		<p>These Individual well surety bond rates are abysmally low for what they eventually -must- cover; and the Blanket bonds are therefore even more outrageously low... which requires -the taxpayers of Idaho- to fill in whatever is required. It has nothing to do with the gas&oil company, except insofar as the surety insurance company decides that the company is a poor risk for the bond; it has everything to do with the reality of what it -is-, at some point, going to take to plug/reclaim a well - and they will -all- hit that wall at some time or another in our collective futures. These projected prices are already -far- out of alignment with actual costs - and the costs of wages, materials (think cement - !), equipment/operation costs, etc. keep going up and up.</p> <p>Following are quotes from several articles about the true costs of well plugging. (Note that a great many of the abandoned wells referred to in these situations were likely not terribly deep and were surely mostly conventional wells. Even when some modern fracked wells are factored in, the average true costs mentioned are WAY above the measly \$10,000 each, or \$5000 each for blanket bonds here.)</p> <p>https://www.rff.org/publications/journal-articles/decommissioning-orphaned-and-abandoned-oil-and-gas-wells-new-estimates-and-cost-drivers/ (2021)</p> <p>"We analyze data from up to 19,500 wells and find that median decommissioning costs are roughly \$20,000 for plugging only, and \$76,000 for plugging and surface reclamation. ... Each additional 1000' of well depth increases costs by 20%, ...natural gas wells are 9% more expensive than wells that produce oil..."</p>	<p>In addition to the default bonding requirements listed in the rule, subsection .220.04 allows the Department to impose additional bonding requirements if the circumstances suggest that the proposed well poses a liability risk in excess of that normally expected. For instance, an exceptionally deep well may be subject to additional bonding requirements based on the increased costs of plugging and remediation expected. Comparison of benchmark states financial assurance requirements from Interstate Oil & Gas Compact Commission 2016 report, "State Financial Assurance Requirements" Updated amounts for all states (shown in red below).</p> <p><u>Alaska</u>- Surety or personal \$100,000 minimum for single well, \$200,000 minimum for a blanket bond covering all the operator's wells (20 AAC 25.025, 1999.) Updated- Amount 1: \$400,000 per well for 5 wells, 6 to 20 wells \$2,000,000 plus \$250,000 for each well above 5 wells. 21 to 40 wells \$6,000,000, 41 to 100 wells \$10,000,000, 101 to 1,000 wells \$20,000,000, over 1,000 wells \$30,000,000. The Commission has discretionary authority to raise bond amounts based on circumstances.</p> <p><u>Montana</u>- did not report Updated- single well 2,000 feet or less \$1,500, single well 2,000 feet to 3,501 feet \$5,000, single well greater than 3,501 feet \$10,000; blanket bond for multiple wells \$50,000. The board has discretionary authority to</p>

Bonding	20.07.02.220	https://hydrocarbonwell.com/how-much-does-it-cost-to-plug-an-oil-and-gas-well/ (current plugging service's webpage)	<p>increase single well bonds from \$1,500 to \$3,000, \$5,000 to \$10,000 or \$10,000 to \$20,000 respectively, and blanket bonds from \$50,000 to \$100,000 (Administrative Rule 36.22.1308, amended 3/23/2007)</p> <p><u>Nevada</u>- \$10,000 minimum for first/single well, \$50,000 minimum blanket bond covering all the operator's wells. Nevada has discretionary authority to raise bond amount based on circumstances (NAC522.230, 1989) No changes.</p> <p><u>North Dakota</u>- letter of credit, surety, assignment of savings account or cash in the amount of \$5,000 plus \$1.00 per linear foot for single well (15A NCAC 05h .1403, 2015); \$50,000 for single well greater than 2000 feet (NDAC 43-02-03-15, 2014), \$100,000 blanket bond for two to six non-producing wells (NDAC 43-02-03-15, 2014) No changes. (Note: ND is not listed as one of the "benchmark" states, but it is more active than MT or SD)</p> <p><u>Oregon</u>- did not report Updated- single well less than 10,000 feet \$25,000, greater than 10,000 feet \$50,000; blanket bond at a minimum of \$150,000 with exclusions for wells with a gross annual production in dollars that is greater than the bond amount. Blanket bond amounts are calculated based on the sum of the calculated individual bond amounts for each well, minus exclusions. (632-010-0205, updated 3/21/2013)</p> <p><u>South Dakota</u>- single well 5,500 feet or less \$10,000, blanket bond \$30,000. Single well greater than 5,500 feet \$50,000, blanket bond \$100,000 (SD Codified Laws 45-9-15, 7/1/2013) Updated- single well (any depth) \$50,000; blanket bond \$100,000. Board has discretionary authority to require an additional \$20,000 in surety for each well that is inactive or idle for more than six months. (SD Codified Laws 45-9-15, 4/29/2021)</p> <p><u>Utah</u>- Surety, CD, letter of credit or cash in the amount of \$30,000 for single wells less than 10,000 feet (R649-3-1.5, 2003); \$100,000 blanket bond covering all the operator's wells (R649-3-1.6, 2003) Updated- single wells greater than 10,000 feet \$60,000; blanket bond of at least \$120,000 for wells greater than 1,000 feet, based on audited financial assessment of the operator. <u>Washington</u>-</p> <p>did not report Updated- single well bond not less than \$50,000, blanket bond not less than \$250,000 (WAC General Rules 344-12-060)</p> <p><u>Wyoming</u>- Cashiers check, Surety, CD or letter of credit in the amount of \$10 per foot for individual wells; \$100,000 for all wells (Chapter 3, Section 4, 2016) No changes.</p>
		<p>"Some took a couple weeks, some took several months. Some cost \$20,000. Some cost over \$1,000,000. These prices do not include reclamation or site prep if needed. If you have a shallow well (less than 1000' deep), ...and the well was recently in production, you may very well get it plugged for \$20,000-\$25,000. ...If there is an obstruction (about 25% of the time), ...this usually increases the cost \$20,000+."</p>	
		https://www.denver7.com/news/local-news/colorados-costs-to-plug-abandoned-oil-and-gas-wells-shifting-from-taxpayers-to-companies (2023; Colorado)	
		<p>"The ECMC estimates that well-plugging costs an average of \$92,000."</p>	
		https://coloradosun.com/2023/03/08/oil-gas-companies-plug-remediation-costs/ (2023; Colorado)	
		<p>"The commission [COGCC] has calculated that the cost of remediating a well site is about \$1000,000 and the cost of plugging a well, dependig on its depth, ranging from \$10,000 to \$40,000, with an average total of \$120,000 per well."</p>	
		https://apnews.com/article/business-environment-and-nature-climate-change-7392636504b2763de07ff4b3fe78710e (2021)	
		<p>"The cost to plug an orphaned well varies... In North Dakota, where some wells are drilled to depths of more than 20,000', it can cost \$150,000 to plug a single well and restore the land around it. In Pennsylvania, the state budgets about \$33,000 to plug each well."</p>	
		https://wyomingtruth.org/blm-plan-would-hike-bond-requirements-on-oil-and-gas-drilling/ (2023)	
		<p>"Under a proposal introduced [in summer 2023], BLM would raise the amount of money oil and natural gas operators would have to pay in bonds - from \$10,000 to \$150,000 for individual drilling leases..."</p>	
<p>(And according to this, that change is imminent: https://www.blm.gov/sites/default/files/docs/2024-04/BLM-Final-Onshore-Oil-and-Gas-Leasing-Rule-General-Fact-sheet.pdf)</p>			
<p>Should the procedure for calling in a bond be included in the Administrative Rule?</p>	<p>Unsure if the procedure is in other state agency administrative rule. In most cases the bond request follows a court order, so the procedure may fall outside agency guidance. More research needed.</p>		

Accidents and Fires	20.07.02.302	Accidents and Fire - Local emergency services should be notified of -all- drilling activities!, and be given a copy of the gas&oil company's required emergency response plan. A mere suggestion that the company "coordinates with" them is entirely too wimpy.	Coordination with local first responders is already occurring. Rules also require the operator to make the emergency response plan available at the well for use and inspection. Emergency responders will have access to this plan.
Active Wells	20.07.02.500.02	You asked me at the Fruitland meeting what I would like to see in the way of extensions in the rules. After some thought, I would suggest any extension be limited to no more than the initial stated time frame in the rule...ie 24 month rule would allow for application for a maximum of one 24 month extension.	A 24 month limit on an extension might be too burdensome on an operator, in particular if there were a legal issue preventing them from producing or otherwise performing operations on a well. Setting the extension at ten years allows for extenuating circumstances. This does not preclude the Department from setting a lesser amount of time, or denying the extension altogether. Proposed ten year limit remains.
Inactive Wells	20.07.02.501.03	You asked me at the Fruitland meeting what I would like to see in the way of extensions in the rules. After some thought, I would suggest any extension be limited to no more than the initial stated time frame in the rule...ie 24 month rule would allow for application for a maximum of one 24 month extension.	A 24 month limit on an extension might be too burdensome on an operator, in particular if there were a legal issue preventing them from producing or otherwise performing operations on a well. Setting the extension at six years allows for extenuating circumstances. This does not preclude the Department from setting a lesser amount of time, or denying the extension altogether. Proposed six year limit remains.
Well Plugging - Plugging Dry Holes	20.07.02.502.03	Why on earth would you "require" written notification in 502.02 and then say here that only verbal notification is required? - that's ridiculous. You need a paper trail, period, not person-to-person verbal MIS(perhaps)communication.	Verbal notification is permitted for operations that the department is not required to witness. Plugging a well that is currently actively drilling is conducted with the drilling rig which is on site, so it is in everyone's best interests, including the public, to commence plugging operations as soon as possible. 502.04 through 502.06 describe the plugging requirements and subsequent plugging report to be filed within thirty (30) days which is sufficient for the record. No changes.