



# **Transfer of Infrastructure and Liabilities - Assessment Criteria and Considerations Toolbox for State and Provincial Regulators**

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## **Executive Summary**

Transfer of infrastructure such as wells, facilities, and pipelines, between companies is a core issue, as regulators want to ensure infrastructure and sites are in the control of companies that have the appropriate operational capability. Additionally, regulators want to ensure that the infrastructure always remains with companies that have the financial capability to address the liabilities, being the costs to decommission and reclaim, should it be necessary.

In order to better understand the myriad of requirements across North America, the International Committee, and Legal and Regulatory Committees have joined efforts to conduct this survey.

## **Questionnaire**

The questionnaire provided is as follows

### **Transfer of Infrastructure and Liabilities - Assessment Criteria and Considerations**

Transfer of infrastructure such as wells, facilities, and pipelines, between companies is a core issue, as regulators want to ensure infrastructure and sites are in the control of companies that have the appropriate operational capability. Additionally, regulators want to ensure that the infrastructure always remains with companies that have the financial capability to address the liabilities, being the costs to decommission and reclaim, should it be necessary.



In order to better understand the myriad of requirements across North America, the International Committee, and Legal and Regulatory Committees have joined efforts to conduct this survey.

**Who is assessed?**

- Both the transferor and transferee?
- Are working interest participants or other financially invested parties assessed?
- Other?

**What infrastructure is subject to transfer requirements?**

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
<b>Wells</b>		
<b>Facilities</b>		
<b>Pipelines</b>		
<b>Sites \ Land Associated With the Infrastructure</b>		

**What is analyzed?**

- Appropriateness of financial assurance provided to the regulator?
- Corporate solvency?
  - Please list any key indicators that are used
    - Debt to asset ratio
    - Asset to liability ratio
    - Active to Inactive ratio of companies or of infrastructure being transferred
- Status of infrastructure (active, inactive, etc.)?
- Compliance status?
- Integrity of infrastructure?
- Other?

**When is the assessment conducted?**

- Identification of a pending transfer?
- Upon formal submission?
- Other?

**What assurances are in place?**

- Necessity of financial assurance being provided to the regulator in advance of a transfer occurring?
- Specific conditions applied to the approval of the transfer?
  - If so, what is the suite of conditions commonly used?
- Ability to reverse a transfer?
- Joint and several liabilities for the entire ownership path for each piece of infrastructure?
- Other?

# Canadian - Survey Responses

## Alberta

### Who is assessed?

- Both the transferor and transferee? Yes, both the transferor and transferee are assessed
- Are working interest participants or other financially invested parties assessed? No
- Other?

### What infrastructure is subject to transfer requirements?

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
<b>Wells</b>	<b>All Wells</b>	<a href="http://www.aer.ca/rules-and-regulations/directives/directive-006">http://www.aer.ca/rules-and-regulations/directives/directive-006</a> <a href="http://www.aer.ca/rules-and-regulations/directives/directive-024">http://www.aer.ca/rules-and-regulations/directives/directive-024</a> <a href="http://www.aer.ca/rules-and-regulations/directives/directive-075">http://www.aer.ca/rules-and-regulations/directives/directive-075</a> <a href="http://www.gp.alberta.ca/documents/Regs/1971_151.pdf">http://www.gp.alberta.ca/documents/Regs/1971_151.pdf</a> <b>Sect 2.050(1)</b>
<b>Facilities</b>	<b>All facilities</b>	<b>As above</b>
<b>Pipelines</b>	<b>All pipelines</b>	<b>As above</b>
<b>Sites \ Land Associated With the Infrastructure</b>	<b>All land</b>	<b>As above</b>

### What is analyzed?

- Appropriateness of financial assurance provided to the regulator? Yes. We ensure that when financial security is required, it is the correct amount and in a form acceptable to the AER
- Corporate solvency?
  - Please list any key indicators that are used

- Debt to asset ratio - No
- Asset to liability ratio – The AER calculates the deemed assets and deemed liabilities of both parties associated with a transfer. If the assets are less than the liabilities for either party in a post transfer calculation, financial security must be provided to increase the assets to equivalency with the calculated liabilities.
- Active to Inactive ratio of companies or of infrastructure being transferred - No
- Status of infrastructure (active, inactive, etc.)? – Not assessed
- Compliance status? Only assessed when one of the companies is on high level enforcement
- Integrity of infrastructure? Not assessed
- Other?

### **When is the assessment conducted?**

- Identification of a pending transfer? We are not notified in advance of a pending transfer
- Upon formal submission? – When a formal transfer application is submitted, the AER conducts the assessment
- Other?

### **What assurances are in place?**

- Necessity of financial assurance being provided to the regulator in advance of a transfer occurring? – Until appropriate financial assurances are in place, when required, the transfers will not proceed.
- Specific conditions applied to the approval of the transfer? Not a standard practice. Only in exceptional circumstances is this done.
  - If so, what are the suite of conditions commonly used?
- Ability to reverse a transfer? Only with our largest facilities is the option for reversal of a transfer available. <http://www.aer.ca/documents/directives/Directive024.pdf>
  - Sect 10.3 “If a licensee of a facility in the Large Facility Program becomes defunct within 24 months of a transfer of the license”
- Joint and several liability for the entire ownership path for each piece of infrastructure? The AER only holds the current licensee of record responsible while they are solvent. The AER only pursues the working interest participants when they licensee of record becomes insolvent.
- Other?

## British Columbia

### Who is assessed?

- Both the transferor and transferee?
- Are working interest participants or other financially invested parties assessed?
- Other?

*The transferee is assessed. The transferor is assessed only in relation to any security that may be required or returned in relation to the transferor's remaining assets if the proposed transfer were to proceed. Working interest participants or other financially invested parties are not currently assessed.*

*The Commission is actively reviewing and enhancing all aspects of liability management, including consideration of permit transfers and security required in relation to permit transfers.*

### What infrastructure is subject to transfer requirements?

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
<b>Wells</b>	<i>Yes.</i>	<i>Oil and Gas Activities Act, SBC 2008, c. 36, s.29</i>
<b>Facilities</b>	<i>Yes.</i>	<i>Oil and Gas Activities Act, SBC 2008, c. 36, s.29</i>
<b>Pipelines</b>	<i>Yes.</i>	<i>Oil and Gas Activities Act, SBC 2008, c. 36, s.29</i>
<b>Sites \ Land Associated With the Infrastructure</b>	<i>Yes, if the site is subject to an authorization granted by the Oil and Gas Commission (under the Land Act or the Petroleum and Natural Gas Act).</i>	<i>Oil and Gas Activities Act, SBC 2008, c. 36, s.29 (in particular 29(1)(b)); Petroleum and Natural Gas Act, RSBC 1996, c. 361, s.138</i>

### What is analyzed?

- Appropriateness of financial assurance provided to the regulator? **Yes.**
- Corporate solvency? **Not to date.**
  - Please list any key indicators that are used
    - Debt to asset ratio **Not to date.**
    - Asset to liability ratio **Yes.**

- Active to Inactive ratio of companies or of infrastructure being transferred *In some circumstances. See below.*
- Status of infrastructure (active, inactive, etc.)? ***Yes, in relation to liability calculation, consideration of production declines, and consideration of Problem Sites.***
- Compliance status? ***Yes.***
- Integrity of infrastructure? ***Yes, in some circumstances relating to consideration of Problem Sites.***
- Other? ***Yes (including production declines affecting deemed assets, failure to continue an oil and gas activity that has been initiated).***

*In British Columbia, legislation governing oil and gas development requires parties to apply to the Oil and Gas Commission for approval of any permit transfer. The Oil and Gas Commission may exercise its discretion to refuse a transfer, approve a transfer or approve a transfer subject to conditions.*

*Applicable legislation specifies that in considering an application to transfer, the Commission may consider a number of matters, including:*

- ***the proposed transferee's past contraventions of legislation governing oil and gas activities or subsurface tenure,***
- ***whether the project meets the government's environmental objectives,***
- ***the proposed transferee's conduct with respect to other oil and gas operations,***
- ***the proposed transferee's convictions under BC, Canadian or foreign law, and***
- ***in some limited circumstances, the proposed transferee's relationship with a party that***

*Legislation also specifies that the Commission may require a transferee to provide security in any amount to ensure the performance of an obligation under relevant legislation or the permit being transferred.*

*Upon receipt of an application for a permit transfer both the transferor and the transferee will be subject to a LMR review. The applicant or permit holder involved in the transaction may be required to submit a security deposit as calculated by the Commission. In addition to the requirement to maintain an immediate post-transfer LMR above 1.0, decisions on security deposit requirements may be based on production declines affecting deemed assets, as well as associated compliance issues.*

*Security deposits are to be submitted within 30 days from the date of request.*

*Where the transfer involves a site that has infrastructure integrity issues the site may be identified as a Problem Site by the Commission. Designation as a Problem Site may occur where an inspection gives reason to suspend that standard deemed liability costs are below*

*the site specific liability cost, or if a site is found to be out of compliance with regulatory requirements. Site specific remedial plans may be required for Problem Sites and the permit holder will be required to submit a security deposit equal to the liability costs determined by the Commission or through the submission of a site-specific liability assessment. As an alternative to a security deposit, the permit holder may be permitted to submit and implement a Liability Management Plan which outlined remedial activities to be implemented within specified time lines.*

*The Commission is actively reviewing and enhancing all aspects of liability management, including consideration of permit transfers and security required in relation to permit transfers. It is likely that the review will result in changes to legislation, regulation, policies and practices relating to transfer of infrastructure and liabilities.*

### **When is the assessment conducted?**

- Identification of a pending transfer?

*Parties may approach the Commission for information regarding the likely security implications of the proposed transaction. The Commission will respond to these inquiries, noting that formal assessment will be made at the time the application for transfer is made to the Commission.*

- Upon formal submission?

*Yes. Parties must apply to the Commission for approval to transfer a permit (and any related authorizations). The Commission may refuse an application for transfer, approve an application for transfer or approve an application for transfer subject to conditions. In addition, the Commission may by order or imposition of a condition require a permit holder, applicant for a permit or a transferee of a permit to provide security to the Commission.*

- Other?

*The Commission may take action to suspend or cancel a permit at anytime, including in circumstances where a party has failed to comply with regulator requirements (section 26 of OGAA). The Commission may take action to order a permit holder, applicant for a permit or transferee of a permit to provide additional security to the Commission at any time (section 30 of OGAA) and exercises this power based on periodic assessments of a parties' assets and liabilities made pursuant to the Commission's liability management program (see <https://www.bcogc.ca/industry-zone/liability-management-rating-program>).*

## What assurances are in place?

- Necessity of financial assurance being provided to the regulator in advance of a transfer occurring? *Yes*
- Specific conditions applied to the approval of the transfer? *Sometimes.*
  - If so, what are the suite of conditions commonly used? *In some cases, permits may include conditions requiring the permit holder to provide security on specified dates, or in the event that the permit holder fails to comply with requirements of a Liability Management Plan.*
- Ability to reverse a transfer? *Section 29 of OGAA specifies that the Commission may transfer a permit, subject to any conditions the Commission considers necessary. To date, the Commission has not considered a transfer void due to a failure to comply with such conditions. The Commission does have the power to cancel or suspend permits (after providing the permit holder with an opportunity to be heard). The Commission has exercised this power to cancel permits after a transfer has been completed, based on performance of the new permit holder.*
- Joint and several liability for the entire ownership path for each piece of infrastructure? *No.*
- Other? *No.*



## Saskatchewan

### Who is assessed?

- Both the transferor and transferee? Yes.
- Are working interest participants or other financially invested parties assessed? No. Not for the purposed of the transfer.
- Other?

### What infrastructure is subject to transfer requirements?

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
<b>Wells</b>	<b>Yes, all.</b>	<b>Saskatchewan Oil and Gas Conservation Act, s15 and Regulations s115(2)(a)</b>
<b>Facilities</b>	<b>Yes, all.</b>	<b>Saskatchewan Oil and Gas Conservation Act, s15 and Regulations s115(2)(a)</b>
<b>Pipelines</b>	<b>No.</b>	
<b>Sites \ Land Associated With the Infrastructure</b>	<b>Yes. The future cost to remediate and reclaim the land is considered in the transfer.</b>	<b>Saskatchewan Oil and Gas Conservation Act, s15 and Regulations s115(2)(a)</b>

### What is analyzed?

- Appropriateness of financial assurance provided to the regulator? Saskatchewan calculates the Licensee Liability Rating (LLR) which is a regulated program designed to measure financial capability prior to transfer. LLR is a company's production value divided by their total liabilities. If this value is less than 1.0 for either the transferor or transferee, then security must be provided to approve the transfer.
- Corporate solvency?
  - Please list any key indicators that are used
    - Debt to asset ratio. No
    - Asset to liability ratio. Yes as provided above. Only certain assets and liabilities are included as defined in the regulations.
    - Active to Inactive ratio of companies or of infrastructure being transferred. Yes this is considered in the evaluation of security deposits.
- Status of infrastructure (active, inactive, etc.)? Yes.

- Compliance status? Yes, but specifically compliance with liability management programs. Not compliance in general.
- Integrity of infrastructure? No.
- Other?

### **When is the assessment conducted?**

- Identification of a pending transfer? Yes
- Upon formal submission? Yes.
- Other? The LLR rating is calculated monthly for all licensees as well as for transfers. At any point if a licensee's LLR falls below one, they will be required to submit security deposits.

### **What assurances are in place?**

- Necessity of financial assurance being provided to the regulator in advance of a transfer occurring? Yes.
- Specific conditions applied to the approval of the transfer? Usually none except if security is required.
  - If so, what are the suite of conditions commonly used?
- Ability to reverse a transfer? This situation has never arisen. Legislation does not speak to this.
- Joint and several liability for the entire ownership path for each piece of infrastructure? The liabilities are only attributable to the licensee for the purpose of securitization. The regulations do make it clear that a licensee and any working interest participants are liable together but not to the same extent. For example working interests are only responsible for their percentage working interest share.
- Other?

## Yukon

### Who is assessed?

The transferee is assessed.

- Both the transferor and transferee?
- Are working interest participants or other financially invested parties assessed?
- Other?

### What infrastructure is subject to transfer requirements?

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
<b>Wells</b>	<b>All</b>	<i>Oil and Gas License Administration Regulations</i>
<b>Facilities</b>	<b>All</b>	<i>Oil and Gas License Administration Regulations</i>
<b>Pipelines</b>	<b>N/A</b>	<b>Pipeline regulations still being drafted. Once the pipeline regulations are promulgated, <i>Oil and Gas License Administration Regulations</i> will used.</b>
<b>Sites \ Land Associated With the Infrastructure</b>	<b>All</b>	<i>Oil and Gas License Administration Regulations</i>

### What is analyzed?

**Eligibility to hold a license and corporate profile. Corporate profile consists of the information (such as financial statements) required by the Chief Operations Officer for the purposes of assessing the corporation's financial viability and its ability to perform its obligations as a licensee under the Act and the Licensing Regulations.**

- Appropriateness of financial assurance provided to the regulator?
- Corporate solvency?
  - Please list any key indicators that are used
    - Debt to asset ratio
    - Asset to liability ratio
    - Active to Inactive ratio of companies or of infrastructure being transferred

- Status of infrastructure (active, inactive, etc.)?
- Compliance status?
- Integrity of infrastructure?
- Other?

### **When is the assessment conducted?**

**Generally, upon formal submission.**

- Identification of a pending transfer?
- Upon formal submission?
- Other?

### **What assurances are in place?**

**The Minister's consent in writing is required for a transfer of license. The Minister may require the provision of proof of financial assurance. In addition, working interest owners in a well are jointly and severally liable for abandonment costs.**

- Necessity of financial assurance being provided to the regulator in advance of a transfer occurring?
- Specific conditions applied to the approval of the transfer?
  - If so, what are the suite of conditions commonly used?
- Ability to reverse a transfer?
- Joint and several liability for the entire ownership path for each piece of infrastructure?
- Other?

# United States - Survey Responses

## Alabama

### TRANSFER OF INFRASTRUCTURE AND LIABILITIES

Several years ago, the Board and staff realized that the Board's regulations tended to address only actual wells, and not equipment and facilities associated with the well or wells.

Equipment and facilities includes all sorts of equipment associated on a well location: separators, heater treaters, tanks for storing oil and tank batteries, and natural gas compressors. Associated equipment and facilities can also include equipment off a well location, including processing facilities that process hydrocarbons from a entire field. The Board amended several of its regulations to address equipment and facilities related to a well or wells. These regulations address the matter raised in the Interstate Oil and Gas Compact Commission questions about Transfer of Infrastructure and Liabilities.

**Restoration**- The basic regulation on Restoration is Rule 400-1-4-.16 of the State Oil and Gas Board of Alabama Administrative Code relating to Restoration of a Location. The rule addresses equipment and facilities associated with a well or wells:

When a location is abandoned, all material, debris and equipment, such as drill pipe, casing, tubing, treaters, separators, tanks, and other production, processing, injection, plant, and above-ground pipeline equipment and materials shall be removed from the location.

**Well Bonds** - Realizing that all of these types of equipment and facilities could be a burden for the State if not removed when a well was plugged, the Board amended its regulations to require well bonds to cover wells and associated equipment and facilities. Thus, the rules provide that when a Change of Operator takes place, the new operator must post a bond that covers not only the well, but associated equipment and facilities.

### Who is accessed?

As stated above, both the current operator and the new operator are responsible for infrastructure (equipment of associated facilities).

### What infrastructure is subject to transfer requirements?

The regulations apply to the current and new operator for wells, facilities, pipelines, sites and land.

**What is analyzed?**

As stated above, financial assurance is required (surety bond). The Board does not review corporate solvency, except in rare cases. The Board does not review compliance status in other states. The Board does review the integrity of infrastructure prior to approving a change of operator.

**What assurances are in place?**

The new operator submits a surety bond or in some cases a letter of credit.

# Alaska

## Who is assessed?

### Both the transferor and transferee?

Yes, in general both the transferor and transferee are assessed. 11 AAC 82.605 of the Alaska Administrative Code states "The [DNR] commissioner will approve a transfer of an undivided interest in a lease, oil and gas exploration license, or permit unless the commissioner makes a written finding that the transfer would adversely affect the interests of the state..."

To determine if a transfer would adversely affect the state's interests, DNR considers the financial capability of the transferee relative to the transferor. For example, if a current lessee that is financially sound seeks to transfer its interest in a lease to a company that is in a relatively weaker financial position, this may pose increased risk to the state that the lessee's dismantlement, removal, and restoration (DR&R) obligations under the lease will not be fulfilled. Alternatively, if a current lessee that is in a tenuous financial position seeks to transfer its lease to a company that is in a weak, but relatively stronger, financial position, such a transfer may not negatively impact the state's interest; this may be the case because, despite the new lessee being in a weak financial position, the new lessee is in a better financial condition than the current lessee. In short, DNR assesses whether the state would be in a relatively worse position if the transfer occurred.

### Are working interest participants or other financially invested parties assessed?

Typically, the only parties assessed are i) the working interest owner(s) that are assigning working interest (transferor) and ii) the company or companies acquiring the working interest (transferee).

### Other?

Typically no.

## What infrastructure is subject to transfer requirements?

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
Wells	A unit operator must be qualified to hold a lease and fulfill the duties and obligations prescribed in the unit agreement.	11 AAC 83.331

<b>Facilities</b>	The following are considered qualified to hold a lease under 11 AAC 82.200: (1) a person who has reached the age of majority; (2) a corporation qualified to do business in Alaska; (3) a legal guardian or trustee of a qualified individual; (4) an association of entities listed in this subsection.	
<b>Pipelines</b>	In general , for pipeline right-of-way leases, the lessee cannot transfer its interest in the lease, or rights under the lease or a pipeline subject to the lease to a person other than another owner of the pipeline (including subsidiaries, parents, and affiliates of the owners), <i>except to the extent that the commissioner, after consideration of the protection of the public interest (including whether the proposed transferee is fit, willing, and able to perform the transportation or other acts proposed in a manner that will reasonably protect the lives, property, and general welfare of the people of Alaska),</i> authorizes; the commissioner shall not unreasonably withhold consent to the transfer, assignment, or disposal;	AS 38.35.120(a)(9)
<b>Sites \ Land Associated With the Infrastructure</b>	The transfer requirements apply to interest in a lease, oil and gas exploration license, or permit.	11 AAC 82.605



## What is analyzed?

Appropriateness of financial assurance provided to the regulator?

Yes, DNR determines what financial instruments are appropriate to provide as financial assurance to the state. These may include surety bonds, CDs, trust accounts, or other suitable financial securities.

### **Corporate solvency?**

#### **Please list any key indicators that are used**

- Debt to asset ratio
- Asset to liability ratio
- Active to Inactive ratio of companies or of infrastructure being transferred

Yes, corporate solvency, liquidity, and overall financial health are evaluated. The following are some financial metrics that have been employed: debt to equity, current assets to current liabilities, cash flow to debt, and debt to EBITDA.

DNR also uses the Altman Z-score, which combines several financial ratios into a single score for a company's financial condition; a company's Z-score falls within one of three zones that gauge its bankruptcy risk: Safe Zone ( $Z > 2.90$ ), Cautionary Zone ( $1.23 \leq Z\text{-score} \leq 2.90$ ), and Distress Zone ( $Z\text{-Score} < 1.23$ ).

Additionally, DNR has analyzed a company's DR&R obligations relative to its equity and set requirements for additional financial assurance if the ratio of DR&R obligations to equity increases beyond a reasonable threshold.

Every transfer and company is unique, and DNR does not apply a one-size-fits-all approach when requiring financial assurances. DNR strives to work with companies to find reasonable means of balancing i) the need to provide the state with adequate assurance that the DR&R obligations under the lease are met and ii) the need to ensure that DNR does not hinder companies from conducting safe and efficient oil and gas activities by tying up their capital.

### **Status of infrastructure (active, inactive, etc.)?**

It depends. DNR may take into account the status of the infrastructure in determining the appropriate financial assurances. For example, a company operating many active and relatively new fields may be required to provide less financial assurances than a company operating many older fields or a company that owns many inactive assets.

### **Compliance status?**

It depends on the particular company and transfer.

### **Integrity of infrastructure?**

It depends on the particular company and transfer. In general, DNR will take into account the current cost to DR&R an asset and the economic life of an asset when determining the required financial assurances. Thus, the required financial assurances may be greater for an asset with integrity issues that may shorten its economic life or increase DR&R costs.

#### **Other?**

Typically no.

### **When is the assessment conducted?**

#### **Identification of a pending transfer?**

No

#### **Upon formal submission?**

The assessment is conducted upon formal submission of an application to assign an interest in a lease.

#### **Other?**

No

### **What assurances are in place?**

#### **Necessity of financial assurance being provided to the regulator in advance of a transfer occurring?**

Typically, a financial assurances agreement or DR&R agreement is entered into between DNR and the new lessee before the transfer is approved. However, depending on the situation, the company may not need to immediately provide a financial assurance (e.g., a surety bond). In certain cases where the lease without improvements is transferred, a DR&R agreement may be signed between DNR and the new lessee before the transfer is approved, but the new lessee does not have to provide financial assurances until improvements are made to the lease and assets on are constructed.

#### **Specific conditions applied to the approval of the transfer? If so, what are the suite of conditions commonly used?**

Every transfer and company is unique, and DNR does not apply a one-size-fits-all approach when requiring financial assurances. There are specific state regulations on applying for approval of assignment of an oil and gas lease (11 AAC 82.615). For example, an application for assignment must be accompanied by a bond, if required by the commissioner, which clearly binds the assignee and the assignee's surety to any unperformed obligations of the assignor.

**Ability to reverse a transfer?**

Reversing a transfer requires the same assignment approval as the initial transfer.

**Joint and several liability for the entire ownership path for each piece of infrastructure?**

It depends on the particular companies and leases involved in the transfer. But joint and several liabilities could be required.

**Other?**

## Arkansas

### Who is assessed?

**Both the transferor and transferee?**

Both the transferor and transferee are assessed to ensure that they are in compliance with AOGC Rules and Regulations.

**Are working interest participants or other financially invested parties assessed?**

No assessment of non-operating parties is conducted.

**Other?**

The infrastructure itself is inspected to make sure it is in compliance with applicable AOGC Rules and Regulations.

### What infrastructure is subject to transfer requirements?

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
<b>Wells</b>	All (Production, Disposal, Injection, Exploratory holes, etc.)	General Rule A-5 – Enforcement Procedures (no outstanding Notices of Violations, etc.); General Rule B-2 – Proof of Financial Assurances; General Rule B-4 – Application to Transfer a Well (Pending); General Rule B-13 – Organization Reports required; General Rule H-1 – Permit Application Procedures for Class II Disposal Wells
<b>Facilities</b>	Production facilities; (Class II Disposal surface facilities are currently regulated by the Arkansas Department of Environmental Quality	General Rule A-5 – Enforcement Procedures. (As facilities are linked to a well or wells, general compliance is required – no outstanding Notices of Violations, etc.)
<b>Pipelines</b>	AOGC functions to provide oversight for onshore natural gas pipeline regulated under Federal Regulation 49 CFR Part 192 as amended, which are within the jurisdiction of the AOGC. Additionally, the AOGC regulates “non-jurisdictional” (from federal regulations) natural gas pipelines within the jurisdiction of the AOGC	General Rule D-17 – General Rule for the Regulation of Natural Gas Pipelines

<b>Sites \ Land Associated With the Infrastructure</b>	No specific additional requirement for sites / land.	General Rule A-5 – Enforcement Procedures. (As sites are linked to a well or wells, general compliance is required – no outstanding Notices of Violations, etc.)
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**What is analyzed?**

**Appropriateness of financial assurance provided to the regulator?**

Financial Assurances as required by General Rule B-2, B-4 (Proposed), and as determined appropriate by the Director.

**Corporate solvency?**

No specific requirement.

**Please list any key indicators that are used**

- Debt to asset ratio
- Asset to liability ratio
- Active to Inactive ratio of companies or of infrastructure being transferred

**Status of infrastructure (active, inactive, etc.)?**

Only compliance status of infrastructure.

**Compliance status?**

Yes, Transferor, Transferee and infrastructure must be in compliance with General Rules and Regulations.

**Integrity of infrastructure?**

No specific requirement beyond what is required by General Rules and Regulations, i.e. compliance.

**Other?**

None.

**When is the assessment conducted?**

**Identification of a pending transfer?**

Not formally; however, we will check upon request.

**Upon formal submission?**

Yes.

**Other?**

None.

**What assurances are in place?**

**Necessity of financial assurance being provided to the regulator in advance of a transfer occurring?**

Yes. Transferee must be in compliance with applicable rules regarding financial assurances prior to completion of transfer.

**Specific conditions applied to the approval of the transfer?**

Yes, if there is a compliance issue regarding the facility, a Transfer Agreement may be entered into if all parties, and the Director approves.

**If so, what are the suite of conditions commonly used?**

Full compliance or abatement within a specific time period.

**Ability to reverse a transfer?**

In accordance with B-4 (Proposed) and H-1, a transfer may be reversed if the Transferee fails to meet permit conditions as specified in the approval, it was issued in error, the Transferor or Transferee falsified or otherwise misstated any material information in the application form.

**Joint and several liability for the entire ownership path for each piece of infrastructure?**

Not under existing regulatory framework.

**Other?**

None.

## California

### Who is assessed?

#### Both the transferor and transferee?

Neither.

#### Are working interest participants or other financially invested parties assessed?

No.

#### Other?

California law does not prescribe a test of financial capability in connection with becoming an operator of oil and gas wells. However, California law does require operators to provide indemnity bonds or similar financial guarantees for their wells in many circumstances.

In California, as of January 1, 2018, upon acquiring a well via transfer, drilling a well, or engaging in any operation permanently altering the casing of a well, state law requires the operator of that well to file (or already have on file) with the Division of Oil, Gas, and Geothermal Resources an indemnity bond or similar financial guarantee. The amount of the bond required ranges from \$25,000 per well to \$40,000 per well, depending on the characteristics of the well. (See Pub. Resources Code, § 3204; Cal. Code Regs., tit. 14, § 1722.1.) Operators also have the option to use a “blanket” indemnity bond as an alternative method to satisfy the indemnity bonding requirement for all of their wells and production facilities in the state. (See Pub. Resources Code, § 3205.) The amount required for blanket bonds ranges from \$200,000 to \$3,000,000, depending primarily on the total number of wells covered by the bond. (Ibid.)

In addition to indemnity bonds, where an operator has a history of violating legal requirements for oil and gas operations or has outstanding financial liabilities to the state associated with its wells or production facilities, the Division may require the operator to provide a separate life-of-well or life-of-production facility bond. The amount of the bond required will be an amount adequate to ensure the proper plugging and abandonment of each well, the safe decommissioning of each production facility, and the financing of spill response and incident cleanup. (See Pub. Resources Code, § 3270.4; Cal. Code Regs., tit. 14, § 1722.8.)

## What infrastructure is subject to transfer requirements?

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
<b>Wells</b>	All oil and gas wells. (See Pub. Resources Code, § 3008 [definition of “well”].)	Pub. Resources Code, §§ 3201, 3202, 3204, 3205, 3205.1, 3205.2, 3205.5; Cal. Code Regs., tit. 14, § 1722.1.  See also Pub. Resources Code, § 3270.4; Cal Code Regs, tit. 14, §§ 1722.8, 1722.8.1 (life-of-well and life-of-production facility bonds).
<b>Facilities</b>	All production facilities. (See Pub. Resources Code, § 3010 [definition of “production facility”].)	Pub. Resources Code, §§ 3201, 3202. Presumed to be “attendant to” wells, generally not treated separately therefrom for purposes of financial obligations associated with transfers.
<b>Pipelines</b>	Pipelines within the jurisdiction of the Division of Oil, Gas, and Geothermal Resources generally fall under the definition of “production facility.” (See Pub. Resources Code, § 3010.)	Same as “Facilities.”
<b>Sites \ Land Associated With the Infrastructure</b>	N/A	N/A

## What is analyzed?

### Appropriateness of financial assurance provided to the regulator?

See “Other.”

### Corporate solvency? Please list any key indicators that are used.

See “Other.”

### Status of infrastructure (active, inactive, etc.)?

See “Other.”



**Compliance status?**

See "Other."

**Integrity of infrastructure?**

See "Other."

**Other?**

This is largely addressed by the response to "Who is assessed?," above. California law does not prescribe a test of financial capability in connection with acquiring or transferring the right to operate oil and gas wells. However, indemnity bonds or similar financial guarantees must be filed when drilling a new well or acquiring a well via transfer. The amount of the indemnity bond required is prescribed by statute and varies based on the characteristics of the well. Operators have the option to use blanket indemnity bonds an alternative to satisfy indemnity bonding compliance for all of their wells and production facilities in the state. In addition to indemnity bonds, the Division of Oil, Gas, and Geothermal Resources may require an operator to provide a separate life-of-well or life-of-production facility bond when the operator has a history of noncompliance or has outstanding financial liabilities associated with its wells or production facilities. The amount required for a life-of-well or life-of-production facility bond is based on the Division's assessment of what is adequate to ensure the proper plugging and abandonment of each well, the safe decommissioning of each production facility, and the financing of spill response and incident cleanup.

**When is the assessment conducted?****Identification of a pending transfer?**

See "Other."

**Upon formal submission?**

See "Other."

**Other?**

The general conditions that trigger the requirement to file an indemnity bond are described in Public Resources Code section 3204. In the case of transfers, unless covered by an existing blanket bond, indemnity bonds typically are filed with the Division of Oil, Gas, and Geothermal Resources at the time the transfer is completed. A life-of-well or life-of-production facility bond is required only upon a specific determination made by the Division.

## **What assurances are in place?**

### **Necessity of financial assurance being provided to the regulator in advance of a transfer occurring?**

An operator's failure to timely file required bonding or similar financial guarantees would be a violation of law and could result in the Division of Oil, Gas, and Geothermal Resources exercising its enforcement powers against the operator to compel compliance and impose penalties, as appropriate to the circumstances.

### **Specific conditions applied to the approval of the transfer? If so, what are the suite of conditions commonly used?**

See "Other."

### **Ability to reverse a transfer?**

No.

### **Joint and several liability for the entire ownership path for each piece of infrastructure?**

Yes, potentially.

### **Other?**

In California, an "operator" is defined as "a person who, by virtue of ownership, or under the authority of a lease or any other agreement, has the right to drill, operate, maintain, or control a well or production facility." (See Pub. Resources Code, § 3009.) As a general matter, the Division of Oil, Gas, and Geothermal Resources does not exercise "approval" authority over the transfer of the right to operate a well or production facility. When a transfer of wells or production facilities occurs, however, California law requires both the transferor and transferee to provide the Division with information about the transaction, including such things as the contact information of the parties, the identity of the subject wells and production facilities, and the date that the transaction became final. (See Pub. Resources Code, §§ 3201, 3202.) In addition to being a violation of law that could result in enforcement action by the Division, a failure to comply with these informational notification requirements upon the transfer of wells and production facilities could result in the Division continuing to hold the transferor responsible for various other ongoing compliance requirements applicable to the wells and facilities, and could prevent the transferee from obtaining Division approval required to conduct various well operations.

# Illinois

## Who is assessed?

### Both the transferor and transferee?

Only the Transferee- 225 ILCS 725/14, 62 ILAC 240.1440

### Are working interest participants or other financially invested parties assessed?

No, only the new permittee of record.

### Other?

## What infrastructure is subject to transfer requirements?

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
<b>Wells</b>	Production, Observation, Class II, Water Supply, and other associated service wells.	62 ILAC 240.1400
<b>Facilities</b>	All facilities in existence within the lease boundaries.	62 ILAC 240.1460 (c (1 (C
<b>Pipelines</b>	NA	
<b>Sites \ Land Associated With the Infrastructure</b>	Facilities are included, lease roads are not.	62 ILAC 240.945 (h

## What is analyzed?

### Appropriateness of financial assurance provided to the regulator?

A new permittee is required to provide a bond for at least the first two years of activity, 62 ILAC 240.1500. If conditions are met after the initial 2-year period, the operator achieves "Active" status. While in active status there is no need for the permittee to supply assurances with the transfer. The Department reviews internal data to make the determination. If fees are outstanding, the transfer process will not be completed – 240.1460 (a (6

### Corporate solvency?

The information is provided with an initial action (permit application or transfer request). After that the Department checks the Secretary of State Web Site to verify solvency - 240.1440 (c

#### Please list any key indicators that are used

- Debt to asset ratio
- Asset to liability ratio

- Active to Inactive ratio of companies or of infrastructure being transferred
- None of these indicators are used.

**Status of infrastructure (active, inactive, etc.)?**

No

**Compliance status?**

The Department reviews the records of the proposed permittee and any other permittee who has an Officer connection to the proposed permittee or for which an owner of the proposed permittee has a 5% or greater ownership in another permittee. 240.1460

**Integrity of infrastructure?**

No

**Other?**

**When is the assessment conducted?**

**Identification of a pending transfer?**

No

**Upon formal submission?**

Yes

**Other?**

**What assurances are in place?**

**Necessity of financial assurance being provided to the regulator in advance of a transfer occurring?**

A new permittee is required to provide a bond for at least the first two years of activity, 62 ILAC 240.1500. If conditions are met after the initial 2-year period, the operator achieves "Active" status. While in active status there is no need for the permittee to supply assurances with the transfer. The Department reviews internal data to make the determination. If fees are outstanding, the transfer process will not be completed – 240.1460 (a (6

**Specific conditions applied to the approval of the transfer? If so, what are the suite of conditions commonly used?**

Not in the current format but will have them in the pending amended rule package.

**Ability to reverse a transfer?**

Yes 240.1470

**Joint and several liability for the entire ownership path for each piece of infrastructure?**

The Department's jurisdiction is limited to the permittee. The permittee is responsible for the entire liability of all infrastructure assigned to the permittee.

**Other?**

## Indiana

### Who is assessed?

- Both the transferor and transferee?
- Are working interest participants or other financially invested parties assessed?
- Other?

### What infrastructure is subject to transfer requirements?

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
<b>Wells</b>	Yes	312 IAC 29-4-10
<b>Facilities</b>	Yes (Tank Batteries)	312 IAC 29-24-1
<b>Pipelines</b>	N/A, IDNR Oil and Gas do not regulate.	
<b>Sites \ Land Associated With the Infrastructure</b>	N/A, IDNR Oil and Gas do not regulate.	

### What is analyzed?

**Please see below regulation.**

- Appropriateness of financial assurance provided to the regulator?
- Corporate solvency?
  - Please list any key indicators that are used
    - Debt to asset ratio
    - Asset to liability ratio
    - Active to Inactive ratio of companies or of infrastructure being transferred
- Status of infrastructure (active, inactive, etc.)?
- Compliance status?
- Integrity of infrastructure?

- Other?

### **When is the assessment conducted?**

**Please see below regulation.**

- Identification of a pending transfer?
- Upon formal submission?
- Other?

### **What assurances are in place?**

**Please see below regulation.**

- Necessity of financial assurance being provided to the regulator in advance of a transfer occurring?
- Specific conditions applied to the approval of the transfer?
  - If so, what are the suite of conditions commonly used?
- Ability to reverse a transfer?
- Joint and several liability for the entire ownership path for each piece of infrastructure?
- Other?

### **Regulations governing Transfers: 312 IAC 29-4-10 Permit transfer**

**Authority: IC 14-10-2-4; IC 14-37-3**

**Affected: IC 4-21.5; IC 14-37**

Sec. 10. (a) This section establishes the requirements for the transfer of a permit issued by the division for a well for oil and gas purposes.

(b) A person controlling a well for oil and gas purposes must provide advance notice to the division of the intention to transfer a permit to another person. The application for a permit transfer shall be completed on a form prescribed by the division.

(c) The following must be submitted with an application for a permit transfer:

(1) A bond of the transferee, if required under 312 IAC 29-12-3.

- (2) A fee of fifteen dollars (\$15) payable to the department for each of the first fifty (50) applications for permit transfer submitted simultaneously. However, if an applicant submits more than fifty (50)

applications for permit transfer simultaneously, the application fee for each application in excess of fifty (50) is ten dollars (\$10).

- (d) The department shall grant approval of an application for permit transfer except upon a written finding that sets forth at least one (1) of the following factors with respect to the person who will control the well for oil and gas purposes following the transfer of the permit:

- (1) The fee required by this section was not submitted.
- (2) A bond of the transferee has not been submitted, if required in 312 IAC 29-12-3.
- (3) The transferee is a person controlling a well for oil and gas purposes and the transferee has demonstrated a pattern of willful violations of IC 14-37 or this article that has resulted in damage to the environment.
- (4) The transferee is a person controlling a well for oil and gas purposes against which there is a pending notice of violation or civil penalty under 312 IAC 29-34-3. If this finding is made, however, the transferee is not disqualified from receiving the transfer if:
  - (A) The violation has been or is in the process of being corrected to the satisfaction of the division director; or
  - (B) The transferee has filed and is presently pursuing administrative review of the violation under IC 4-21.5.

- (5) The transferee has had a permit revoked under IC 14-37.

- (e) If an application is filed to transfer a permit on which there is a pending notice of violation:

- (1) The person controlling the well for oil and gas purposes against which the violation was issued, and its surety, are liable for performing the abatement of the violation and for satisfying any assessed penalty;
- (2) The transferee of a permit may accept liability for performing abatement of the violation but is not liable for satisfying any existing assessed penalty; or
- (3) A transferee of a permit is liable for abatement of any violation identified and for any penalty assessed after transfer of the permit.

The division director may, in writing, waive any penalty that would otherwise apply during a period of not more than ninety (90) days following the transfer of the permit if the division director determines that the transferee is acting in good faith to correct the violation.



- (f) No transfer of a permit issued for oil and gas purposes is effective until the transfer is approved in writing by the division director.
- (g) The division shall issue notice of its decision to approve or deny an application to transfer a permit in accordance with 312 IAC 29-3-5.
- (h) A decision to approve or deny an application for permit transfer under this section is subject to IC 4- 21.5.

## **Rule 24. Tank Batteries**

### **312 IAC 29-24-1 Registration of tank batteries Authority: IC 14-10-2-4; IC 14-37-3**

#### **Affected: IC 14-37**

Sec. 1. (a) All tank battery facilities shall be registered with the division as required under this section.

- (b) The owner or operator shall register existing tank battery facilities within one hundred twenty (120) days of the effective date of this article.
- (c) The owner or operator shall register new tank battery facilities within thirty (30) days after construction of the facility.
- (d) The owner or operator shall register tank battery facilities on a form prescribed by the division that shall include the following information:
  - (1) The name and address of the facility owner.
  - (2) The name of lease or production unit for the facility.
  - (3) The location of the facility by quarter, quarter section, township, range, and county.
  - (4) A map, photos, or sketches of the facility depicting the following information:
    - (A) The location, number, and size of each tank, separator or other processing vessel.
    - (B) The location and dimensions of the secondary containment structure surrounding the vessels.
  - (5) A demonstration the secondary containment structure meets the requirements of section 2(c) of this rule.
  - (6) A plan for the management of accumulated precipitation within the secondary containment structure in accordance with section 2(c) and 2(d) of this rule.
  - (7) If the facility is located within a flood plain as defined at 312 IAC 1-1-15, the plan shall:

- (A) demonstrate that the facility meets the requirements of section 3 of this rule; and
- (B) describe measures the owner or operator will take if the facilities are inundated with flood waters:
  - (i) to prevent the discharge of produced fluids into waters of the state;  
and
  - (ii) to protect tanks, separators, and other processing vessels from floating.
- (e) Upon fulfilling the requirements of this section, the owner or operator will receive a registration number for the tank battery facility.
- (f) The owner or operator shall transfer all tank battery facility registrations at the time associated wells are transferred.

# Kansas

**Who is assessed?**

**Both the transferor and transferee?**

The transferee is assessed to verify they have adequate financial assurance if necessary.

**Are working interest participants or other financially invested parties assessed?**

No

**Other?**

**What infrastructure is subject to transfer requirements?**

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
<b>Wells</b>	All (Oil, gas, injection/disposal)	K.A.R. 82-3-136 K.A.R. 82-3-410
<b>Facilities</b>	Gas Gathering Systems	K.A.R. 82-3-136
<b>Pipelines</b>		
<b>Sites \ Land Associated With the Infrastructure</b>	Intrastate Underground Porosity Gas Storage Systems	K.A.R. 82-3-1009

**What is analyzed?**

**Appropriateness of financial assurance provided to the regulator?**

Yes

**Corporate solvency?**

No

**Please list any key indicators that are used**

- Debt to asset ratio
- Asset to liability ratio
- Active to Inactive ratio of companies or of infrastructure being transferred

**Status of infrastructure (active, inactive, etc.)?**

Yes

**Compliance status?**

Yes

**Integrity of infrastructure?**

No

**Other?**

**When is the assessment conducted?**

**Identification of a pending transfer?**

No

**Upon formal submission?**

Yes

**Other?**

**What assurances are in place?**

**Necessity of financial assurance being provided to the regulator in advance of a transfer occurring?**

Yes, when necessary.

**Specific conditions applied to the approval of the transfer? If so, what are the suite of conditions commonly used?**

- Financial assurance of new operator must be sufficient to cover the increased number of wells.
- Transferring operator must be in good standing from a compliance standpoint prior to releasing financial assurance instrument.

**Ability to reverse a transfer?**

Yes. In rare instances where the transfer form was filed in error or included wells not subject to the transfer.

**Joint and several liability for the entire ownership path for each piece of infrastructure?**

No

**Other?**

## Kentucky

### Who is assessed?

#### Both the transferor and transferee?

Yes, both transferor & transferee are reviewed, however, the transferor is responsible for getting the well transferred.

#### Are working interest participants or other financially invested parties assessed?

No

#### Other?

### What infrastructure is subject to transfer requirements?

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
<b>Wells</b>	Both the seller and buyer are involved in the transfer of wells, however, the selling party is responsible per statute. The buyer could be placed in violation for operating without a bond if a transfer is not completed	KRS 353.590 (25)
<b>Facilities</b>	Tanks and Pits are under the jurisdiction of our Division of Water	401 KAR 5:090
<b>Pipelines</b>	Same as the wells (but our jurisdiction is only for gathering lines.	805 KAR 1:190 Section 6
<b>Sites \ Land Associated With the Infrastructure</b>	Not under the Division of Oil and Gas' jurisdiction	

### What is analyzed?

Appropriateness of financial assurance provided to the regulator? The financial assurance would need to be provided by the purchasing party prior to the transfer. The seller's financial assurance would not be released until the transfer is completed and the seller has meet all statutory and regulatory requirements.

#### Corporate solvency?

Not analyzed, however, the division does receive bankruptcy notices.

#### Please list any key indicators that are used

- Debt to asset ratio
- Asset to liability ratio
- Active to Inactive ratio of companies or of infrastructure being transferred

**Status of infrastructure (active, inactive, etc.)?**

The status is analyzed based on a current field inspector’s report during the transfer process.

**Compliance status?**

Yes, the compliance history of both the purchasing and selling operators is analyzed. If the well is transferred with a violation, the purchasing operator is notified that he has 45 days to bring the well in compliance. (Our violation compliance timeframe is 45 days.)

**Integrity of infrastructure?**

This would fall under the status of infrastructure. If the field inspector deems that the infrastructure is in disrepair, he would issue a violation and notify the division central office staff.

**Other?**

**When is the assessment conducted?**

The review begins when the division receives the formal submission of the Well Transfer form.

- Identification of a pending transfer?
- Upon formal submission?
- Other?

**What assurances are in place?**

**Necessity of financial assurance being provided to the regulator in advance of a transfer occurring?**

Yes, the purchasing party must have the required financial assurance (bond) in place before the well will be transferred.

**Specific conditions applied to the approval of the transfer? If so, what are the suite of conditions commonly used?**

If the well is transferred with a violation, the purchasing operator is notified that he has 45 days to bring the well in compliance. (Our violation compliance timeframe is 45 days.)

**Ability to reverse a transfer?**

Yes, a transfer could be undone by division staff if we are notified the transfer was in error

**Joint and several liability for the entire ownership path for each piece of infrastructure?**

**Other?**

## Louisiana

### Who is assessed?

**Both the transferor and transferee?**

Both

**Are working interest participants or other financially invested parties assessed?**

No, only the operator of record is assessed.

**Other?**

N/A

### What infrastructure is subject to transfer requirements?

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
<b>Wells</b>	All wells on the lease	<u>LAC 43 Part XIX.1</u>
<b>Facilities</b>	All Facilities associated with the wells on the lease	
<b>Pipelines</b>	N/A	
<b>Sites \ Land Associated With the Infrastructure</b>	N/A	

### What is analyzed?

**Appropriateness of financial assurance provided to the regulator?**

Yes, the new operator must provide financial security unless the well taken over was on the orphan list.

**Corporate solvency?**

No

**Please list any key indicators that are used**

- Debt to asset ratio
- Asset to liability ratio
- Active to Inactive ratio of companies or of infrastructure being transferred

**Status of infrastructure (active, inactive, etc.)?**

No

**Compliance status?**

Yes, all delinquent compliance orders must be resolved prior to approval.

**Integrity of infrastructure?**

No

**Other?**

N/A

**When is the assessment conducted?**

**Identification of a pending transfer?**

No

**Upon formal submission?**

Yes

**Other?**

N/A

**What assurances are in place?**

**Necessity of financial assurance being provided to the regulator in advance of a transfer occurring?**

Yes

**Specific conditions applied to the approval of the transfer? If so, what are the suite of conditions commonly used?**

No

**Ability to reverse a transfer?**

No

**Joint and several liability for the entire ownership path for each piece of infrastructure?**

No

**Other?**

N/A



# Michigan

## Who is assessed?

### Both the transferor and transferee?

The transferor must assure the well/facility is in compliance or the transferee must sign a consent agreement to bring it into compliance by a date certain. A permit will not be transferred to a person who has an unresolved violation of the statute, rules, or orders.

### Are working interest participants or other financially invested parties assessed?

No – only the permittee.

### Other?

*None.*

## What infrastructure is subject to transfer requirements?

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
Wells	<i>All wells.</i>	<p>Rule 324.103...(e) "Permit" means a permit to drill and operate an oil or gas well, or both, or an injection well, including associated surface facilities and flow lines. [Emphasis added.]</p> <p>Rule 324.205. 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:</p> <ul style="list-style-type: none"> <li>(a) The act.</li> <li>(b) These rules.</li> <li>(c) Permit conditions.</li> <li>(d) Instructions.</li> <li>(e) Orders of the supervisor.</li> <li>(f) An order of the department of environmental quality.</li> </ul> <p>Rule 324.206.... (6) If a permittee of a well conveys his or her rights as an owner of a well to another person, or ceases to be the authorized representative of the owner of a well, before final completion, then a request for the transfer of the permit to the acquiring person shall be submitted by the acquiring person to the supervisor .... Pending the transfer of the existing permit, the acquiring person shall not operate the well....</p> <p>(7) A permit for a well shall not be transferred to a person</p>

		<p>who has been determined to be in violation of any of the following until the permittee has corrected the violation or the supervisor has accepted a compliance schedule and a written agreement has been reached to correct the violations:</p> <ul style="list-style-type: none"> <li>(a) The act.</li> <li>(b) These rules.</li> <li>(c) Permit conditions.</li> <li>(d) Instructions.</li> <li>(e) Orders of the supervisor.</li> <li>(f) An order of the department of environmental quality.</li> </ul> <p>An additional conformance bond covering the period of the compliance schedule may be required. The conformance bond shall be in addition to the conformance bonds filed pursuant to R 324.212(a) or (b).</p> <p>(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 of the unsatisfactory conditions.</p> <p>Rule 324.207. If a permittee of a well conveys his or her rights as an owner of a well to another person, or ceases to be the authorized representative of the owner of a well, and a request for transfer of the permit under R 324.206(6) has not been approved, then, in addition to other enforcement actions, failure to comply shall be cause for immediate suspension of any or all components of the oil and gas operations on the well, including the removal or sale of oil, gas, or brine.</p>
<p><b>Facilities</b></p>	<p><i>All production facilities (termed "surface facilities" in the rules)— i.e., tanks, pumps, separators, treaters, load outs, compressors, and associated piping, etc.</i></p>	<p><i>See Rule 324.103(e), above.</i></p>

<b>Pipelines</b>	<i>Only flow lines—i.e., piping that connects a well or wells to a production facility.</i>	<i>See Rule 324.103(e), above.</i>
<b>Sites \ Land Associated With the Infrastructure</b>	<i>None.</i>	

## What is analyzed?

### **Appropriateness of financial assurance provided to the regulator?**

When a person applies for a permit or to transfer a permit, the person must file financial assurance in the form of a surety bond, cash, certificate of deposit, letter of credit, other securities, or statement of financial responsibility. The financial assurance must be in a prescribed amount and be acceptable to the Supervisor of Wells.

### **Corporate solvency?**

An applicant may file a statement of financial responsibility that demonstrates corporate solvency.

#### **Please list any key indicators that are used**

A statement of financial responsibility must meet the criteria of either (1) or (2) below:

(1) the statement of financial responsibility shall have each of (a) through (d) below:

(a) Two of the following three ratios:

(i) A ratio of total liabilities to net worth of less than 2.0.

(ii) A ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities of more than 0.1.

(iii) A ratio of current assets to current liabilities of more than 1.5. Projected oil and gas reserves may be utilized in determining current assets only to the extent that the value of the reserves exceeds the projected costs of development and production.

(b) Net working capital and tangible net worth each of which is at least three times the amount of the conformance bond that would otherwise be required.

(c) Total assets in Michigan (including projected oil and gas reserves to the extent they exceed the projected costs of production) that are at least three times the amount of the conformance bond that would otherwise be required.

(d) A written statement from a certified public accountant which states that no matter came to the attention of the accountant which caused him or her to believe that the financial records should be adjusted.

(2) The statement of financial responsibility shall have each of (a) through (c) below:

(a) A current Standard and Poor's bond rating of AAA, AA, A, or BBB; or Moody's bond rating of Aaa, Aa, A, or Baa.

(b) A tangible net worth of not less than \$2,000,000.

(c) Total assets in Michigan (including projected oil and gas reserves to the extent they exceed the projected costs of production) that are at least three times the amount of the conformance bond that would otherwise be required.

- Debt to asset ratio

See above.

- Asset to liability ratio

See above.

- Active to Inactive ratio of companies or of infrastructure being transferred

Not more than ten percent of a permittee's wells may be inactive at one time, unless the permittee submits documentation of a plan, or enters a formal agreement, acceptable to the Supervisor of Wells. A supplemental bond may be required.

#### **Status of infrastructure (active, inactive, etc.)?**

Not more than ten percent of a permittee's wells may be inactive at one time, unless the permittee submits documentation of a plan, or enters a formal agreement, acceptable to the Supervisor of Wells. A supplemental bond may be required.

#### **Compliance status?**

The well/facility must be in compliance or the transferee must sign a consent agreement to bring it into compliance. The transferee must not have an unresolved violation of the statute, rules, or orders.

#### **Integrity of infrastructure?**

Well casing, tanks, pumps, separators, treaters, flow lines, and associated piping cannot have any leaks and must meet secondary containment and other requirements.

#### **Other?**

None

### **When is the assessment conducted?**

#### **Identification of a pending transfer?**

No, although if we have knowledge that an owner has conveyed ownership to another person and has not requested a transfer, we may take action up to and including suspension of operations.

#### **Upon formal submission?**

Yes.

**Other?**

None.

**What assurances are in place?**

**Necessity of financial assurance being provided to the regulator in advance of a transfer occurring?**

Financial assurance must be provided before approval of a transfer request.

**Specific conditions applied to the approval of the transfer?**

Yes.

**If so, what are the suite of conditions commonly used?**

Approval of a plan to place an inactive well/facility back into operation or to otherwise bring the well/facility into compliance by a date certain.

**Ability to reverse a transfer?**

Yes—if information provided as basis for transfer is subsequently found to be fraudulent.

**Joint and several liability for the entire ownership path for each piece of infrastructure?**

The owner or operator and surety are jointly and severally liable for a well and associated facility.

**Other?**

None.

# Montana

## Who is assessed?

**Both the transferor and transferee?**

Transferee

**Are working interest participants or other financially invested parties assessed?**

No

**Other?**

## What infrastructure is subject to transfer requirements?

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
Wells	Wells and any associated facilities under regulatory authority.	
Facilities		
Pipelines		
Sites \ Land Associated With the Infrastructure		

## What is analyzed?

Appropriateness of financial assurance provided to the regulator.

The Montana Board of Oil and Gas Conservation has statutory authority to set bonding requirements and can on a case-by-case basis. Board may review any proposed transfer for any criteria it feels are applicable.

**Corporate solvency? Please list any key indicators that are used.**

- Debt to asset ratio
- Asset to liability ratio
- Active to Inactive ratio of companies or of infrastructure being transferred

**Status of infrastructure (active, inactive, etc.)?**

**Compliance status?**

**Integrity of infrastructure?**

**Other?**

## **When is the assessment conducted?**

### **Identification of a pending transfer?**

Upon formal submission.

Other?

## **What assurances are in place?**

Financial assurance must be provided before liability is passed to successor operator.

### **Specific conditions applied to the approval of the transfer can include:**

- Increased bonding,
- resolution of compliance issues
- whatever is determined administratively or by board following discussion and review.

### **Ability to reverse a transfer?**

Not in rule or statute.

### **Joint and several liability for the entire ownership path for each piece of infrastructure?**

Other?

# Nebraska

## Who is assessed?

### Both the transferor and transferee?

There are no costs that are assessed. The new operator must post the required surety bond before the wells are transferred to the new operator.

### Are working interest participants or other financially invested parties assessed?

No. Without going to the expense of a title search, our Commission has no internal records of other working interest owners.

### Other?

None

## What infrastructure is subject to transfer requirements?

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
<b>Wells</b>	Yes	RSN 57-908(3)(d) and (l). Rule 3-004
<b>Facilities</b>	Yes	RSN 57-908(3)(d) and (l). Rule 3-004
<b>Pipelines</b>	No. Only flowlines	
<b>Sites \ Land Associated With the Infrastructure</b>	Yes	RSN 57-908(3)(d) and (l). Rule 3-004

## What is analyzed?

### Appropriateness of financial assurance provided to the regulator?

The prospective operator must provide a good and adequate bond before the Commission will place the well(s) on its bond.

### Corporate solvency?

The Nebraska Oil and Gas Conservation Commission does not investigate solvency and does not believe that it has any statutory authority or responsibility to involve itself in this issue. If a company provides the adequate bonding level and has complied with rules and regulations in the past, the Director can approve the transfer of wells to the new, bonded operator.



### **Please list any key indicators that are used**

- Debt to asset ratio
- Asset to liability ratio
- Active to Inactive ratio of companies or of infrastructure being transferred

### **Status of infrastructure (active, inactive, etc.)?**

The Nebraska Oil and Gas Conservation Commission's authority extends to wells and tank batteries. Since oil and gas production and sales are reported by lease, we will know when a tank battery becomes inactive. Changes in well status must be reported within 60 days. We do not perform additional investigations or inspections before properties are transferred to a different operator.

### **Compliance status?**

The Nebraska Oil and Gas Conservation Commission utilizes various reports that can be generated using our software platform, Risked Base Data Management System (RBDMS). The Commission will evaluate properties to be transferred and question the incoming operator about knowledge of non-compliance before executing the Change of Operator.

### **Integrity of infrastructure?**

Injection well integrity is tracked. The integrity of inactive producing well bores is evaluated by means of annual static fluid levels and the reporting of any wellhead pressures. Tank batteries are evaluated by visual inspection for spill containment.

### **Other?**

## **When is the assessment conducted?**

### **Identification of a pending transfer?**

The well or lease evaluations may be specifically reviewed prior to approving the Sundry Notice which will change the bonded operator. Generally speaking, Commission personnel are knowledgeable about the condition of the wells and tank batteries.

### **Upon formal submission?**

None

### **Other?**

None

## **What assurances are in place?**

### **Necessity of financial assurance being provided to the regulator in advance of a transfer occurring?**

A surety bond is always required to be in-place prior to the transfer of wells to a different operator.

### **Specific conditions applied to the approval of the transfer? If so, what are the suite of conditions commonly used?**

None

### **Ability to reverse a transfer?**

None. Our Commission believes that when a transfer of operator is approved all other prior companies in the chain of operatorship are fully absolved from any liability.

### **Joint and several liability for the entire ownership path for each piece of infrastructure?**

No. The Nebraska Oil and Gas Conservation Commission will look to the bonded operator to be the responsible party. In the event the operator could not/ would not comply, the Commission would investigate whether or not there are additional working interest owners.

### **Other?**

## North Dakota

### Who is assessed?

**Both the transferor and transferee?**

Yes

**Are working interest participants or other financially invested parties assessed?**

No

**Other?**

Background investigation of officers and directors

### What infrastructure is subject to transfer requirements?

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
<b>Wells</b>	All	NDAC 43-02-03-15 (5)
<b>Facilities</b>	All	NDAC 43-02-03-15 (4),(5),(7)
<b>Pipelines</b>	All	NDAC 43-02-03-15 (8)(d)
<b>Sites \ Land Associated With the Infrastructure</b>	All	NDAC 43-02-03-15 (5)

### What is analyzed?

**Appropriateness of financial assurance provided to the regulator?**

Yes

**Corporate solvency?**

No

**Please list any key indicators that are used**

- Debt to asset ratio
- Asset to liability ratio
- Active to Inactive ratio of companies or of infrastructure being transferred

**Status of infrastructure (active, inactive, etc.)?**

Yes

**Compliance status?**

Yes

**Integrity of infrastructure?**

Yes

**Other?**

**When is the assessment conducted?**

**Identification of a pending transfer?**

Yes

**Upon formal submission?**

Yes

**Other?**

**What assurances are in place?**

**Necessity of financial assurance being provided to the regulator in advance of a transfer occurring?**

Yes

**Specific conditions applied to the approval of the transfer?**

Yes

**If so, what are the suite of conditions commonly used?**

Each well, facility, or pipeline must be brought into compliance with all rules, or a plan/timeline for achieving compliance with all rules must be filed and approved.

**Ability to reverse a transfer?**

No

**Joint and several liability for the entire ownership path for each piece of infrastructure?**

No

**Other?**

38-08-04.8. RECOVERY FOR COSTS OF PLUGGING. If the commission, its agents, employees, or contractors plugs or replugs a well or reclaims a well site under the provisions of sections 38-08-04.4, 38-08-04.5, 38-08-04.7, 38-08-04.8, 38-08-04.9, and 38-08-04.10, the state has a cause of action for all reasonable expenses incurred in the plugging, replugging, or reclamation against the operator of the well at the time the well is required to be plugged and abandoned or any or all persons who own a working interest in the well at the time the well is required to be plugged and

abandoned as a result of the ownership of a lease or mineral interest in the property on which the well is located. The term "working interest owner" does not mean a royalty owner or an overriding royalty interest owner. The commission shall seek reimbursement for all reasonable expenses incurred in plugging any well or reclaiming any well site through an action instituted by the attorney general. The liability of any working interest owner under this section shall be limited to that proportion of the reasonable expenses incurred by the commission that the interest of any such working interest owner bears to the entire working interest in the well. Any money collected in a suit under this section must be deposited in the state abandoned oil and gas well plugging and site reclamation fund. Any suit brought by the commission for reimbursement under this section may be brought in the district court for Burleigh County, the county in which the plugged well or reclaimed well site is located or the county in which any defendant resides.

## New Mexico

### Who is assessed?

**Both the transferor and transferee?**

Yes

**Are working interest participants or other financially invested parties assessed?**

No

**Other?**

### What infrastructure is subject to transfer requirements?

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
Wells	<p><b>19.15.9.8 OPERATOR REGISTRATION: A. Prior to commencing operations, an operator of a well or wells in New Mexico shall register with the division as an operator. Applicants shall provide the following to the financial assurance administrator in the division's Santa Fe office:</b> (1) an oil and gas registration identification (OGRID) number obtained from the division, the state land office or the taxation and revenue department; (2) a current address of record to be used for notice and a current emergency contact name and telephone number for each district in which the operator operates wells; and (3) the financial assurance 19.15.8 NMAC requires. B. The division may deny registration as an operator if: (1) the applicant is not in compliance with Subsection A of 19.15.5.9 NMAC; (2) an officer, director, partner in the applicant or person with an interest in the applicant exceeding 25 percent, is or was within the past five years an officer, director, partner or person with an interest exceeding 25 percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC; (3) the applicant is or was within the past five years an officer, director, partner or person with an interest exceeding 25 percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC; (4) the applicant is a corporation or limited liability</p>	19.15.9.8 NMAC Well Operator Provisions
Wells (cont.)		

<p><b>Wells (cont.)</b></p>	<p>company and is not registered with the public regulation commission to do business in New Mexico; or (5) the applicant is a limited partnership and is not registered with the New Mexico secretary of state to do business in New Mexico. C. An operator shall inform the division of its current address of record and emergency contact names and telephone numbers by submitting changes in writing to the division's financial assurance administrator in the division's Santa Fe office within 30 days of the change. D. The division may require an operator or applicant to identify its current and past officers, directors and partners and its current and past ownership interest in other operators. [19.15.9.8 NMAC - Rp, 19.15.3.100 NMAC, 12/1/08] 19.15.9.9 CHANGE OF OPERATOR: A. A change of operator occurs when the entity responsible for a well or a group of wells changes. A change of operator may result from a sale, assignment by a court, a change in operating agreement or other transaction. Under a change of operator, wells are moved from the OGRID number of the operator of record with the division to the new operator's OGRID number. B. The operator of record with the division and the new operator shall apply for a change of operator by jointly filing a form C-145 using the division's web-based online application. If the operator of record with the division is unavailable, the new operator shall apply to the division for approval of change of operator without a joint application. The operator shall make such application in writing and provide documentary evidence of the applicant's right to assume operations. The new operator shall not commence operations until the division approves 19.15.9 NMAC <a href="http://164.64.110.239/nmac/parts/title19/19.015.0009.htm">http://164.64.110.239/nmac/parts/title19/19.015.0009.htm</a>[10/6/2016 1:27:02 PM] the application for change of operator. C. The director or the director's designee may deny a change of operator if: (1) the new operator is not in compliance with Subsection A of 19.15.5.9 NMAC; or (2) the new operator is acquiring wells, facilities or sites subject to a compliance order requiring remediation or abatement of contamination, or compliance with 19.15.25.8 NMAC, and the new operator has not entered into an agreed compliance order setting a schedule for compliance with the existing order. D. In determining whether to grant or deny a change of operator when the new operator is not in compliance with Subsection A of 19.15.5.9 NMAC, the director or the director's designee shall consider such factors as whether</p>	
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<p><b>Wells (cont.)</b></p>	<p>the non-compliance with Subsection A of 19.15.5.9 NMAC is caused by the operator not meeting the financial assurance requirements of 19.15.8 NMAC, being subject to a division or commission order finding the operator to be in violation of an order requiring corrective action, having a penalty assessment that has been unpaid for more than 70 days since the issuance of the order assessing the penalty or having more than the allowed number of wells out of compliance with 19.15.25.8 NMAC. If the non-compliance is caused by the operator having more than the allowed number of wells not in compliance with 19.15.25.8 NMAC, the director or director's designee shall consider the number of wells not in compliance, the length of time the wells have been out of compliance and the operator's efforts to bring the wells into compliance. [19.15.9.9 NMAC - Rp, 19.15.3.100 NMAC, 12/1/08] 19.15.9.10 <b>CHANGE OF NAME:</b> A. A change of operator name occurs when the name of the entity responsible for a well or wells changes but the entity does not change. For a change of name, the OGRID number remains the same, but division records are changed to reflect the new operator name. B. An operator shall apply for a change of name by filing a form C-146 using the division's web-based online application and supplying documentary proof that the change is a name change and not a change of operator. If the operator is a corporation, limited liability company or limited partnership, the name must be registered with the public regulation commission or the New Mexico secretary of state, as applicable. The division shall not approve a change of name until the state land office and the taxation and revenue department have cleared the change of name on the OGRID. [19.15.9.10 NMAC - Rp, 19.15.3.100 NMAC, 12/1/08] 19.15.9.11 <b>EXAMPLES OF CHANGE OF OPERATOR AND CHANGE OF NAME:</b> A. Mr. Smith, a sole proprietor, operates five wells under the name "Smith oil company". Mr. Smith changes the name of his company to "Smith production company". The name of the entity operating the wells has changed, but the entity has not changed. Mr. Smith should apply for a change of name. B. Mr. Smith incorporates his business, changing from the sole proprietorship, "Smith production company", to a corporation: "Smith production company, inc.". The entity responsible for the wells has changed, and Mr. Smith and "Smith production company, inc." should apply for a change of operator. C. Smith production company, inc., a</p>	
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	<p>New Mexico operator, merges with XYZ, inc., which does not operate in New Mexico. At the surviving entity's election, this transaction may be treated as a change of name from Smith production company, to XYZ, inc., maintaining the existing OGRID, or as a change of operator, with a new OGRID. D. Two New Mexico operators, Smith production company, inc. and Jones production company, inc., merge. The surviving corporation is Jones production company, inc. A different entity now operates the wells Smith production company, formerly operated, and the wells must be placed under that entity's OGRID. Jones production company, inc. and Smith production company, inc. should apply for a change of operator as to the wells Smith production company, inc. operated. [19.15.9.11 NMAC - Rp, 19.15.3.100 NMAC, 12/1/08]</p> <p><b>19.15.8.9 FINANCIAL ASSURANCE FOR WELL PLUGGING:</b>  A. A person who has drilled or <b>acquired</b>, is drilling or <b>proposes to drill or acquire an oil, gas or injection or other service well on privately-owned or state-owned lands within this state shall furnish a financial assurance acceptable</b> to the division in the form of an irrevocable letter of credit, plugging insurance policy, or cash or surety bond running to the state of New Mexico conditioned that the well be plugged and abandoned and the location restored and remediated in compliance with division rules.</p> <p>The bonding amounts required for the transferring of wells and facilities depends on the number of wells and/or facilities being transferred.</p> <p>New Mexico BLM has their own rules on the transfer of wells on Federal land.</p> <p><b>19.15.8.12 RELEASE OF FINANCIAL ASSURANCE:</b> A. The <b>division shall release a financial assurance document upon the operator's or surety's written request if all wells drilled or acquired under that financial assurance have been plugged and abandoned and the location restored and remediated</b></p>	<p><b>19.15.8  NMAC  Financial  Assurance</b></p>
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	<p>and released pursuant to 19.15.25.9 NMAC through 19.15.25.11 NMAC, or have been covered by another financial assurance the division has approved. B. Transfer of a property or a change of operator does not of itself release a financial assurance. <b>The division shall not approve a request for change of operator for a well until the new operator has the required financial assurance in place.</b></p> <p>[19.15.8.12 NMAC - Rp, 19.15.3.101 NMAC, 12/1/08]</p> <p><b>19.15.8.13 FORFEITURE OF FINANCIAL ASSURANCE:</b> A. Upon the operator’s failure to properly plug and abandon and restore and remediate the location of a well or wells a financial assurance covers, the division shall give notice to the operator and surety, if applicable, and hold a hearing as to whether the well or wells should be plugged and abandoned and the location restored and remediated in accordance with a division-approved plugging program. If it is determined at the hearing that the operator has failed to plug and abandon the well and restore and remediate the location as provided for in the financial assurance or division rules, the director shall issue an order directing the well to be plugged or abandoned and the location restored and remediated in a time certain. Such an order may also direct the forfeiture of the financial assurance upon the failure or refusal of the operator, surety or other responsible party to properly plug and abandon the well and restore and remediate the location. B. If the financial assurance’s proceeds exceed the costs the division incurred plugging and abandoning the well and restoring and remediating the location the financial assurance covers, the division shall return the excess to the surety or the operator, as appropriate. C. If the financial assurance’s proceeds are not sufficient to cover all the costs the division incurred in plugging and abandoning the well and restoring and remediating the location, the division may seek indemnification from the operator as provided in NMSA 1978, Section 70-2-14(E). D. The division shall deposit forfeitures and funds collected pursuant to a judgment in a suit for indemnification in the oil and gas reclamation fund.</p> <p>[19.15.9.13 NMAC - Rp, 19.15.3.101 NMAC, 12/1/08]</p>	<p><b>19.15.15.12.C. Transfer</b></p>
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**19.15.15.12.C. Transfer of wells. If an operator transfers**

	<p>operation of less than all of its wells located within a spacing or proration unit to another operator, and the spacing unit includes state, federal or tribal minerals, the operator shall, prior to filing form C-145 to effectuate the transfer, notify in writing the <b>state land office or BLM</b>, as applicable, of the transfer.</p> <p><b>You may want to contact the New Mexico State Land Office on their transfer of leases and easements associated with well and facility transfers.</b></p>	<b>of wells on State and Federal Lands.</b>
<b>Facilities</b>	<p><b>Transfer of Surface Waste Management Facilities Permits and Application Requirements.</b></p> <p><b>Surface Waste Management Facility</b>  <b>19.15.36.12 PERMIT APPROVAL, DENIAL, REVOCATION, SUSPENSION, MODIFICATION OR TRANSFER:</b></p> <p>E. <b>Transfer of a permit. The operator shall not transfer a permit without the division's prior written approval.</b> A request for transfer of a permit shall identify officers, directors and owners of twenty-five percent or greater in the transferee. Unless the director otherwise orders, public notice or hearing are not required for the transfer request's approval. If the division denies the transfer request, it shall notify the operator and the proposed transferee of the denial by certified mail, return receipt requested, and either the operator or the proposed transferee may request a hearing with 10 days after receipt of the notice. <b>Until the division approves the transfer and the required financial assurance is in place, the division shall not release the transferor's financial assurance.</b></p>	<p><b>19.15.36 NMAC</b></p> <p><b>19.15.36.12. E. NMAC</b></p>
<b>Pipelines</b>	<b>The New Mexico Public Regulation Commission regulates pipelines and pipeline transfers within the state. You may want to contact them for more information.</b>	
<b>Sites \ Land Associated With the Infrastructure</b>	<b>The New Mexico State Land Office and the New Mexico Bureau of Land Management have guidelines for the transfer of well/facilities/easements and infrastructure on their leases associated with the sites/land.</b>	

## What is analyzed?

### **Appropriateness of financial assurance provided to the regulator?**

Yes, the appropriate financial assurance per our rules is required when transferring wells and facilities. The entities involved in the transfer also need to be registered with the New Mexico Secretary of State's Office.

### **Corporate solvency?**

#### **Please list any key indicators that are used**

- Debt to asset ratio
- Asset to liability ratio
- Active to Inactive ratio of companies or of infrastructure being transferred

Transfer of a property or a change of operator does not of itself release a financial assurance. The division shall not approve a request for change of operator for a well until the new operator has the required financial assurance in place.

Our rules 19.15.9.6 NMAC Objective: To require an operator of a well or wells to register with the division prior to commencing operations and to require the reporting of a change of operator or a change of name to the division.

### **Status of infrastructure (active, inactive, etc.)?**

Operators can transfer wells that are in temporary abandonment status

### **Compliance status?**

19.15.5.9 COMPLIANCE: **A. An operator is in compliance with Subsection A of 19.15.5.9 NMAC if the operator:** (1) currently meets the financial assurance requirements of 19.15.8 NMAC; (2) is not subject to a division or commission order, issued after notice and hearing, finding the operator to be in violation of an order requiring corrective action; (3) does not have a penalty assessment that is unpaid more than 70 days after issuance of the order assessing the penalty; and (4) has no more than the following number of wells out of compliance with 19.15.25.8 NMAC that are not subject to an agreed compliance order setting a schedule for bringing the wells into compliance with 19.15.25.8 NMAC and imposing sanctions if the schedule is not met: (a) two wells or 50 percent of the wells the operator operates, whichever is less, if the operator operates 100 wells or less; (b) five wells if the operator operates between 101 and 500 wells; (c) seven wells if the operator operates between 501 and 1000 wells; and (d) 10 wells if the operator operates more than 1000 wells. **B.** The division shall notify an operator on a monthly basis when, according to records on file with the division, a well on the inactive well list described in Subsection F of 19.15.5.9 NMAC shows no production or injection for the past 12 months by sending a letter by first class mail to the address the operator has provided the division pursuant to Subsection C of 19.15.9.8 NMAC. **C.** The division shall make available on its website and update weekly the status of operators' financial assurance 19.15.8 NMAC requires, according to division records. **D. Orders requiring corrective action.** (1) The division shall make available on its website division or commission orders, issued after notice and

hearing, finding an operator to be in violation of an order requiring corrective action. (2) An operator who contests an order finding it to be in violation of an order requiring corrective action may appeal and may seek a stay of the order. An order that is stayed pending appeal does not affect an operator's compliance with Subsection A of 19.15.5.9 NMAC. (3) An operator who completes the corrective action the order requires may file a motion with the order's issuer to declare the order satisfied. The division or commission, as applicable, may grant the motion without hearing, or may set the matter for hearing. E. Penalty assessments. (1) The division shall make available on its website penalty assessments and the date the operator paid them, according to division records. 19.15.5 NMAC <http://164.64.110.239/nmac/parts/title19/19.015.0005.htm>[10/6/2016 1:26:57 PM] (2) An operator who contests an order assessing penalties may appeal and may seek a stay of the order. An order that is stayed pending appeal does not affect an operator's compliance with Subsection A of 19.15.5.9 NMAC. F. Inactive wells. (1) The division shall make available on its website, and update daily, an "inactive well list" listing each well, by operator, that according to division records: (a) does not have its well bore plugged in accordance with 19.15.25.9 NMAC through 19.15.25.11 NMAC; (b) is not in approved temporary abandonment in accordance with 19.15.25.12 NMAC through 19.15.14 NMAC; and (c) is not subject to an agreed compliance order setting a schedule for bringing the well into compliance with 19.15.25.8 NMAC and imposing sanctions if the operator does not meet the schedule. (2) For purposes of 19.15.5.9 NMAC, the listing of a well on the division's inactive well list as a well inactive for more than one year plus 90 days creates a rebuttable presumption that the well is out of compliance with 19.15.25.8 NMAC. [19.15.5.9 NMAC - Rp, 19.15.1.40 NMAC, 12/1/08] 19.15.5.10 COMPLIANCE PROCEEDINGS: A. The provisions in 19.15.4 NMAC applicable to adjudicatory proceedings shall apply to compliance proceedings unless altered or amended by 19.15.5.10 NMAC. B. A compliance proceeding is an adjudicatory proceeding in which the division seeks an order imposing sanctions for violation of a provision of the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38 or a provision of a rule or order issued pursuant to the act. Such sanctions may include but are not limited to: (1) requiring compliance with a provision of the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38 or a provision of a rule or order issued pursuant to the act; (2) assessment of civil penalties pursuant to NMSA 1978, Section 70-2-31(A); (3) corrective action including but not limited to abatement or remediation of contamination and removal of surface equipment; (4) plugging and abandonment of a well and restoration and remediation of the well location, and authority for the division to forfeit the applicable financial assurance if the well is not plugged and abandoned and the location restored and remediated; (5) denial, cancellation or suspension of a permit; (6) denial, cancellation or suspension of authorization to transport; or (7) shutting in a well or wells. C. The division initiates an administrative compliance proceeding by filing a written application with the division clerk: (1) identifying the operator and any other responsible parties against whom the order is sought; including the surety if the division seeks an order allowing forfeiture of a surety bond; (2) identifying the provision of the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, or the provision of the rule or order issued pursuant to the act, allegedly violated; (3) providing a general description of the facts supporting the

allegations; (4) stating the sanction or sanctions sought; and (5) providing proposed legal notice. D. The division shall provide notice of compliance proceedings as follows: (1) the division shall publish notice in accordance with 19.15.4.9 NMAC. (2) the division shall provide notice to the operator and any other responsible parties against whom the compliance order is sought by following the provisions of 19.15.4.12 NMAC. E. The director may enter into an agreed compliance order with an entity against whom compliance is sought to resolve alleged violations of any provision of the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38 or any provision of any rule or order issued pursuant to the act. The director may enter into an agreed compliance order prior to or after the filing of an application for an administrative compliance proceeding. An agreed compliance order shall have the same force and effect as a compliance order issued after an adjudicatory hearing. F. Nothing in 19.15.5.10 NMAC precludes the division from bringing other actions provided for in the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, including but not limited to the following: suit for indemnification pursuant to NMSA 1978, Section 70-2-14(E) or NMSA 1978, Section 70-2-38(B); an action through the attorney general with respect to the forfeiture of illegal oil or illegal gas pursuant to NMSA 1978, Section 70-2-32; an injunction under NMSA 1978, Section 70-2-28; or collection of penalties pursuant to NMSA 1978, Section 70-2-31(A).

**Integrity of infrastructure?**

**Other?**

**When is the assessment conducted?**

**Identification of a pending transfer?**

When the operators fill out the Change of Operator Form C-145  
Please click on this link for the form:

<http://www.emnrd.state.nm.us/OCD/documents/C-1455-19-17.pdf>

**Upon formal submission?**

As above

**Other**

**What assurances are in place?**

**Necessity of financial assurance being provided to the regulator in advance of a transfer occurring?**

Yes see 19.15.9.8 NMAC above

**Specific conditions applied to the approval of the transfer?**

**If so, what are the suite of conditions commonly used?**

**Ability to reverse a transfer?**

**Joint and several liability for the entire ownership path for each piece of infrastructure?**

NO – ONLY THE OPERATOR OF RECORD IS RESPONSIBLE

**Other?**

# Nevada

## Who is assessed?

### Both the transferor and transferee?

Transferee (new operator).

### Are working interest participants or other financially invested parties assessed?

Only the operator, who represents a group, is assessed

### Other?

## What infrastructure is subject to transfer requirements?

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
<b>Wells</b>	All wells, BLM approval required if well is on federal lease	Nevada Division of Minerals (NDOM) must approve transfer of permit. BLM must approve if well(s) on federal lease.
<b>Facilities</b>	NDOM only oversees wells	None; Nevada Division of Environmental Protection and the BLM (if on federal lease) oversee.
<b>Pipelines</b>	NDOM only oversees wells	None; Nevada Division of Environmental Protection and the BLM (if on federal lease) oversee.
<b>Sites \ Land Associated With the Infrastructure</b>	NDOM only oversees wells	None; Nevada Division of Environmental Protection and the BLM (if on federal lease) oversee.

## What is analyzed?

### Appropriateness of financial assurance provided to the regulator?

Adequate bonding is required by NDOM for wells.

### Corporate solvency?

Adequate bonding is required by NDOM for wells.

### Please list any key indicators that are used

- Debt to asset ratio
- Asset to liability ratio
- Active to Inactive ratio of companies or of infrastructure being transferred



**Status of infrastructure (active, inactive, etc.)?**

Adequate bonding is required by NDOM for wells.

**Compliance status?**

Adequate bonding is required by NDOM for wells.

**Integrity of infrastructure?**

Adequate bonding is required by NDOM for wells.

**Other?**

**When is the assessment conducted?**

**Identification of a pending transfer?**

No

**Upon formal submission?**

Adequate bonding is reviewed for all wells at time of formal submission.

**Other?**

**What assurances are in place?**

**Necessity of financial assurance being provided to the regulator in advance of a transfer occurring?**

The bonding amount established by the Administrator of the Division of Minerals must be put in place prior to the transfer of permit(s) being approved.

**Specific conditions applied to the approval of the transfer? If so, what are the suite of conditions commonly used?**

**Ability to reverse a transfer?**

Yes.

**Joint and several liability for the entire ownership path for each piece of infrastructure?**

NDOM only oversees wells. The bonding must be established in the operator's name.

**Other?**

## New York

### Who is assessed?

#### Both the transferor and transferee?

NY does not assess the financial capability of either the transferor nor the transferee. The transferee is required to post a bond.

#### Are working interest participants or other financially invested parties assessed?

No.

#### Other?

### What infrastructure is subject to transfer requirements?

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
Wells	Transfer of Plugging Liabilities	6 NYCRR 551.1(d), Environmental Conservation Law 23-0305 (8)(e)
Facilities	None	
Pipelines	None	
Sites \ Land Associated With the Infrastructure	None	

### What is analyzed?

#### Appropriateness of financial assurance provided to the regulator?

Yes – assurance must be of a specified type and in a format the Department prescribes.

#### Corporate solvency?

No, only an active registration with the Department of State.

#### Please list any key indicators that are used

- Debt to asset ratio
- Asset to liability ratio
- Active to Inactive ratio of companies or of infrastructure being transferred

**Status of infrastructure (active, inactive, etc.)?**

Wells that are the subject of a transfer request must be in compliance with our regulations at the time of transfer. If they are legally shut-in, that would not impact the transfer.

**Compliance status?**

The wells to be transferred must be in compliance with all regulations prior to the transfer being approved. This is required to process the transfer. It does not factor into the assurance amount.

**Integrity of infrastructure?**

As stated above.

**Other?**

**When is the assessment conducted?**

**Identification of a pending transfer?**

Receipt of transfer request form. The transferee must post the assurance prior to transfer approval.

**Upon formal submission?**

Yes-when transfer request form has been received.

**Other?**

**What assurances are in place?**

**Necessity of financial assurance being provided to the regulator in advance of a transfer occurring?**

Yes.

**Specific conditions applied to the approval of the transfer?**

No

**If so, what are the suite of conditions commonly used?**

**Ability to reverse a transfer?**

No

**Joint and several liability for the entire ownership path for each piece of infrastructure?**

No

**Other?**

## Ohio

### Who is assessed?

#### Both the transferor and transferee?

No provisions applicable to wells and associated facilities and sites. With respect to pipelines that are public utilities, the Ohio Public Utilities Commission assesses the transferee.

#### Are working interest participants or other financially invested parties assessed?

No provisions applicable to wells and associated facilities and sites. With respect to pipelines that are public utilities, the assessment is generally limited to the parties that will have ownership.

#### Other?

N/A

### What infrastructure is subject to transfer requirements?

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
<b>Wells</b>	Notification to the Division of Oil and Gas Resources Management is required within 30 days of a transfer.	R.C. 1509.07 and 1509.31
<b>Facilities</b>	<ol style="list-style-type: none"> <li>1. Facilities associated with a well are transferred with the well.</li> <li>2. Oil and Gas Waste Facilities operate pursuant an order of Chief. A potential transferee must submit an application and receive an order to operate.</li> <li>3. Associated facilities with respect to pipelines that are public utilities.</li> </ol>	<p>R.C. 1509.22(B)(2)(a) and (C)</p> <p>R.C. 4905.48</p>
<b>Pipelines</b>	All pipelines that are public utilities	R.C. 4905.48
<b>Sites \ Land Associated With the Infrastructure</b>	Well sites must be transferred pursuant to a Division of Oil and Gas Resources Management form.	OAC 1501:9-2-02

### What is analyzed?

#### Appropriateness of financial assurance provided to the regulator?

No provisions applicable to wells and associated facilities and sites. With respect to pipelines that are public utilities, the Public Utilities Commission analyzes the appropriateness of the financial assurance.

#### Corporate solvency?

No provisions applicable to wells and associated facilities and sites. A company only must provide appropriate financial assurance and insurance to operate wells in Ohio. With respect to pipelines that are public utilities, the Public Utilities Commission may review any factor, including those below, that the Commission believes important to show that the public will be furnished adequate service for a reasonable and just rate.

**Please list any key indicators that are used**

- Debt to asset ratio
- Asset to liability ratio
- Active to Inactive ratio of companies or of infrastructure being transferred

**Status of infrastructure (active, inactive, etc.)?**

No provisions applicable to wells and associated facilities and sites. With respect to pipelines that are public utilities, the Public Utilities Commission analyzes the status of the infrastructure.

**Compliance status?**

Not considered for wells and associated facilities and sites, but a transfer does not relieve the transferor of obligations and liabilities of the transferor until the transferee provides bond and financial assurance, and provides other certain information. With respect to pipelines that are public utilities, the Public Utilities Commission analyzes the compliance status.

**Integrity of infrastructure?**

No provisions applicable to wells and associated facilities and sites. With respect to pipelines that are public utilities, the Public Utilities Commission analyzes the integrity of the infrastructure somewhat.

**Other?**

With respect to pipelines that are public utilities, the Public Utilities Commission analyzes compliance history, cash flows, income/expenses associated with facilities to be transferred, etc.

### **When is the assessment conducted?**

No provisions applicable to wells and associated facilities and sites. With respect to pipelines that are public utilities, the Public Utilities Commission conducts the assessment when an application for transfer is received. (see additional information below)

### **Identification of a pending transfer?**

No

### **Upon formal submission?**

Yes

### **Other?**

When transfers are directed by the agency or other authority

### **What assurances are in place?**

#### **Necessity of financial assurance being provided to the regulator in advance of a transfer occurring?**

No financial assurance required in advance of a transfer with respect to wells and associated facilities and sites. With respect to pipelines that are public utilities, the Public Utilities Commission requires financial assurance in advance of transfer.

#### **Specific conditions applied to the approval of the transfer?**

No provisions with respect to wells and associated facilities and sites. With respect to pipelines that are public utilities, the Public Utilities Commission requires the transferee to demonstrate that it can furnish adequate service for a reasonable and just rate.

#### **If so, what are the suite of conditions commonly used?**

Financially and managerially sound.

#### **Ability to reverse a transfer?**

A well or well-site may be transferred back as a new separate transfer. With respect to pipelines that are public utilities, a transfer may be reversed but it is unusual as the initial transfer requires Public Utilities Commission review and approval prior to transaction.

#### **Joint and several liability for the entire ownership path for each piece of infrastructure?**

#### **Other?**

# Oklahoma

## Who is assessed?

### Both the transferor and transferee?

Wells must be clear of open incident reports and the operator receiving the wells must have valid surety in place.

### Are working interest participants or other financially invested parties assessed?

No

### Other?

## What infrastructure is subject to transfer requirements?

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
<b>Wells</b>	All	OCC Rules 165:10-1-15
<b>Facilities</b>	Commercial Facilities	
<b>Pipelines</b>	Gas/Hazardous Liquids pipelines	OCC Rules 165:20-5-4 (subject to 49 C.F.R. Part 192)/165:20-7-4 (subject to 49 C.F.R. Part 195)
<b>Sites \ Land Associated With the Infrastructure</b>		

## What is analyzed?

### Appropriateness of financial assurance provided to the regulator?

Must have valid surety OCC Rules 165:10-1-10

### Corporate solvency?

#### Please list any key indicators that are used

- Debt to asset ratio
- Asset to liability ratio
- Active to Inactive ratio of companies or of infrastructure being transferred

### Status of infrastructure (active, inactive, etc.)?

Any well not plugged and abandoned may be transferred.

### Compliance status?

Must not have open compliance issues/incident reports on any well to be transferred.

**Integrity of infrastructure?**

**Other?**

**When is the assessment conducted?**

**Identification of a pending transfer?**

If advance notice is given, review of wells may be started

**Upon formal submission?**

Reviewed prior to final OCC approval

**Other?**

**What assurances are in place?**

**Necessity of financial assurance being provided to the regulator in advance of a transfer occurring?**

Yes, valid surety is required before the transfer can be completed.

**Specific conditions applied to the approval of the transfer?**

Yes

**If so, what are the suite of conditions commonly used?**

Valid Surety, no open complaints or environmental incidents

**Ability to reverse a transfer?**

With a Notice of Hearing

**Joint and several liability for the entire ownership path for each piece of infrastructure?**

**Other?**



## Pennsylvania

### Who is assessed?

Both the transferor and transferee?

Are working interest participants or other financially invested parties assessed?

Other?

### What infrastructure is subject to transfer requirements?

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
<b>Wells</b>	All wells. Only the transferee is assessed for compliance with environmental laws. Assessment is conduct upon formal request of the transferor. Bonds are required for all wells drilled after 1985.	25 Pa Code 78a. 13, 78a. 14
<b>Facilities</b>	Compressor station permits, waste processing facility permits, water withdrawal approvals and erosion and sediment control permits for other facilities are assessed. Only the transferee is assessed for compliance with environmental laws. Assessment is conduct upon formal request of the transferor. No assurances are in place for facilities except for waste processing facilities which require a 100% closure bond.	Transfer of air, waste and erosion permit requirements are a condition of the permit.
<b>Pipelines</b>	Gathering line transfers are not assessed. FERC/PUC line transfers are likely assessed but not by PA DEP	
<b>Sites \ Land Associated With the Infrastructure</b>	Not assessed	

## **What is analyzed?**

**Appropriateness of financial assurance provided to the regulator?**

**Corporate solvency?**

**Please list any key indicators that are used**

- Debt to asset ratio
- Asset to liability ratio
- Active to Inactive ratio of companies or of infrastructure being transferred

**Status of infrastructure (active, inactive, etc.)?**

**Compliance status?**

**Integrity of infrastructure?**

**Other?**

## **When is the assessment conducted?**

**Identification of a pending transfer?**

**Upon formal submission?**

**Other?**

## **What assurances are in place?**

**Necessity of financial assurance being provided to the regulator in advance of a transfer occurring?**

**Specific conditions applied to the approval of the transfer?**

**If so, what are the suite of conditions commonly used?**

**Ability to reverse a transfer?**

**Joint and several liability for the entire ownership path for each piece of infrastructure?**

**Other?**

## South Dakota

### Who is assessed?

#### Both the transferor and transferee?

South Dakota does not formally financially assess any potential operators. We require they certify themselves in accordance with South Dakota Codified Law 1-40-27 and that they post sufficient bond in accordance with our rules.

#### Are working interest participants or other financially invested parties assessed?

No

#### Other?

No

### What infrastructure is subject to transfer requirements?

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
<b>Wells</b>	Yes	ARSD 74:12:04:18
<b>Facilities</b>	No	
<b>Pipelines</b>	No	
<b>Sites \ Land Associated With the Infrastructure</b>	Only as they apply to the operator's compliance with State Rules and Codified Laws (sites: well pad and equipment on pad)	ARSD 74:12:04:18

### What is analyzed?

#### Appropriateness of financial assurance provided to the regulator?

Yes

#### Corporate solvency?

No

#### Please list any key indicators that are used

- Debt to asset ratio
- Asset to liability ratio
- Active to inactive ratio of companies or of infrastructure being transferred

#### Status of infrastructure (active, inactive, etc.)?

Yes, as it applies to the equipment on the well pad and the well

#### Compliance status?

Yes, as it applies to the equipment on the well pad and the well

**Integrity of infrastructure?**

Yes, as it applies to the equipment on the well pad and the well

**Other?**

No

**When is the assessment conducted?**

**Identification of a pending transfer?**

Yes

**Upon formal submission?**

Yes

**Other?**

No

**What assurances are in place?**

**Necessity of financial assurance being provided to the regulator in advance of a transfer occurring?**

Yes.

**Specific conditions applied to the approval of the transfer?**

Any outstanding administrative or inspection issues

**If so, what are the suite of conditions commonly used?**

**Ability to reverse a transfer?**

No

**Joint and several liability for the entire ownership path for each piece of infrastructure?**

No

**Other?**

No

# Texas

## WELLS/LEASES

In Texas, leases may be transferred from one operator to another operator. Once the Commission has approved the Form P-4, Producer's Transportation Authority and Certificate of Compliance transferring operatorship, the prior operator will no longer be responsible for compliance. The acquiring operator will have six months from the date of Form P-4 approval to bring any inactive wells into compliance with 16 Texas Administrative Code (TAC) §3.15. The operator may comply by plugging the well, returning the well to active operation, or by applying for and being granted a plugging extension on the well. Until the acquiring operator has brought the well into compliance with 16 TAC §3.15, the Commission may not approve any further transfers of the inactive well to a subsequent operator. Following the expiration of the 6-month period after transfer, if any transferred well remains out of compliance with 16 TAC §3.15, the Commission may, after notice and opportunity for hearing, revoke the operator's Form P-5 Organization Report. Revocation of the Form P-5 Organization Report will not relieve the designated operator of its responsibility to maintain the leases and wells in compliance with Statewide Rules, but otherwise prohibits the operator from conducting oil and gas operations in the State of Texas. (See References: Form P-4, Form P-5, and 16 TAC §3.15, HB 2259)

## PIPELINES

In Texas, all pipelines, whether common carrier, gas utility, or private line, must have an approved Form T-4, Application for Permit to Operate a Pipeline in Texas. An application for a Form T-4 Permit must be filed by an operator with an approved Form P-5 Organization Report and financial security on file with the Commission and must include a digitized map of the pipeline(s) to be covered by that T-4 Permit. When requesting a pipeline transfer, both the divesting operator and the acquiring operator must complete a Form T-4 and T-4B (Pipeline Transfer Certification). Partial transfers between operators require a Form T-4B signed by both operators with details of the line names and mileage being transferred. (See References: Form T-4, Form T-4B, and Form P-5)

## FINANCIAL SECURITY REQUIREMENTS

In accordance with 16 TAC §3.78, relating to Fees and Financial Security Requirements), most Commission regulated activities, including the operation of wells and pipelines, require an organization to file and maintain some form of financial assurance in varying amounts. (See References: 16 TAC §3.78)

## **INACTIVE WELL REQUIREMENTS**

In 2009, the 81st Texas Legislature enacted House Bill 2259 (HB 2259), establishing new requirements for oil and gas operators related to surface equipment removal, as well as additional requirements for the approval of plugging extensions for inactive wells. These changes affect all operators who have inactive wells in their inventory. (See References: HB2259/HB3134)

## **OIL & GAS REGULATION AND CLEAN UP PROGRAM**

The Oil and Gas Regulation and Cleanup Fund is a fund that was created by the 82nd Texas Legislature in 2011. This fund replaced the previous Oil Field Cleanup Fund. This fund allows the Railroad Commission to plug abandoned oil and gas wells and clean-up abandoned oilfield sites using revenues collected from various fees and assessments on the oil and gas industry. (See References: OGRC Fund)

## **REFERENCES**

### **FORMS**

Form P-4: Certificate of Compliance and Transportation Authority

Form P-4 Instructions

### **Pipeline Permitting Forms**

Form T-4 – Application for Permit to Operate a Pipeline in Texas

Form T-4B – Pipeline Transfer Certification

Form T-4 Amendment/Merge/Transfer

### **Guidance for Required T-4 Documentation**

Pipeline Safety Permitting

Notice to Operators – Inactive Well Requirements (HB2259 and HB3134)

### **Applicable Statewide Rule Numbers**

(16 TAC §\_\_) OR OTHER AUTHORITY (§3.1, §3.14, §3.15, §3.30, §3.58, §3.73, §3.78)

Statewide Rule 1, Organization Report; Retention of Records, Notice Requirements

Statewide Rule 14, Plugging

Statewide Rule 15, Surface Equipment Removal Requirements and Inactive Wells

Statewide Rule 30, Memorandum of Understanding between the Railroad Commission of Texas (RRC) and Texas Commission on Environmental Quality (TCEQ)

Statewide Rule 58, Certificate of Compliance and Transportation Authority; Operator Reports

Statewide Rule 73, Pipeline Connection; Cancellation of Certificate of Compliance; Severance

Statewide Rule 78, Fees and Financial Security Requirements

**ADDITIONAL LINKS**

HB 2259/HB 3134 - Inactive Well Requirements

HB 2259 – Transferring Wells to New Operators

Oil and Gas Exploration and Surface Ownership

Oil and Gas Regulation and Cleanup (OGRC) Fund

## Virginia

### Who is assessed?

#### Both the transferor and transferee?

The transferor and the transferee both are assessed as part of the permit transfer process in Virginia.

#### Are working interest participants or other financially invested parties assessed?

There are no other participants or financially invested parties assessed in Virginia as part of the transfer process.

#### Other?

### What infrastructure is subject to transfer requirements?

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
<b>Wells</b>	The transfer requirements in Virginia apply to all of wells that are permitted.	Virginia DGO Regulations and laws: 4 VAC25-150-120; Code of Virginia: § 45.1-361.31. Bonding and financial security required. § 45.1-361.37. Persons required to register; designated agents.
<b>Facilities</b>	The transfer requirements in Virginia apply to all of Facilities that are permitted as a stand alone permit or part of a permit that includes a well and/or pipeline.	The same regulations and Laws apply to Facilities that apply to wells.
<b>Pipelines</b>	The transfer requirements in Virginia apply to all of pipelines that are permitted as a stand alone permit or part of a permit that includes a well.	The same regulations and Laws apply to Facilities that apply to wells.
<b>Sites \ Land Associated With the Infrastructure</b>	The transfer requirements in Virginia apply to any sites/Land associated with permitted infrastructure.	The same regulations and Laws apply to Facilities that apply to wells.



## **What is analyzed?**

### **Appropriateness of financial assurance provided to the regulator?**

N/A

### **Corporate solvency?**

N/A. The indicators listed below are not part of the permit transfer process in Virginia.

#### **Please list any key indicators that are used**

- Debt to asset ratio
- Asset to liability ratio
- Active to Inactive ratio of companies or of infrastructure being transferred

### **Status of infrastructure (active, inactive, etc.)?**

The permit status (active or inactive) of infrastructure is taken into account in regards to the transfer process. Statuses that are used include producing, operating, shut-in, issued and plugged/abandoned.

### **Compliance status?**

The compliance status of the infrastructure is taken into account. Any outstanding violations or closure orders must be taken care of by the transferor before the infrastructure is transferred.

### **Integrity of infrastructure?**

The integrity of the infrastructure is not addressed in the transfer process.

### **Other?**

N/A

## **When is the assessment conducted?**

### **Identification of a pending transfer?**

Before the transfer process begins, the transferee must register with the Virginia Division of Gas and Oil and post the appropriate bond.

### **Upon formal submission?**

Formal submission of the transfer is done through the Virginia Divisions of Gas and Oil's Electronic Eforms system.

**The transfer statuses that are used include:** Saved, Submitted and Approved.

### **Other?**

N/A

## **What assurances are in place?**

**Necessity of financial assurance being provided to the regulator in advance of a transfer occurring?**

**Below are the Laws from the Code of Virginia that apply to the financial assurance that must be provided to the Division of Gas and Oil:**

### **§ 45.1-361.37. Persons required to register; designated agents.**

A. Any person who owns a well, drills a well, completes well work, operates any well or gathering pipeline, conducts ground disturbing geophysical explorations, or who transports gas or oil up to and including the first point of sale shall register with the Director and shall provide his name and address and the name, address and official title of the person in charge of his operations in the Commonwealth.

B. Any person registering under subsection A of this section shall designate the name and address of an agent who shall be the attorney-in-fact of the registrant for the purposes hereinafter set forth. The designated agent shall be a resident of the Commonwealth. Notices, orders, other communications and all processes issued pursuant to this chapter may be served upon or otherwise delivered to the designated agent as and for the operator. Any designation of an agent shall remain in force until the Director is notified in writing of a designation termination and the designation of a new agent.

### **§ 45.1-361.31. Bonding and financial security required.**

A. To ensure compliance with all laws and regulations pertaining to permitted activities and the furnishing of reports and other information required by the Board or Director, all permit applicants shall give bond with surety acceptable to the Director and payable to the Commonwealth. At the election of the permit applicant, a cash bond may be given. The amount of the bond required shall be sufficient to cover the costs of properly plugging the well and restoring the site, but in no case shall the amount of the bond be less than \$10,000 per well plus \$2,000 per acre of disturbed land, calculated to the nearest tenth of an acre. Bonds shall remain in force until released by the Director.

B. Upon receipt of an application for permits for gas or oil operations and at the request of the permit applicant, the Director may, in lieu of requiring a separate bond for each permit, require a blanket bond. The amount of the blanket bond shall be as follows:

1. For one to fifteen wells, \$25,000.
2. For sixteen to thirty wells, \$50,000.
3. For thirty-one to fifty wells, \$75,000.
4. For fifty-one or more wells, \$100,000.

For purposes of calculating blanket bond amounts, from one-tenth of an acre to five acres of disturbed land for a separately permitted gathering pipeline shall be equivalent to one well. The Director shall promulgate regulations for the release of acreage used to calculate blanket bond amounts for separately permitted gathering pipelines in cases where sites have been stabilized.

C. Any gas or oil operator who elects to post a blanket bond shall pay into the Gas and Oil Plugging and Restoration Fund those fees and assessments required under the provisions of § 45.1-361.32.

D. This section's minimum requirements for bonding shall be met by all permitted gas or oil operations by July 1, 1991.

### **Specific conditions applied to the approval of the transfer?**

#### **If so, what are the suite of conditions commonly used?**

**Below is the Virginia Division of Gas and Oil's regulation pertaining to the requirements for the approval of a permit transfer:**

#### **4VAC25-150-120. Transfer of Permit Rights.**

##### **A. Applicability.**

1. No transfer of rights granted by a permit shall be made without prior approval from the director.
2. Any approval granted by the director of a transfer of permit rights shall be conditioned upon the proposed new operator complying with all requirements of the Act, this chapter and the permit.

**B. Application.** Any person requesting a transfer of rights granted by a permit shall submit a written application on a form prescribed by the director. The application shall be accompanied by a fee of \$75 and bond, in the name of the person requesting the transfer, in accordance with § 45.1-361.31 of the Code of Virginia. The application shall contain, but is not limited to:

1. The name and address of the current permittee, the current permit number and the name of the current operation;
2. The name and address of the proposed new operator and the proposed new operations name;
3. Documentation of approval of the transfer by the current permittee;

4. If the permit was issued on or before September 25, 1991, an updated operations plan, in accordance with 4VAC25-150-100, showing how all permitted activities to be conducted by the proposed new permittee will comply with the standards of this chapter;

5. If the permit was issued on or before September 25, 1991, for a well, a plat meeting the requirements of 4VAC25-150-90 updated to reflect any changes on the site, newly discovered data or additional data required since the last plat was submitted, including the change in ownership of the well; and

6. If the permit was issued on or before September 25, 1991, if applicable, the docket number and date of recordation of any order issued by the board for a pooled unit, pertaining to the current permit.

C. Standards for approval. The director shall approve the transfer of permit rights when the proposed new permittee:

1. Has registered with the department in accordance with § 45.1-361.37 of the Code of Virginia;

2. Has posted acceptable bond in accordance with § 45.1-361.31 of the Code of Virginia; and

3. Has no outstanding debt pursuant to § 45.1-361.32 of the Code of Virginia.

D. The new permittee shall be responsible for any violations of or penalties under the Act, this chapter, or conditions of the permit after the director has approved the transfer of permit rights.

### **Ability to reverse a transfer?**

There is no regulation in Virginia that gives a company the ability to reverse a permit transfer once it has been transferred.

### **Joint and several liability for the entire ownership path for each piece of infrastructure?**

Virginia does address joint and several liability ownership of a facility in the transfer process. The permit holder would be responsible for the infrastructure.

### **Other?**

N/A

## West Virginia

### Who is assessed?

**Both the transferor and transferee?**

Financial security is only assessed for the transferee

**Are working interest participants or other financially invested parties assessed?**

No

**Other?**

### What infrastructure is subject to transfer requirements?

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
<b>Wells</b>	All H6A well work permits	W. Va. Codes §§ 22-6-26(h); 22-6A-7(m)
<b>Facilities</b>	Tanks/surface equipment/associated pits or impoundments	All facilities directly tied to the well are transferred with the well without additional requirements; however, certain facilities outside OOG jurisdiction may require additional transfer/re-registration (e.g., tanks, permitted staging areas, etc.).
<b>Pipelines</b>		
<b>Sites \ Land Associated With the Infrastructure</b>		

### What is analyzed?

**Appropriateness of financial assurance provided to the regulator?**

Yes; transferee must meet the financial security requirements defined in W. Va. Codes §§ 22-6-26, 22-6A-15

**Corporate solvency?**

No

**Please list any key indicators that are used**

- Debt to asset ratio
- Asset to liability ratio
- Active to Inactive ratio of companies or of infrastructure being transferred

**Status of infrastructure (active, inactive, etc.)?**

Yes; inactivity is considered 'well abandonment' and well must be in full compliance to be transferred.

**Compliance status?**

Yes; must be in full compliance to be transferred, or be listed on consent order to become compliant

**Integrity of infrastructure?**

No

**Other?**

**When is the assessment conducted?**

**Identification of a pending transfer?**

No

**Upon formal submission?**

Yes

**Other?**

**What assurances are in place?**

**Necessity of financial assurance being provided to the regulator in advance of a transfer occurring?**

Instruments of financial security must be provided by the transferee prior to (or at the time of) transfer.

**Specific conditions applied to the approval of the transfer?**

No (unless consent order is required to establish compliance)

**If so, what are the suite of conditions commonly used?**

**Ability to reverse a transfer?**

No

**Joint and several liability for the entire ownership path for each piece of infrastructure?**

No

**Other?**

## Wyoming

### Who is assessed?

**Both the transferor and transferee?**

Yes

**Are working interest participants or other financially invested parties assessed?**

No

**Other?**

### What infrastructure is subject to transfer requirements?

Infrastructure Type	Please Identify If The Transfer Requirements Apply to All, or Certain Types Within Each Category	Regulatory Citation
<b>Wells</b>	Yes	Ch 3 Sec 4 (a) (v)
<b>Facilities</b>	Yes – On Location	
<b>Pipelines</b>	Gathering Lines Only	
<b>Sites \ Land Associated With the Infrastructure</b>	?	

### What is analyzed?

**Appropriateness of financial assurance provided to the regulator?**

**Please See Attached Rule:**

- (ii) The location at which the applicant requests permission to drill; and
- (iii) The locations at which oil or gas wells have been drilled or could be drilled, in accordance with Section 2 of this chapter, or the applicable order, directly or diagonally offsetting the proposed exception.
- (c) No exception shall prevent any Owner from drilling an oil or gas well on adjacent lands, directly or diagonally offsetting the exception, at locations permitted by Section 2 of this chapter, or any applicable order of the Commission establishing oil or gas well spacing units for the pool involved.

#### **Section 4. Bonding Requirements (Forms 8, 8A, SE and SF)**

- (a) General.
  - (i) The purpose of a surety bond or other guaranty posted as security pursuant to the Commission's Rules is to insure that the principal or person posting same complies

with the Wyoming Conservation Act, the Commission's Rules, and the orders of the Commission, the State Oil and Gas Supervisor, or his Authorized Agent, including, but not limited to, proper plugging of wells and seismic holes and reclamation of the area affected by same.

(ii) The Commission shall require from the Owner/Operator a good and sufficient bond running to the state of Wyoming to assure that each well and associated equipment shall be operated and maintained in such a manner as not to cause waste or damage the environment and upon permanent abandonment, each well shall be plugged in accordance with the Rules and Regulations of the Commission.

(iii) Site reclamation, including removal of equipment, shall be initiated within one (1) year of permanent abandonment of a well or last use of a pit, and shall be completed in as timely a manner as climatic conditions allow. For just cause, the Supervisor may grant an administrative variance providing for additional time.

(iv) Reclamation, including removal of equipment, shall be completed in accordance with the landowner's reasonable requests, and/or resemble the original vegetation and contour of adjoining lands. Where practical, topsoil shall be stockpiled during construction for use in reclamation. All disturbed areas on state lands will be recontoured and reseeded as required by the Office of State Lands and Investments. Appendix F includes information on reseeded.

(v) **TRANSFER OF WELLS.** The Supervisor shall be advised by the Owner/Operator of all transfers of wells at least thirty (30) days before the closing date of the transfer and the Supervisor retains the right for an additional thirty (30) days to evaluate pending transfer of well(s). Notice of transfer of wells must be accompanied by a list of all wells to be transferred that includes the well name, API number, legal description and well status. The purpose of the notice is to provide the Supervisor with an opportunity to evaluate the status and number of wells that may be involved in the transfer and determine the need for additional bonding by the new Owner/Operator. No later than thirty (30) days after notification, the Supervisor will notify the parties of his preliminary determination of additional bonding. The previous Owner/Operator's bond shall not be released until the new Owner/Operator provides bonding, including the additional bonding if requested. The Supervisor shall have the discretion to hold the prior bond for a period of six (6) months after the new bond has been posted to evaluate the performance and viability of the new operator. The Supervisor shall also provide thirty (30) days notice of the transfer of any well(s) to the county where the well(s) is located.

(vi) **OTHER REQUIREMENTS.** Nothing in this rule shall be construed to prevent the Supervisor, upon notice and for good cause, from requiring bonds in special cases in amounts greater than set out in this rule.

(b) Types of Bonds.



(i) WELL/BLANKET BONDS. The Commission shall require from the Owner/Operator a good and sufficient bond running to the state of Wyoming, except where a bond in satisfactory form has been filed by the Owner/Operator in accordance with state, federal or Tribal lease requirements. The minimum amount of bond or bonds required to be furnished shall be as follows:

(A) An individual well bond shall be set at ten dollars (\$10.00) per foot of the well bore, and adjusted every three (3) years based on the Wyoming consumer price index or actual plugging costs.

(B) In the alternative, a blanket bond in the amount of one hundred thousand dollars (\$100,000.00) covering all wells, regardless of depth or length.

(C) All Owners/Operators are required to post additional bond amounts to comply with this subsection (b)(i) within one (1) year of the effective date of this rule.

(ii) IDLE WELL BONDING.

(A) In the event an Owner/Operator has a blanket bond covering wells on fee or patented lands, the Commission will normally not ask for additional coverage if the wells are producing, monitoring, injecting, or disposing. Wells which are not producing, injecting, or disposing in an economic manner are deemed to be idle. The Supervisor may require an increased bond amount up to ten dollars (\$10.00) per foot for each idle well taking into account the existing level of bond in place. As wells are removed from idle status, up to ten dollars (\$10.00) per foot bonding requirements will be reduced accordingly.

(B) The bonding level of \$10 per foot will be adjusted every three (3) years based on the actual Commission orphan well plugging cost or by the percentage change in the Wyoming consumer price index. An Owner/Operator may request the Supervisor to set a different bonding level based on an evaluation of the specific well conditions and circumstances. The Owner/Operator shall submit a written cost estimate to provide plugging, abandonment and site remediation prepared by a Wyoming contractor with expertise in well plugging, abandonment and site remediation. At his discretion, the Supervisor may accept or reject the cost estimate when determining whether to adjust the bonding level.

(C) The idle well bond amount will be reviewed annually or upon request of the Owner/Operator. The Supervisor may accept a detailed plan of operation in lieu of additional bonding, which includes a time schedule to permanently plug and abandon idle wells or take such action as may be necessary to remove the well(s) from idle status. As part of the plan of operation, Owner/Operators shall commit to plug or return to active status a minimum of ten percent (10%) of the idle wells each calendar

year. This plan and time schedule is subject to approval by the Supervisor, and shall not exceed one (1) year from the date of filing. Approved plans filed by an Owner/Operator are binding on purchasers in the event of a sale unless the Supervisor accepts an alternate plan.

(iii) PIT BONDS. The Commission may require from the Owner/Operator a good and sufficient bond running to the state of Wyoming conditioned for or securing the performance that pits constructed to receive water or other wastes produced in association with hydrocarbons, or noncommercial, centralized pits located within a lease, unit, or communitized area used for field operations shall be operated and maintained in such a manner as to not damage the environment or to not cause undue harm to health and safety of employees and people residing in close proximity to the pit and that upon permanent abandonment of the project or last use of the pit, the pit shall be closed and the adjacent areas reclaimed in accordance with the Rules and Regulations of the Commission.

(A) Separate bonding amounts for these pits, if required by the Commission, shall be set by the Supervisor following evaluation of site-specific conditions and circumstances. The Owner/Operator shall, within a reasonable time after a request by the Supervisor or his duly Authorized Agents, provide a written cost estimate prepared by a Wyoming registered professional engineer with expertise in surface pit remediation for closure of the pit and remediation of the surface and access areas closely adjacent to the pit. The surface landowner shall receive a copy of said cost estimate from the Owner/Operator prior to construction.

(B) Because the construction of pits for the retention of water produced solely in association with the recovery of coalbed methane gas may be of benefit to the landowner, the Supervisor, in his sole discretion, may waive the bonding for such pits otherwise provided for by this subsection and allow such pits to remain open after the cessation of production operations if a notarized statement of acceptance signed by the landowner sufficient to meet the satisfaction of the Supervisor and including, at a minimum, the following items, accompanies the Form 14, Construction of Pits, when it is provided to the Commission:

(I) The surveyed location including latitude and longitude;

(II) The exact size and depth of the pit; and

(III) A statement accepting all future responsibility for the structure and its contents.

(C) Prior to the waiving of bonding for pit closure and prior to acceptance by the surface landowner, the Owner/Operator shall provide the surface landowner a current

written cost estimate for pit closure prepared by a Wyoming registered professional engineer with expertise in surface pit remediation.

(iv) SPLIT ESTATE BONDS.

(A) In the event that an Owner/Operator is required to post a bond or other surety with the Commission as required by WYO. STAT. ANN. § 30-5-402, said surety bond shall comply with the formatting requirements of the Commission. An Owner/Operator may post a cashier's check, certificate of deposit or letter of credit that complies with the requirements of this chapter.

(B) After attempted good faith negotiations with the surface owner, the Owner/Operator may submit a bond or other guaranty to cover all oil and gas operations on the surface owner's land as identified by an oil and gas operator in the written notice required under WYO. STAT. ANN. § 30-5-402(e). The amount of the bond shall be determined by the Supervisor. The minimum amount of bond shall be ten thousand dollars (\$10,000.00) per well site. The Supervisor may require a separate blanket or surety bond to cover activities, such as but not limited to access roads, pipelines, and production facilities.

(C) Split estate bonds for the purpose of conducting seismic operations shall be set in an amount of not less than five thousand dollars (\$5,000.00) for the first one thousand (1,000) acres or portion thereof, and not less than one thousand dollars (\$1,000.00) for each additional one thousand (1,000) acres or portion thereof, for each surface owner over whose property access is sought. The Commission may pool parcels of land of different surface owners where no single parcel exceeds forty (40) acres.

(D) In determining the amount of bond to be posted, whether a single well site bond or blanket bond, the Supervisor shall consider the proposed plan of

**Corporate solvency?**

**Please list any key indicators that are used**

- Debt to asset ratio
- Asset to liability ratio
- Active to Inactive ratio of companies or of infrastructure being transferred

**Status of infrastructure (active, inactive, etc.)?**

**Compliance status?**