



DIVISIONS  
ENERGY  
GAS AND OIL  
GEOLOGY AND MINERAL  
RESOURCES  
MINED LAND RECLAMATION  
MINERAL MINING  
MINES  
ADMINISTRATION

# COMMONWEALTH OF VIRGINIA

## *Department of Mines, Minerals and Energy*

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### **GUIDANCE MEMORANDUM<sup>1</sup>**

**TO:** Gas and Oil Operators in Virginia

**FROM:** Rick Cooper, Director  
Department of Mines, Minerals and Energy (DMME), Division of Gas and Oil

**DATE:** December 28, 2016

**SUBJECT:** **Bonding and Additional Financial Security Requirements Applicable to Wells Drilled in Tidewater Virginia<sup>2</sup>**

### **Introduction**

Virginia consists of five physiographic provinces. One province, the Coastal Plain, has seen a recent increase in lands leased for potential oil and gas drilling. The potential resource in the Coastal Plain, commonly known as the Taylorsville Basin, sits beneath the Potomac Aquifer. This groundwater system provides water supplies to approximately 90% of the residents in the Coastal Plain. Such a vast aquifer system does not exist in Southwest Virginia, where all existing drilling in the Commonwealth takes place.

[§ 45.1-361.3](#) of the Code of Virginia (Code) empowers the Department of Mines, Minerals and Energy (DMME) “to protect the citizens and the environment of the Commonwealth from the public safety and environmental risks associated with the development and production of gas or oil.”

[§ 45.1-361.31\(A\)](#) states “permit applicants shall give bond with surety acceptable to the Director and payable to the Commonwealth.” [§ 45.1-361.27\(E\) \(4\)](#) of the Code grants DMME the authority to “[r]equire or forfeit

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<sup>1</sup> This memorandum is to be considered a guideline issued under the authority of [§ 45.1-361.27\(E\)\(5\)](#) which reads: “The Director shall also have the authority to prescribe the nature of and form for the presentation of any information and documentation required by any provision of this article or regulation adopted thereunder.”

<sup>2</sup> Per [§ 62.1-44.15:68](#) of the Code, "Tidewater Virginia" means the following jurisdictions: The Counties of Accomack, Arlington, Caroline, Charles City, Chesterfield, Essex, Fairfax, Gloucester, Hanover, Henrico, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Mathews, Middlesex, New Kent, Northampton, Northumberland, Prince George, Prince William, Richmond, Spotsylvania, Stafford, Surry, Westmoreland, and York, and the Cities of Alexandria, Chesapeake, Colonial Heights, Fairfax, Falls Church, Fredericksburg, Hampton, Hopewell, Newport News, Norfolk, Petersburg, Poquoson, Portsmouth, Richmond, Suffolk, Virginia Beach, and Williamsburg.

bonds or other financial securities.” This document establishes the bonding requirements applicable to any wells drilled in the Tidewater region and the conditions for which additional financial securities will be required before a permit to drill for gas or oil in Tidewater shall be issued.

## **Requirements**

Effective immediately, blanket bonds will not be accepted with any permit applications for any well drilled in Tidewater Virginia. Surety acceptable to the Director pursuant to [§ 45.1-361.31\(A\)](#) shall be in the amount of \$20 per foot, including vertical and horizontal lengths, of each well.

In addition to the bonding requirements of [§ 45.1-361.31](#) of the Code, applicants for a permit to drill any gas or oil well in the Coastal Plain shall be required to submit proof of adequate additional financial security as described below.

Permitted operators shall maintain third party liability coverage for sudden, accidental releases stemming from operations at the permitted site.

The operator shall carry a valid policy or policies of insurance issued by an insurance company or companies authorized to do business in the Commonwealth of Virginia. In the event such insurance policy or policies are cancelled, the permit shall be suspended on such date of cancellation and the operator’s right to operate under the permit shall immediately cease until the operator files additional insurance as provided herein.

1. General Requirements applicable to all policies:

a. The Commonwealth of Virginia, its officials, employees, agents and officers shall be endorsed as an Additional Insured on all policies. A copy of the endorsement is required for evidence of coverage.

b. All policies shall be endorsed with a waiver of subrogation in favor of the Commonwealth of Virginia. A copy of the endorsement is required for evidence of coverage.

c. All policies shall be written on an occurrence basis where commercially available.

d. If coverage is written on a claims made basis, the operator must maintain continuous coverage or purchase Extended Period Coverage Insurance for four years following expiration or suspension of the Gas Well Permit. The Extended Coverage Period insurance must provide that any retroactive date applicable to coverage under the policy precedes the effective date of the issuance of the permit by DMME.

e. All policies shall be written by an insurer with an A-: VII or better rating by the most current version of the A. M. Best Key Rating Guide or with other financially sound insurance carriers acceptable to DMME.

f. Deductibles shall be listed on the Certificate of Insurance and shall be on a per occurrence basis

g. Certificates of Insurance shall be delivered to DMME, evidencing all the required coverages, including endorsements, prior to the issuance of a permit.

h. Any failure on part of DMME to request required insurance documentation shall not constitute a waiver of the insurance requirement specified herein.

i. Each policy shall be endorsed to provide DMME a minimum thirty (30) day notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten (10) day notice shall be acceptable in the event of non-payment of premium.

j. Upon request, certified copies of all insurance policies shall be furnished to DMME.

k. Irrespective of the insurance requirements, the insolvency, bankruptcy or failure of any insurance company to pay claims accruing shall not be held to waive any of the provisions of these requirements.

l. Operator shall pay promptly all premiums for such insurance in strict accordance with its obligations to its carrier and maintain the required coverage in full effect so long as the permit is valid.

## 2. Commercial General Liability Policy

This coverage must include premises, operations, blowout or explosion, products, completed operations, sudden and accidental pollution (with discovery and reporting periods of not less than fifteen (15) days and thirty (30) days respectively), blanket contractual liability, underground resources damage, broad form property damage, independent contractors protective liability and personal injury. This coverage shall be a minimum of five million (\$5,000,000) dollars per occurrence.

## 3. Excess or Umbrella Liability

Insurance limits in a minimum of ten million dollars (\$10,000,000). Coverage is to be at least as broad as, applies of and follows form of the primary liability coverage required for commercial general liability, auto liability and employer's liability. Coverage must include an endorsement for sudden or accidental pollution.

## 4. Environmental Pollution Liability Coverage

a. Operator shall purchase and maintain for the duration of the permit, insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims; all in connection with any loss arising from the insured site. Coverage shall be maintained in an amount of at least ten million (\$10,000,000) dollars per loss.

b. Coverage shall apply to sudden and accidental pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants or pollutants.

c. The operator shall maintain continuous coverage or purchase Extended Period Coverage Insurance for four years following expiration or suspension of the permit. The Extended Coverage Period insurance must provide that any retroactive date applicable to coverage under the policy precedes the effective date of the issuance of the permit by DMME.

## 5. Control of Well Coverage

The policy should cover the cost of controlling a well that is out of control, re-drilling or restoration expenses, seepage and pollution damage as first party recovery for the operator and related expenses, including, but not limited to, loss of equipment, experts and evacuation of residents.

Five Million Dollars (\$5,000,000) per occurrence. A Five Hundred Thousand Dollar (\$500,000) sub-limit endorsement may be added for damage to property for which the operator has care, custody, and control.

Questions concerning this document can be directed to Rick Cooper at 276-415-9700.