

This document sets out concepts for a bill to address a specific issue: financial assurances. This document was distributed to the Legislative Committee of the Marcellus Shale Advisory Commission for discussion. This draft is for discussion purposes only and does not necessarily represent the positions of the O'Malley Administration, any Department of the Administration, or the members of the Advisory Commission.

Financial assurance, insurance, bonding

1. Every holder of a permit to drill for gas or oil shall provide financial assurance for
 - a. compliance with the provisions of Subtitle 1 of Title 14 of the Environment Code, including proper sealing and plugging of the gas or oil well and reclamation of the site;
 - b. comprehensive general liability for bodily injury and property damage to third parties, caused by sudden accidental occurrences arising from the activity undertaken pursuant to the permit or in support of the activities undertaken pursuant to the permit, including costs and expenses incurred in the investigation, defense or settlement of claims; and
 - c. pollution liability for bodily injury and property damage to third parties, natural resource damage and cleanup, caused by the sudden or non-sudden release of pollutants arising from the activity undertaken pursuant to the permit or in support of the activities undertaken pursuant to the permit including costs and expenses incurred in the investigation, defense or settlement of claims.
2. Financial assurance for pollution liability must continue until a date 5 years after the Department determines that the well has been properly sealed and plugged and the site reclaimed.
3. The holder's financial assurance must extend to the owner of the surface and subsurface property and the holder's contractors and subcontractors.
4. If a change of ownership occurs, or the permit is to be transferred, the existing financial assurance must remain in force until a replacement financial assurance is approved by the Department.
5. The Department may, by regulation, establish alternative means for demonstrating financial assurance, including:
 - a. A performance bond;
 - b. A blanket bond;
 - c. Comprehensive general liability insurance;
 - d. Environmental Pollution Liability insurance;
 - e. Cash;

- f. Certificates of deposit;
 - g. Letters of credit;
 - h. A financial test; or
 - i. Corporate guarantee; or
 - j. Any other surety the Department determines to be good and sufficient.
6. At the time of permit application and each application for renewal, the holder shall provide the Department with a cost estimate for proper sealing and plugging of the gas or oil well and reclamation of the site.
7. The following are the amounts for financial assurance which the Department may adjust upward or downward by regulation:
- a. for compliance with the provisions of the subtitle, including proper sealing and plugging of the gas or oil well and reclamation of the site, at least \$50,000 for each gas or oil well, but it may not be less than the most recent closure cost estimate provided by the holder:
 - b. for comprehensive general liability insurance that excludes pollution, at least \$300,000 for each person and \$500,000 for each occurrence or accident; and
 - c. for pollution insurance, at least \$1,000,000 per loss.