

Comments of Taxpayers for Common Sense on Draft Bonding Rule

A. Introduction

Taxpayers for Common Sense (TCS) is a nonpartisan budget watchdog founded in 1995 to ensure taxpayer dollars are spent wisely and transparently. For three decades, TCS has supported policies that safeguard the public purse, prevent wasteful subsidies, and promote fiscal accountability in natural resource management.

TCS submits these comments on the Utah Division of Oil, Gas and Mining's draft update to Rule R649-13 (Performance Bonds) and related definitions in R649-1-8. These comments respond to the current September 2025 draft and reflect TCS's position across the full rulemaking process, including provisions introduced in the January and July drafts.

TCS supports changes to modernize Utah's financial assurance and well-management framework—protecting both state and federal taxpayers from the escalating costs of orphaned and unreclaimed wells.

All wells eventually stop producing and must be reclaimed. Bonds are an insurance policy to ensure well cleanup is paid for—an expected and required part of doing business. The proposed updates to the state's bonding requirements ensure bonding amounts reflect reality and that operators are prepared for the true costs of reclamation.

A 2019 legislative audit found that Utah's oil and gas bond amounts had not been updated in 16 years and that the outdated framework “poses a financial risk to the state.”¹ It identified serious lapses in enforcement, including more than 100 unresolved noncompliant wells, and warned that failing to modernize bond structures could lead to substantial financial liabilities if operators defaulted. Strengthening Utah's bonding requirements fulfills long-standing legislative recommendations to align bond amounts with actual reclamation costs and hold operators accountable for cleanup obligations.

B. Summary of Proposed Rule

The draft rule introduces a three-tier system for calculating blanket bond amounts, determined by an operator's production level and the percentage of wells that are inactive, shut-in, or otherwise considered at-risk. Supplemental and individual bonds are required for certain high-risk wells depending on individual or average well depth. The overall framework links bond amounts to operator performance and well risk—a key improvement over the existing system.

C. Bonding Rates Have Left Significant Financial Gaps for Federal and State Taxpayers

Across the country, outdated bonding rules have left taxpayers exposed to potentially massive liabilities. Federal and state investigations—including Utah’s 2019 legislative audit—have shown that legacy bond amounts, often unchanged for decades, fall far below the real costs of plugging and reclamation.^{2,3} This gap has driven up public expenditures and shifted liability from industry to taxpayers.

Utah’s update to state bonding policies can help address this gap. A rule that focuses on raising base rates to match real reclamation costs, risk-based bonding, and modernized outdated blanket-bond structures are consistent with reforms in states like New Mexico⁴ and Colorado.⁵ Updating Utah’s rules will maintain a level playing field for responsible operators while protecting taxpayers from mounting liabilities. By modernizing its bonding system, Utah can demonstrate accountability and fiscal responsibility before cleanup costs climb further.

D. The Public Cost of Inadequate Bonding

When an operating company dissolves or goes bankrupt—as often happens in the oil and gas boom-and-bust cycle—Utah must rely on that company’s bond to cover the cost of reclaiming its wells and well sites. When bond amounts are insufficient, it’s cheaper for companies to delay reclamation indefinitely, transfer wells to smaller operators, or simply walk away, forfeiting their bonds instead of cleaning up their sites.

Utah has few officially documented orphan wells. In December 2021, the state reported only 41 orphaned well sites in its application to the Department of the Interior for Infrastructure Investment and Jobs Act (IIJA) funding.⁶ The Interstate Oil and Gas Compact Commission later reported 34 as of 2023.⁷ Currently, the Utah Division of Oil, Gas and Mining (the Division) lists 102 wells on federal, state, and tribal lands on its “Current Orphaned Wells” list.⁸

However, outside groups claim the actual number is much higher. In 2022, the director of the Division put the number at less than 400 across the state.⁹ A 2023 analysis by Conservatives for Responsible Stewardship claimed there were closer to 1,000.¹⁰

Utah faces not only the costs of reclaiming orphaned wells but also potential future liabilities from non-orphaned, under-bonded wells on state and private land. As of November 3, 2025, there were 3,821 oil and gas wells on state and fee land, 441 of which were shut in, inactive, or temporarily abandoned.¹¹ According to the Environmental Defense Fund, over half of Utah’s unplugged wells are over 15 years old and account for just 12% of the state’s oil production,¹² suggesting many will soon become uneconomical to operate and become inactive.

Current bonding requirements in Utah fall short of actual reclamation costs. The Bureau of Land Management estimates reclamation costs \$71,000 per well nationwide.¹³ Utah's Orphan Well Plugging Program reports spending \$5.7 million to plug 153 wells to date—about \$37,000 per well across completed projects.¹⁴ Yet, current Utah bonding policies still allow individual bonds as low as \$1,500 and blanket bonds as low as \$15,000.¹⁵

When bond requirements fall short, Utah must draw from its dwindling Orphan Well Fund, the dedicated account that finances the state's Orphan Well Plugging Program. The program, funded by a 0.002 levy (2/10th of a cent per dollar collected) on the value of oil and gas production and supplemented by forfeited bonds, covers the costs of plugging and reclaiming wells when operators default. Of the \$5.7 million the Division has spend plugging wells since its founding, just 22 percent came from forfeited bonds. The remaining \$4.43 million was drawn from the Fund itself.¹⁶ If these trends continue, the Division anticipates the Orphan Well Fund could be depleted as soon as this year.¹⁷

The 2019 Legislative Audit found that weak bonding and limited enforcement capacity had allowed noncompliance to persist, with 105 unresolved violations averaging more than two years without resolution.¹⁸ The report warned that without updated bond structures and active oversight, the state would continue to face mounting financial risk. This rulemaking offers an opportunity to close those gaps and ensure operators—not taxpayers—are responsible for cleanup.

E. Orphan Well Costs Fall to American Taxpayers

These gaps are not just a state problem—they reverberate at the federal level. The Infrastructure Investment and Jobs Act (IIJA) appropriated \$4.3 billion for orphan-well cleanup on state and private lands: \$775 million in initial grants, \$2 billion in formula grants, and \$1.5 billion in performance grants. Utah did not receive an initial grant but is eligible for up to \$5.2 million in formula funding.¹⁹

As the Orphan Well Fund approaches a zero balance, federal taxpayers are at high risk of becoming a backstop for insufficient state bonding. IIJA funds were a one-time appropriation meant to address existing orphan wells, not an ongoing subsidy. Weak state bonding could turn those temporary funds into future federal bailouts. Unless bonding rules are strengthened, cleanup costs will shift from the oil and gas industry to national taxpayers footing the bill for Utah's orphaned wells.

F. The Proposed Update Will Protect Taxpayers from At-Risk Wells

TCS supports the state's proposal to update bonding requirements for oil and gas operators and offers the following recommendations to better protect state and federal taxpayers.

I. Raise Base Blanket Bond Minimums

While TCS generally opposes blanket bonds, we strongly support the state's proposal to raise blanket bond minimums. As the Government Accountability Office has noted, “the oil and gas industry’s boom-and-bust cycles can lead operators to drill wells when prices for oil and gas are high but can contribute to bankruptcies when prices are low.”²⁰ Bond minimums must match real reclamation costs to ensure individual operators—not taxpayers or reserve funds—pay for cleanup.

The proposed base blanket levels of between \$200,000 and \$5 million, depending on the tier and state well count, are moderate compared to average reclamation costs. Assuming the nationwide average reclamation cost of \$71,000 per well, the smallest base blanket bond (for between 1 and 10 wells) could cover up to \$710,000 in future reclamation costs. Yet the tiered system only requires a bond of between \$200,000 and \$400,000—accounting for between 28% and 56% of estimated costs. The largest base blanket bond (for between 2001 and 2500 wells) could cover up to \$177.5 million in future reclamation costs with bond minimums accounting for between just 1% and 3% of estimated costs.

TCS also supports the proposal to establish different bond amounts within each tier, depending on the number of wells covered. TCS generally opposes blanket bonds, as set amounts covering a large number of wells—regardless of their estimated cleanup costs—can cost billions when a company goes bankrupt or otherwise orphans its wells. By further breaking down the tiered system into smaller categories based on well count, the state minimizes the inherent risks of blanket bonds.

Additionally, TCS supports including an operator's state, fee, and federal wells when calculating an operator's production and the number of its at-risk wells to determine tier eligibility. The operator should be able to count on production revenue from all sources, just as the state must consider the potential plugging liability from its full portfolio.

II. Protect Against At Risk Wells

TCS supports the creation of supplemental bonds to account for inactive, shut-in, and other high risk wells. The supplemental bond amounts, while extremely conservative compared to actual reclamation costs, will help protect taxpayers from wells that are most likely to be orphaned.

Inactive wells are liabilities waiting to surface. An L.A. Times/Center for Public Integrity analysis of 40 years of California data found that once a well is idle for 10 months, there's only a 50% chance it will ever produce again.²¹ After five years, the odds drop to 25%.²² This analysis supports similar data from the Utah Division, which found that only 57% of wells shut in for more than a year return to production. By five years, that likelihood decreases to

19%.²³ With these high-risk wells on the verge of becoming uneconomical, they must be properly bonded so operators—not taxpayers—cover the inevitable cleanup costs.

TCS supports defining a shut-in well as “a well that is completed, is shown to be capable of production in paying quantities, and is not presently being operated,” as opposed to the former definition, which only classified a well as shut-in if it has not produced in 12 months in paying quantities. When companies postpone plugging, these wells often deteriorate without proper supervision or monitoring—creating health and safety risks for nearby communities and leaving taxpayers to shoulder reclamation costs.²⁴ This change will decrease the amount of time a well can be shut-in before it must be reviewed and plugged.

TCS also supports barring operators with too high a number of at risk wells from relying on any blanket bond. As noted above, a single blanket bond can cover hundreds of wells, regardless of their condition or productivity. This change would better protect taxpayers from operators with the riskiest portfolios and create an incentive for operators to address idle wells promptly—either by resuming production or completing reclamation.

TCS does not support allowing operators to cover any number of at risk wells under blanket bonds. If the state decides to pursue a tiered blanket bond system in which operators with lower risk well ratios are eligible for lower bond minimums, we urge it to decrease the percentage of at-risk wells operators can cover under a blanket bond.

III. Ensure Adequate Bonding Immediately After Transfer

Oil and gas operators often transfer wells near the end of their productive life to smaller operators who can’t afford reclamation.²⁵ A 2023 report on well transfers in California found that more than 96% of such transfers were either to smaller holding companies or operators, the result of bankruptcy, or intended to facilitate a company’s exit from the California exploration and production market.²⁶ Monitoring well transfers is essential to ensuring smaller operators can properly reclaim wells after production ends, rather than leaving taxpayers to shoulder the costs. For this reason, TCS supports the proposal to remove the provision allowing a 12-month delay for updating bonding amounts after a well transfer.

G. Conclusion

The oil and gas industry plays a critical role in Utah’s state economy. Its management, including bonding policies, has cascading effects for taxpayers. This rulemaking will not hamper the industry—instead, it offers a chance to modernize a bonding framework that has failed taxpayers for decades. Claims that reform will trigger mass abandonment ignore the greater fiscal risk of doing nothing. Adequate bonding ensures solvent, responsible operators remain in the field and protects the public from future bailouts.

Bonding reform keeps cleanup costs off the state and federal ledger. Every unreclaimed well that slips through today becomes a future claim on taxpayers. Without stronger bonding, the federal government will underwrite inadequate state requirements. Strengthening Utah's rules now will reduce dependence on state and federal remediation programs, align with emerging federal and state standards, and demonstrate fiscal responsibility.

Respectfully submitted,

Taxpayers for Common Sense

Washington, DC

¹ Office of the Legislative Auditor General State of Utah, "A Performance Audit of Utah's Oil and Gas Program," Number 2019-11, November 2019. https://le.utah.gov/audit/19_11rpt.pdf

² Ibid.

³ U.S. Department of the Interior (DOI), "Report On The Federal Oil And Gas Leasing Program," November 2021. <https://www.doi.gov/sites/default/files/report-on-the-federal-oil-and-gas-leasing-program-doi-eo-14008.pdf>

⁴ Taxpayers for Common Sense (TCS), "Comments on Updating New Mexico Oil & Gas Bonding," October 30, 2025. <https://www.taxpayer.net/energy-natural-resources/written-comments-on-updating-new-mexico-oil-gas-bonding/>

⁵ Colorado Energy & Carbon Management Commission, "Financial Assurance Rulemaking," accessed November 5, 2025. <https://ecmc.colorado.gov/hearings/financial-assurance-rulemaking>

⁶ DOI, "Orphaned Wells Program Annual Report To Congress," November 2023. <https://www.doi.gov/sites/default/files/fy-2023-orphaned-wells-congressional-report.pdf>

⁷ Interstate Oil & Gas Compact Commission, "Idle and Orphan Oil And Gas Wells: State and Provincial Regulatory Strategies," 2024. <https://oklahoma.gov/content/dam/ok/en/iogcc/documents/publications/Orphan%20Wells%20Revised.pdf>

⁸ Utah Division of Oil, Gas and Mining, "Orphan Well Program," accessed November 3, 2025. <https://ogm.utah.gov/orphan-well/>

⁹ Kyle Dunphey, "Millions of Americans live near abandoned, toxic oil and gas wells. What does the government plan to do about it?" *Desert News*, January 8, 2022. <https://www.deseret.com/utah/2022/1/8/22870512/blm-toxic-abandoned-oil-gas-wells-plug-infrastructure-bill-utah-uintah-basin/>

¹⁰ Alex Gonzalez, "Group urges action to plug orphaned Utah oil wells," *Utah Public Radio*, <https://www.upr.org/utah-news/2023-04-25/group-urges-action-to-plug-orphaned-utah-oil-wells>

¹¹ Sum includes oil and gas wells with status active, producing shut in, inactive, or temporarily abandoned. Source: Utah Division of Oil, Gas and Mining, "Well Count by Status and Lease Type," accessed November 5, 2025. <https://ogm.utah.gov/statistics-well-counts/>

¹² Lauren Beatty, "Proposed Financial Assurance Amounts are Timely and Proportionate to Risk," Environmental Defense Fund, April 23, 2025. https://ut-dnr-ogm-prod-sf-public-bucket.s3.amazonaws.com/a0Scs00000OYjkrEAD_1745434362891_20250423_EDF_BondingPresentation.pdf

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- ¹³ Bureau of Land Management (BLM), “Fluid Mineral Leases and Leasing Process,” Federal Register, July 2023. <https://www.federalregister.gov/documents/2023/07/24/2023-14287/fluid-mineral-leases-and-leasing-process#p-82>
- ¹⁴ Utah Division of Oil, Gas and Mining, “Orphan Well Plugging Program,” accessed November 5, 2025. <https://ogm.utah.gov/orphan-well>.
- ¹⁵ R649. Natural Resources; Oil, Gas and Mining; Oil and Gas. https://oilgas.ogm.utah.gov/pub/Rules/R649_All.pdf
- ¹⁶ Utah Division of Oil, Gas and Mining, “Orphan Well Program,” accessed November 5, 2025. <https://ogm.utah.gov/orphan-well/>
- ¹⁷ Bart Kettle, Utah Division of Oil, Gas and Mining, “Draft Bond Rule Briefing,” February 26, 2025. https://ut-dnr-ogm-prod-sf-public-bucket.s3.amazonaws.com/a0Scs00000JC6ebEAD_1740528461340_20250226.3_Board_Bond_Briefing.pdf
- ¹⁸ Office of the Legislative Auditor General State of Utah, “A Performance Audit of Utah’s Oil and Gas Program,” Number 2019-11, November 2019. https://le.utah.gov/audit/19_11rpt.pdf
- ¹⁹ Utah was also eligible for \$25 million in Initial Grant funding but did not apply.
- ²⁰ Government Accountability Office, “Bureau of Land Management Should Address Risks from Insufficient Bonds to Reclaim Wells,” September 2019. <https://www.gao.gov/assets/gao-19-615.pdf>
- ²¹ Mark Olalde and Ryan Menezes “The toxic legacy of old oil wells: California’s multibillion-dollar problem,” Los Angeles Times, February 6, 2020. <https://www.latimes.com/projects/california-oil-well-drilling-idle-cleanup/>
- ²² Ibid.
- ²³ Bart Kettle, Utah Division of Oil, Gas and Mining, “Draft Bond Rule Briefing,” February 26, 2025. https://ut-dnr-ogm-prod-sf-public-bucket.s3.amazonaws.com/a0Scs00000JC6ebEAD_1740528461340_20250226.3_Board_Bond_Briefing.pdf
- ²⁴ According to the BLM, “once wells are no longer in production, they can pose risks to local communities and the environment from leaks and emissions, as well as a risk to taxpayers who can bear the ultimate costs of reclamation.” Source: BLM, “Protecting Taxpayers and Communities from Orphaned Oil and Gas Wells on Public Lands,” June 2024. <https://www.blm.gov/sites/default/files/docs/2024-06/BLM-OilandGas-Orphanwells-Factsheet-June2024.pdf>
- ²⁵ Naveena Sadasivam, “How bankruptcy lets oil and gas companies evade cleanup rules,” Grist, Jun 07, 2021, <https://grist.org/accountability/oil-gas-bankruptcy-fieldwood-energy-petroshare/>
- ²⁶ Kyle Ferrar, “Assessment of Oil and Gas Well Ownership Transfers in California,” May 18, 2023. <https://www.fractracker.org/2023/05/assessment-of-oil-and-gas-well-ownership-transfers-in-ca/>