NOTICE OF INTENT
Department of Conservation and Energy
Office of the Secretary
Financial Security for Oil and Gas Wells
(LAC 43:XIX.101 and 104)

Under the authority of R.S. 30:4, 30:4.3, 30:21.1, 36:353, and 36:356.1, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Secretary of the Department of Conservation and Energy gives notice that rulemaking procedures have been initiated to amend LAC 43:XIX.101 and 104 concerning financial security for oil and gas wells.

The proposed Rule carries forward the substance of the Emergency Rule effective July 21, 2026 by defining "Regulated Financial Institution," updating department and officer terminology, and authorizing a written certification issued by the Louisiana Natural Resources Trust Authority as an additional means of satisfying financial-security requirements.

The basis and rationale for the proposed Rule are the Department's continuing need to ensure that oil and gas wells are backed by adequate financial security for plugging and site restoration while providing workable mechanisms for operators to demonstrate compliance. The Department has observed a significant increase in wells lacking compliant financial security, reduced availability and affordability of traditional private-market instruments, the end of the former LORA financial-security program, and a historically high orphan-well inventory. The Department seeks to implement the financial-security mechanism authorized for the Natural Resources Trust Authority by R.S. 36:356.1 and to respond to Legislative Auditor findings concerning institutions issuing financial-security instruments.

The Department finds that the intended action complies with the statutory law it administers, including R.S. 30:4, 30:4.3, and 30:21.1, and with R.S. 36:353 and 36:356.1.

Title 43
NATURAL RESOURCES
Part XIX. Office of Permitting and Compliance—General Operations
Subpart 1. Statewide Order No. 29-B
Chapter 1. General Provisions

§101. Definitions

A. Unless the context otherwise requires, the words defined in this Section shall have the following meanings when found in this order.

* * *

Commissioner—the secretary of the department.

Department—the Department of Conservation and Energy.

* * *

Regulated Financial Institution—state or national banks organized under the provisions of Chapter 3 of Title 6 of the Louisiana Revised Statutes and the National Banking Act (12 U.S.C. 1 et seq.); federal credit unions organized under the Federal Credit Union Act (12 U.S.C. 1751 et seq.); reinsurance companies recognized by the U.S. Department of the Treasury as admitted reinsurers; or surety companies or insurers listed on the U.S. Department of the Treasury's list of approved sureties.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq., R.S. 36:353, and R.S. 36:356.1.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended by the Department of Natural Resources, Office of Conservation, LR 41:951 (May 2015), amended LR 52:____ (________ 2026).

§104. Financial Security

A.-A.3. ...

B. Compliance with this financial security requirement shall be provided by any of the following or a combination thereof:

1. certificate of deposit issued in sole favor of the Department of Conservation and Energy in a form prescribed by the Department from a Regulated Financial Institution acceptable to the Department. A certificate of deposit may not be withdrawn, canceled, rolled over, or amended in any manner without the approval of the Department; or
2. a performance bond in sole favor of the Department of Conservation and Energy in a form prescribed by the Department issued by a Regulated Financial Institution authorized to do business in the state of Louisiana; or
3. letter of credit in sole favor of the Department of Conservation and Energy in a form prescribed by the Department issued by a Regulated Financial Institution acceptable to the commissioner; or
4. a site-specific trust account in accordance with R.S. 30:88 or 30:88.1; or

5. a written certification issued by the Louisiana Natural Resources Trust Authority confirming that the operator has satisfied the financial security requirements established by the Natural Resources Trust Authority pursuant to R.S. 36:356.1 and other applicable laws.

C.-J.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq., R.S. 36:356.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:1306 (June 2000), amended LR 27:1917 (November 2001), LR 41:952 (May 2015), LR 43:535 (March 2017), LR 45:579 (April 2019), amended LR 52:____ (________ 2026).

Family Impact Statement

In accordance with R.S. 49:972, the Department has considered the proposed Rule’s impact on family formation, stability, and autonomy. The proposed Rule is not anticipated to affect the stability of the family; the authority and rights of parents regarding the education and supervision of their children; the functioning of the family; family earnings or family budgets, except indirectly to the extent an individual or family owns or is employed by a regulated oil and gas operator; the behavior or personal responsibility of children; or the ability of a family or local government to perform any function contained in the proposed Rule. The Rule regulates financial security for oil and gas operators and does not directly regulate family relationships or responsibilities.

Poverty Impact Statement

In accordance with R.S. 49:973, the Department has considered the proposed Rule’s impact on child, individual, and family poverty in relation to individual or community asset development. The proposed Rule is not expected to have a direct impact on poverty, household assets, education, health, housing, transportation, food assistance, child care, or other poverty-related factors. Any indirect economic effects on owners or employees of regulated operators will be addressed in the Fiscal and Economic Impact Statement.

Small Business Analysis

The Department has considered the economic impact of the proposed Rule on small businesses as defined in R.S. 49:974.3. Some oil and gas operators subject to the proposed Rule may qualify as small businesses. The addition of the Natural Resources Trust Authority certification and the express authorization to combine or stack authorized instruments may provide additional compliance options and flexibility. At the same time, the revised multiple-well schedules increase required financial-security amounts for certain operators, including operators with 11–100 wells, offshore operators with 10 or fewer wells, and operators with more than 100 wells whose aggregate requirement will scale in 100-well increments. Accordingly, the proposed Rule may impose additional financial-security costs on some small businesses. The magnitude of those costs and any offsetting benefits will be stated in the Fiscal and Economic Impact Statement approved by the Legislative Fiscal Office.

Small Business Regulatory Flexibility Analysis

In accordance with R.S. 49:974.5, the Department considered regulatory methods that would accomplish the objectives of the applicable statutes while minimizing adverse impact on small businesses. The proposed Rule provides flexibility to small businesses by adding the Natural Resources Trust Authority certification as a financial security option. The approved economic impact statement determined that the proposed Rule will have no adverse impact on small businesses, and therefore the notice required by R.S. 49:974.5(B) to Louisiana Economic Development is not required before adoption.

Provider Impact Statement

The proposed Rule is not anticipated to have any known or foreseeable impact on providers as contemplated by HCR 170 of the 2014 Regular Session. In particular, the proposed Rule is not expected to affect provider staffing levels or qualifications, the cost to providers of providing the same level of service, or the ability of providers to provide the same level of service.

Public Comments

Interested persons may submit written comments concerning the proposed Rule to Blake Canfield, Executive Counsel, Louisiana Department of Conservation and Energy, 617 North Third Street, 12th Floor, Baton Rouge, Louisiana 70802, or by e-mail to blake.canfield@la.gov. Comments must be received no later than October 20, 2026 by 4:30 PM. All inquiries concerning the proposed Rule should be directed to Mr. Canfield at the same address.

Public Hearing

A public hearing will be held if requested in accordance with R.S. 49:961(B). A request for an oral presentation or argument must be made within 20 days after publication of this Notice of Intent by 25 persons, by a governmental subdivision or agency, by an association having not fewer than 25 members, or by a committee of either house of the legislature to which the proposed Rule has been referred. If a qualifying request is received, the Department will provide notice of the date, time, and location of the hearing in accordance with law.

Fiscal and Economic Impact Statement

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule is not estimated to result in any change in implementation costs for the Department of Conservation and Energy or any other state or local governmental units. The proposed rule authorizes written certification by the Louisiana Natural Resources Trust Authority (NRTA) as an additional means of satisfying financial security requirements, and clarifies certain definitions and applicable terms. The functions of the Department and its staff are not anticipated to change as a result of the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There may be some change in revenue collections due to the additional financial security option insofar as it may allow more operators to satisfy required financial security requirements and continue or expand oil and gas operations. Such increased activity may in turn increase state revenue collections through increased severance taxes, state mineral royalties, or local tax collections. Without the additional financial security option provided for in the rule, some operators may be unable to satisfy financial security requirements and continue operating in Louisiana. Finally, it is not possible to estimate the extent to which oil and gas operators may choose to use the new financial security option, provided through NRTA certification or the resulting impact on state or local revenue collections. The additional financial security option provides an alternative to financial security policies previously available through the now-defunct LORA program.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

Operators unable to secure traditional bonds, letters of credit, or trust accounts, including those previously reliant on the LORA program, are expected to benefit from the new financial security option created by the emergency rule and extended by this proposed rule, which allows compliance through certification by the NRTA and may improve the availability and affordability of compliant financial security for smaller operators who would otherwise be financially constrained. The proposed rule is not expected to impose additional costs on financial institutions, sureties, or the NRTA beyond those already contemplated by the Authority's separate statutory mandate under R.S. 36:356.1.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is expected to have a positive effect on competition among oil and gas operators. By adding NRTA certification as an additional means of satisfying financial security requirements, the rule may improve access to compliant financial security for operators who have been unable to obtain traditional financial security instruments from private institutions at an affordable price. This in turn may help smaller and financially constrained operators remain in operation rather than exit the industry or fall out of compliance due financial security constraints. With respect to employment, the proposed rule is expected to have a stabilizing effect to the extent that the additional financial security option allows operators to remain in operation, thereby helping to preserve employment associated with continued oil and gas operations. The proposed rule is not expected to have a direct or readily quantifiable effect on employment within the Department or other governmental units.

Dustin H. Davidson
Secretary