



Ohio Administrative Code Rule 1501:9-1-03 Surety Bond.

Effective: April 15, 2004

(A) Amount:

The surety bond provided for in section 1509.07 of the Revised Code shall be executed by a surety company authorized to do business in the state of Ohio and shall be in the following amount:

For an individual bond covering a single well, five thousand dollars; for a blanket bond covering all such wells operated by the principal, fifteen thousand dollars;

(B) Delinquent restoration.

If the oil or gas well owner, permittee, or his agent fails to complete the initial restoration as required under division (A) of section 1509.072 of the Revised Code, the chief, prior to issuing a bond forfeiture order for such failure, shall issue to such person a written notice of violation. The notice of violation shall:

(1) Set forth with reasonable specificity:

- (a) The nature of the failure;
- (b) The remedial action required;
- (c) A reasonable time for completion of the restoration; and
- (d) A description of the area to be restored.

(2) State that if the notice is not compiled with within the time allowed in the notice and any extensions given for good cause, the chief will forfeit the total amount of the performance bond.



(C) Forfeiture criteria and amount.

The chief shall forfeit the total amount of the performance bond when he or she finds that the oil or gas well owner or permittee has:

- (1) Failed to comply with a notice of violation issued under paragraph (B) of this rule;
- (2) Failed to comply with the final restoration requirements of division (B) of section 1509.072 of the Revised Code;
- (3) Failed to comply with the plugging requirements of section 1509.12 of the Revised Code, the permit provisions of section 1509.13 of the Revised Code or rules adopted thereunder.

(D) Forfeiture procedures.

When performance bond is to be forfeited, the chief shall issue an order to the owner or permittee, which order shall be referred to in this rule as the bond forfeiture order. The bond forfeiture order shall:

- (1) Set forth the violation giving rise to the order;
- (2) Declare that the entire amount of the bond is forfeited;
- (3) If the performance bond filed with the division is supported by or in the form of cash or negotiable certificates of deposit, declare the cash or certificates property of the state;
- (4) If the performance bond filed with the division is in the form of a surety bond, the chief shall also issue a bond forfeiture order to the surety involved and, in addition to the requirements of paragraphs (C)(1) and (C)(2) of this rule, the order shall also inform the surety of its rights and the extent of its obligations and liability.

(E) Options for the surety.



(1) Within thirty days after it receives a bond forfeiture order, each surety shall notify the chief that it will:

(a) Not correct the violation or violations resulting in the issuance of the bond forfeiture order and shall make payment for the full amount of the bond; or,

(b) Correct the violation or violations and shall submit to the chief a plan, including a time frame for performance for accomplishing the required work; or,

(c) Pay to the treasurer of the state that amount of money which it would cost the state of Ohio as determined by the chief to complete the required work.

(2) The rights of the surety to correct the violation or violations resulting in the issuance of the bond forfeiture order shall be terminated if the surety fails to:

(a) Notify the chief within thirty days after receipt of the bond forfeiture order that it will or will not correct the violation;

(b) Submit a timetable at the same time it notifies the chief that it will perform the required work; or,

(c) Commence, continue, or complete the required work in a manner and in accordance with its timetable and the provisions of Chapter 1509. of the Revised Code.

(3) When the chief determines that the rights of a surety shall be terminated, the chief shall issue an order terminating the rights of the surety and demanding payment from the surety for the entire amount of performance bond filed with the chief by the surety.

(F) Financial statements:

Sworn financial statements may be accepted in lieu of a surety bond, certificate of deposit, or cash bond only for owners classified as exempt domestic well owners or for non-domestic well owners for whom the chief has accepted a sworn financial statement prior to January 1, 1993 and who are not in material and substantial violation of Chapter 1509. of the Revised Code. Additionally, the chief may



accept new financial statements for exempt domestic well owners and non-domestic well owners if an irrevocable letter of credit on a form provided by the division for the bond amount is provided from an approved financial institution along with the financial statement required in paragraph (F)(1)(d) or (F)(2)(c) of this rule or by providing a copy of a financial statement submitted to the financial institution issuing the letter of credit. The chief will not accept new financial statements to release surety bonds, certificates of deposit or cash bonds previously filed with the division.

(1) Exempt domestic well owners:

(a) New exempt domestic well owners filing a financial statement will be limited to one well under the financial statement. New exempt domestic well owners requesting the ownership of more than one well and existing exempt domestic well owners requesting to receive additional wells must file a certificate of deposit, surety bond or cash bond in the amount required for the total number of wells to be owned.

(b) Exempt domestic well owners shall demonstrate financial responsibility at least once every two years under a schedule established by the division.

(c) To demonstrate financial responsibility, exempt domestic well owners must show sufficient assets and income to operate, maintain, and abandon the well.

(d) Exempt domestic well owners shall submit the following information to the division:

(i) Personal financial statement on a form provided by the division;

(ii) Statement of estimated well operating, maintenance, and abandonment expenses and source of funds to use in paying for these costs;

(iii) Other information required by the chief.

(iv) The exempt domestic well owner must attest to the material accuracy of the information provided. The forms shall prescribe penalties for submission of a false statement.



(2) Non-domestic well owners:

(a) Each owner with a previously approved financial statement shall demonstrate financial responsibility annually under a schedule established by the division.

(b) To demonstrate financial responsibility, and receive approval of the financial statement, each owner shall show the following:

(i) The owner must have a sufficient capital structure to show a net financial worth in Ohio of twice the required bonding amount;

(ii) The owner must not be found to be in material or substantial violation of Chapter 1509. of the Revised Code or Chapter 1501:9-1 of the Administrative Code during the preceding year;

(iii) The owner must be in compliance with sections 1509.10 and 1509.11 of the Revised Code.

(c) In order to verify the accuracy of the financial statement each owner shall submit the following information when requested by the chief of the division of mineral resources management:

(i) Income statement;

(ii) Balance sheet;

(iii) Copy of corporate franchise tax filing for previous year (if applicable);

(iv) List of fixed assets and their current market or book value;

(v) Copy of independent appraisal or copy of the county auditor's assessed value of all real estate listed if the book value exceeds twenty-thousand dollars;

(vi) Proof of payment of oil and gas severance tax for previous year;

(vii) List of all producing wells including type of equipment and percentage of equipment owned;



(viii) Other information required by the chief; other information approved by the chief may be accepted in lieu of the above listed items.

(ix) Annual reports (reviews or audits) prepared in the normal course of business for an owner by a certified public accountant in accordance with generally accepted accounting principles will be accepted in lieu of the information required in (F)(2)(c)(i) through (v) if the signature page of the division's financial statement form is submitted with the annual report and signed by the owner or authorized representative.

(d) Information preparation and standards:

(i) Financial statements submitted under paragraph (F)(2)(c) of this rule pursuant to this rule shall be compilations and prepared according to generally accepted accounting principles;

(ii) All financial statements must be sworn as to the material accuracy by the owner or authorized representative of the owner and a certified public accountant must certify that each financial statement was prepared in accordance with generally accepted accounting principals. Forms shall prescribe penalty for submission of a false statement;

(iii) If the owner is a corporation, only assets and liabilities of the corporation may be included on the financial statements.

(e) Evaluation:

(i) The division may use accepted financial industry tools to evaluate financial information;

(ii) The division may review inspection and enforcement data to determine if the owner has acted in an environmentally responsible manner.

(f) Penalties:

(i) Failure of an owner to demonstrate financial responsibility as required under paragraphs (F)(1)(b)



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to (F)(1)(d), (F)(2)(a) and (F)(2)(b) and/or failure to supply all the information listed under (F)(2)(c) of this rule will result in an order by the chief requiring a surety bond, certificate of deposit, or cash bond in the amount of bond required. If the order is not complied with, the owner will receive an order by the chief requiring the plugging of all wells of the owner.