



Ohio Administrative Code Rule 1501:9-4-02 General Provisions.

Effective: January 13, 2022

(A) A person may only store, recycle, treat, process or dispose of brine and other waste substances at an oil and gas waste facility in accordance with Chapter 1509 of the Revised Code and rules adopted under it.

(B) No person may allow brine or other waste substances at an oil and gas waste facility to migrate into an underground source of drinking water.

(C) Not later than 180 days after the effective date of this rule, a person operating an oil and gas waste facility under a chief's order must either:

(1) Obtain a permit in accordance with section 1509.22 of the Revised Code and rule 1501:9-4-04 of the Administrative Code, obtain insurance pursuant to paragraph (F) of this rule, and obtain financial assurance pursuant to paragraph (G) of this rule; or

(2) Immediately suspend operations and begin reclamation procedures pursuant to rule 1501:9-4-07 of the Administrative Code.

(D) Any information deemed proprietary or confidential by the applicant must be clearly marked as such on the applicable document or form and the proprietary or confidential information supplied on a separate page before submission of the information to the division. If a person requests the division to release the information pursuant to chapter 149 of the Revised Code, the division will notify the applicant that the information will be provided pursuant to chapter 149 of the Revised Code and provide the information, unless the applicant obtains a court order preventing the division's release of the information.

(E) Any private entity submitting an infrastructure record, as defined by section 149.433(A) of the Revised Code, to the division may include a written statement substantially similar to the following: "This information is voluntarily submitted to a public office in expectation of protection from



disclosure as provided by section 149.433 of the Revised Code." As provided in section 149.433 of the Revised code, an infrastructure record accompanied by such a statement is exempt from release in response to a public records request for a period of twenty-five years after its creation.

(F) Insurance

(1) Prior to construction and operation of an Oil and Gas Waste Facility, a person must obtain a liability insurance policy in an amount not less than two million dollars bodily injury coverage for each occurrence and two million dollars property damage coverage for each occurrence to pay damages for injury to persons or property caused by the storage, recycling, treatment, processing, or disposal of brine and other waste substances.

(2) A person shall provide proof of liability insurance coverage to the chief of the division of oil and gas resources management upon request. Upon failure of the person to provide that proof when requested, the chief may order the suspension of the facility until the person provides proof of the required insurance coverage.

(3) The insurance policy required by paragraph (F) of this rule shall be maintained in effect during the construction and operation of the oil and gas waste facility. The policy or policies providing the coverage shall require the insurance company to give notice to the chief if the policy or policies lapse for any reason. Upon such termination of the policy, the chief may order the suspension of operations of the oil and gas waste facility until proper insurance coverage is obtained.

(G) Financial Assurance

(1) A person, prior to construction and operation of an oil and gas waste facility, shall execute and file with the division financial assurance conditioned on compliance with Chapter 1509 of the Revised Code, Division 1501:9 of the Administrative Code, and all rules and orders issued pursuant to either. The financial assurance must be payable to the state as oblige and calculated by either of the following:

(a) Multiplying the permitted total nominal amount of storage, processing, and treatment volume by \$10 for each barrel of liquid and \$325 for each cubic yard of solid waste; or



(b) An amount determined by performing a closure cost study that meets the requirements established in rule 1501:9-4-07 of the Administrative Code. The study shall be based on a third party conducting the post-closure activities. The chief may review, accept, or require revisions to the closure cost study. If a study is used to determine financial assurance, the study shall be performed every five years, and if the amount changes, new financial assurance obtained.

(2) If the oil and gas waste facility is amended, new financial assurance calculated according to paragraph (F)(2)(a) of this rule shall be obtained at least 90 calendar days after verification of integrity of the amended oil and gas waste facility.

(a) A surface facility as defined in rule 1501:9-3-01 of the Administrative Code does not have to obtain financial assurance under this rule.

(3) If certificates of deposit are deposited with the chief instead of a surety bond, the chief will require the bank that issued any such certificate to pledge securities of a cash value equal to the amount of the certificate that is in excess of the amount insured by any of the agencies and instrumentalities created under the "Federal Deposit Insurance Act," 64 Stat. 873 (1950), 12 U.S.C. 1811, as amended, and regulations adopted under it, including at least the federal deposit insurance corporation. The securities shall be security for the repayment of the certificate of deposit.

(4) Forfeiture criteria and amount. The chief will forfeit the total amount of a financial assurance when the chief makes a finding of fact that the person who is required to file financial assurance has failed to comply with any of the following:

(a) A final non-appealable chief's order issued;

(b) A compliance agreement entered into under section 1509.04 of the Revised Code; and

(c) The provisions of rule 1501:9-4-07 of the Administrative code.

(5) Forfeiture procedures.



- (a) When financial assurance is to be forfeited, the chief will make a finding of fact and:
- (i) Set forth the violations giving rise to the order; and
 - (ii) Declare the financial assurance is forfeited.
- (b) If the financial assurance filed with the division is in the form of a surety bond, irrevocable letter of credit, or certificate of deposit, the chief shall also issue a letter to the surety company or bank involved that informs the surety company or bank of its rights under paragraphs (G) of this rule.
- (c) If the financial assurance filed with the division pursuant to section 1509.07 of the Revised Code is in the form of cash, upon forfeiture, the chief will declare the cash forfeited.
- (6) Options for the surety company or bank.
- (a) Within thirty days after it receives the letter described in paragraph (G)(5) of this rule, each surety company or bank shall notify the chief that it will do one of the following:
- (i) Not correct the violation or violations resulting in the issuance of the bond forfeiture findings of fact and shall make payment for the full amount of the financial assurance; or
 - (ii) Correct the violation or violations set forth in the findings of fact, pursuant to a plan the surety company or the bank shall submit to the chief, that includes a reasonable time within which the surety company or the bank will complete the required work.
- (b) The rights of the surety company or bank to correct the violation or violations shall terminate if the surety company or bank fails to do any of the following:
- (i) Notify the chief within thirty days after receipt of the letter that it will or will not correct the violation;
 - (ii) Submit a timetable at the same time it notifies the chief that it will perform the required work; or



(iii) Commence, continue, or complete the required work in a manner and in accordance with the plan submitted under paragraph (G)(6)(b) of this rule and the provisions of Chapter 1509 of the Revised Code.

(c) If the surety company or bank fails to comply paragraph (G)(6) of this rule, the chief will provide written notice to the surety company or bank that terminates the rights of the surety company or bank and demands payment from the surety company or bank for the entire amount of the financial assurance filed with the division.

(7) All moneys collected because of forfeitures of financial assurance as provided in this rule will be deposited in the state treasury to the credit of the oil and gas well fund created in section 1509.02 of the Revised Code and will be used to restore the location for which the financial assurance was provided to the condition that existed prior to the issuance of the permit or order pursuant to division (B)(2)(a) of section 1509.22 of the Revised Code. The chief is not obligated to spend more than the value of the forfeited bond or other financial assurance insurance to restore an abandoned site.