



Ohio Revised Code

Section 1509.071 Forfeiting bond.

Effective: September 29, 2017

Legislation: House Bill 49 - 132nd General Assembly

(A) When the chief of the division of oil and gas resources management finds that an owner has failed to comply with a final nonappealable order issued or compliance agreement entered into under section 1509.04, the restoration requirements of section 1509.072, plugging requirements of section 1509.12, or permit provisions of section 1509.13 of the Revised Code, or rules and orders relating thereto, the chief shall make a finding of that fact and declare any surety bond filed to ensure compliance with those sections and rules forfeited in the amount set by rule of the chief. The chief thereupon shall certify the total forfeiture to the attorney general, who shall proceed to collect the amount of the forfeiture. In addition, the chief may require an owner, operator, producer, or other person who forfeited a surety bond to post a new surety bond in the amount of fifteen thousand dollars for a single well, thirty thousand dollars for two wells, or fifty thousand dollars for three or more wells.

In lieu of total forfeiture, the surety or owner, at the surety's or owner's option, may cause the well to be properly plugged and abandoned and the area properly restored or pay to the treasurer of state the cost of plugging and abandonment.

(B) All moneys collected because of forfeitures of bonds as provided in this section shall 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.

The chief annually shall spend not less than fourteen per cent of the revenue credited to the fund during the previous fiscal year for the following purposes:

(1) In accordance with division (D) of this section, to plug idle and orphaned wells or to restore the land surface properly as required in section 1509.072 of the Revised Code;

(2) In accordance with division (E) of this section, to correct conditions that the chief reasonably has determined are causing imminent health or safety risks at an idle and orphaned well or a well for



which the owner cannot be contacted in order to initiate a corrective action within a reasonable period of time as determined by the chief.

Expenditures from the fund shall be made only for lawful purposes. In addition, expenditures from the fund shall not be made to purchase real property or to remove a dwelling in order to access a well.

The director of budget and management, in consultation with the chief, shall establish an accounting code for purposes of tracking expenditures made as required under this division.

(C)(1) Upon determining that the owner of a well has failed to properly plug and abandon it or to properly restore the land surface at the well site in compliance with the applicable requirements of this chapter and applicable rules adopted and orders issued under it or that a well is an abandoned well for which no funds are available to plug the well in accordance with this chapter, the chief shall do all of the following:

(a) Determine from the records in the office of the county recorder of the county in which the well is located the identity of the owner of the land on which the well is located, the identity of the owner of the oil or gas lease under which the well was drilled or the identity of each person owning an interest in the lease, and the identities of the persons having legal title to, or a lien upon, any of the equipment appurtenant to the well;

(b) Mail notice to the owner of the land on which the well is located informing the landowner that the well is to be plugged. If the owner of the oil or gas lease under which the well was drilled is different from the owner of the well or if any persons other than the owner of the well own interests in the lease, the chief also shall mail notice that the well is to be plugged to the owner of the lease or to each person owning an interest in the lease, as appropriate.

(c) Mail notice to each person having legal title to, or a lien upon, any equipment appurtenant to the well, informing the person that the well is to be plugged and offering the person the opportunity to plug the well and restore the land surface at the well site at the person's own expense in order to avoid forfeiture of the equipment to this state.



(2) If none of the persons described in division (C)(1)(c) of this section plugs the well within sixty days after the mailing of the notice required by that division, all equipment appurtenant to the well is hereby declared to be forfeited to this state without compensation and without the necessity for any action by the state for use to defray the cost of plugging and abandoning the well and restoring the land surface at the well site.

(D) Expenditures from the fund for the purpose of division (B)(1) of this section shall be made in accordance with either of the following:

(1) The expenditures may be made pursuant to contracts entered into by the chief with persons who agree to furnish all of the materials, equipment, work, and labor as specified and provided in such a contract for activities associated with the restoration or plugging of a well as determined by the chief. The activities may include excavation to uncover a well, geophysical methods to locate a buried well when clear evidence of leakage from the well exists, cleanout of wellbores to remove material from a failed plugging of a well, plugging operations, installation of vault and vent systems, including associated engineering certifications and permits, restoration of property, and repair of damage to property that is caused by such activities. Expenditures shall not be used for salaries, maintenance, equipment, or other administrative purposes, except for costs directly attributed to the plugging of an idle and orphaned well. Agents or employees of persons contracting with the chief for a restoration or plugging project may enter upon any land, public or private, on which the well is located for the purpose of performing the work. Prior to such entry, the chief shall give to the following persons written notice of the existence of a contract for a project to restore or plug a well, the names of the persons with whom the contract is made, and the date that the project will commence: the owner of the well, the owner of the land upon which the well is located, the owner or agents of adjoining land, and, if the well is located in the same township as or in a township adjacent to the excavations and workings of a mine and the owner or lessee of that mine has provided written notice identifying those townships to the chief at any time during the immediately preceding three years, the owner or lessee of the mine.

(2)(a) The owner of the land on which a well is located who has received notice under division (C)(1)(b) of this section may plug the well and be reimbursed by the division of oil and gas resources management for the reasonable cost of plugging the well. In order to plug the well, the landowner shall submit an application to the chief on a form prescribed by the chief and approved by the



technical advisory council on oil and gas created in section 1509.38 of the Revised Code. The application, at a minimum, shall require the landowner to provide the same information as is required to be included in the application for a permit to plug and abandon under section 1509.13 of the Revised Code. The application shall be accompanied by a copy of a proposed contract to plug the well prepared by a contractor regularly engaged in the business of plugging oil and gas wells. The proposed contract shall require the contractor to furnish all of the materials, equipment, work, and labor necessary to plug the well properly and shall specify the price for doing the work, including a credit for the equipment appurtenant to the well that was forfeited to the state through the operation of division (C)(2) of this section. Expenditures under division (D)(2)(a) of this section shall be consistent with the expenditures for activities described in division (D)(1) of this section. The application also shall be accompanied by the permit fee required by section 1509.13 of the Revised Code unless the chief, in the chief's discretion, waives payment of the permit fee. The application constitutes an application for a permit to plug and abandon the well for the purposes of section 1509.13 of the Revised Code.

(b) Within thirty days after receiving an application and accompanying proposed contract under division (D)(2)(a) of this section, the chief shall determine whether the plugging would comply with the applicable requirements of this chapter and applicable rules adopted and orders issued under it and whether the cost of the plugging under the proposed contract is reasonable. If the chief determines that the proposed plugging would comply with those requirements and that the proposed cost of the plugging is reasonable, the chief shall notify the landowner of that determination and issue to the landowner a permit to plug and abandon the well under section 1509.13 of the Revised Code. Upon approval of the application and proposed contract, the chief shall transfer ownership of the equipment appurtenant to the well to the landowner. The chief may disapprove an application submitted under division (D)(2)(a) of this section if the chief determines that the proposed plugging would not comply with the applicable requirements of this chapter and applicable rules adopted and orders issued under it, that the cost of the plugging under the proposed contract is unreasonable, or that the proposed contract is not a bona fide, arm's length contract.

(c) After receiving the chief's notice of the approval of the application and permit to plug and abandon a well under division (D)(2)(b) of this section, the landowner shall enter into the proposed contract to plug the well.



(d) Upon determining that the plugging has been completed in compliance with the applicable requirements of this chapter and applicable rules adopted and orders issued under it, the chief shall reimburse the landowner for the cost of the plugging as set forth in the proposed contract approved by the chief. The reimbursement shall be paid from the oil and gas well fund. If the chief determines that the plugging was not completed in accordance with the applicable requirements, the chief shall not reimburse the landowner for the cost of the plugging, and the landowner or the contractor, as applicable, promptly shall transfer back to this state title to and possession of the equipment appurtenant to the well that previously was transferred to the landowner under division (D)(2)(b) of this section. If any such equipment was removed from the well during the plugging and sold, the landowner shall pay to the chief the proceeds from the sale of the equipment, and the chief promptly shall pay the moneys so received to the treasurer of state for deposit into the oil and gas well fund.

The chief may establish an annual limit on the number of wells that may be plugged under division (D)(2) of this section or an annual limit on the expenditures to be made under that division.

As used in division (D)(2) of this section, "plug" and "plugging" include the plugging of the well and the restoration of the land surface disturbed by the plugging.

(E) Expenditures from the oil and gas well fund for the purpose of division (B)(2) of this section may be made pursuant to contracts entered into by the chief with persons who agree to furnish all of the materials, equipment, work, and labor as specified and provided in such a contract. The competitive bidding requirements of Chapter 153. of the Revised Code do not apply if the chief reasonably determines that an emergency situation exists requiring immediate action for the correction of the applicable health or safety risk. A contract or purchase of materials for purposes of addressing the emergency situation is not subject to division (B) of section 127.16 of the Revised Code. The chief, designated representatives of the chief, and agents or employees of persons contracting with the chief under this division may enter upon any land, public or private, for the purpose of performing the work.

(F) Contracts entered into by the chief under this section are not subject to any of the following:

(1) Chapter 4115. of the Revised Code;



(2) Section 153.54 of the Revised Code, except that the contractor shall obtain and provide to the chief as a bid guaranty a surety bond or letter of credit in an amount equal to ten per cent of the amount of the contract;

(3) Section 4733.17 of the Revised Code.

(G) The owner of land on which a well is located who has received notice under division (C)(1)(b) of this section, in lieu of plugging the well in accordance with division (D)(2) of this section, may cause ownership of the well to be transferred to an owner who is lawfully doing business in this state and who has met the financial responsibility requirements established under section 1509.07 of the Revised Code, subject to the approval of the chief. The transfer of ownership also shall be subject to the landowner's filing the appropriate forms required under section 1509.31 of the Revised Code and providing to the chief sufficient information to demonstrate the landowner's or owner's right to produce a formation or formations. That information may include a deed, a lease, or other documentation of ownership or property rights.

The chief shall approve or disapprove the transfer of ownership of the well. If the chief approves the transfer, the owner is responsible for operating the well in accordance with this chapter and rules adopted under it, including, without limitation, all of the following:

(1) Filing an application with the chief under section 1509.06 of the Revised Code if the owner intends to drill deeper or produce a formation that is not listed in the records of the division for that well;

(2) Taking title to and possession of the equipment appurtenant to the well that has been identified by the chief as having been abandoned by the former owner;

(3) Complying with all applicable requirements that are necessary to drill deeper, plug the well, or plug back the well.

(H) The chief shall issue an order that requires the owner of a well to pay the actual documented costs of a corrective action that is described in division (B)(2) of this section concerning the well. The chief shall transmit the money so recovered to the treasurer of state who shall deposit the money



in the state treasury to the credit of the oil and gas well fund.

(I) The chief may engage in cooperative projects under this section with any agency of this state, another state, or the United States; any other governmental agencies; or any state university or college as defined in section 3345.27 of the Revised Code. A contract entered into for purposes of a cooperative project is not subject to division (B) of section 127.16 of the Revised Code.