



## Ohio Revised Code Section 1509.071 Forfeiting bond.

Effective: September 23, 2022

Legislation: House Bill 430

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(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)(1) 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.

For purposes of promoting the competent management and conservation of the state's oil and natural gas resources and the proper and lawful plugging of historic oil and gas wells for which there is no known responsible owner, the chief annually shall spend not less than thirty per cent of the revenue credited to the oil and gas well fund during the previous fiscal year for both of the following purposes:

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



(b) In accordance with division (F) of this section, to correct conditions that the chief reasonably has determined are causing imminent health or safety risks at an orphaned well or associated with a well for which the owner has not initiated a corrective action within a reasonable period of time as determined by the chief after the chief has attempted to notify the owner.

(2) 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 structure 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) If a landowner discovers a well on the landowner's real property and the landowner is not the owner of the well, the landowner may report the existence of the well in writing to the chief.

(2) If the chief receives a written report from a landowner of the discovery of a well previously unknown to the division, the chief shall inspect the well not later than thirty days after the date of receipt of the landowner's report.

(3) The chief shall establish a scoring matrix for use in determining the priority of plugging wells or restoring land surfaces at orphaned well sites for purposes of this section. The matrix shall include a classification system that categorizes orphaned wells as high priority, medium priority, and low priority.

(4) The chief shall use the matrix developed under division (C)(3) of this section to prioritize plugging and land restoration projects under this section. The chief may add additional orphaned wells to a project regardless of classification.

(D)(1) After determining that a well is an orphaned well, the chief shall do all of the following:

(a) Make a reasonable attempt to determine from the records in the office of the county recorder of the county in which the well is located the identity of the current owner of the land on which the well



is located, the identity of each person owning a right or interest in the oil or gas mineral interests, and the identities of the persons having a lien upon any of the equipment appurtenant to the well. For purposes of division (D)(1)(a) of this section, the chief is not required to review records in the office of the county recorder that are older than forty years from the date on which the chief made the determination that the well is an orphaned well.

(b) Mail notice to each person identified in division (D)(1)(a) of this section;

(c) Include in the notice to each person having a lien upon any equipment appurtenant to the well, a statement informing the person that the well is to be plugged and offering the person the opportunity to remove that equipment from the well site at the person's own expense in order to avoid forfeiture of the equipment to this state;

(d) Publish notice in a newspaper of general circulation in the county where the well is located that the well is to be plugged or post the notice on the department of natural resources web site.

(2) If the current address of a person identified in division (D)(1)(a) of this section cannot be determined, or if a notice provided by mail to a person under division (D)(1)(b) of this section is returned undeliverable, the notice published under division (D)(1)(d) of this section constitutes sufficient notice to the person.

(3) If none of the persons described in division (D)(1)(a) of this section removes equipment from the well within thirty days after the mailing of the notice or publication or posting of notice described in division (D)(1)(d) of this section, whichever is later, 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 the well and restoring the land surface at the well site.

(E) The chief may expend money from the oil and gas well fund for the purpose of division (B)(1)(a) of this section, and such expenditures shall be made in accordance with either of the following:

(1) The chief may make expenditures pursuant to contracts entered into by either the chief or another agency of the state with persons who agree to furnish the materials, equipment, work, and labor as



specified and provided in such a contract for activities associated with the restoration or plugging of an orphaned well as determined by the chief. If another agency of the state enters into the contract, the chief shall prepare the scope of work for the restoration or plugging of the well. The activities may include excavation to uncover a well, methods to locate a well, analyzing the well, stabilizing or other work conducted prior to plugging the well, drilling out or cleanout of wellbores to remove material from a well, plugging operations, installation of vault and vent systems, including associated engineering certifications and permits, removal of associated equipment, restoration of property, replugging of previously plugged orphaned wells or wells for which final restoration was completed under section 1509.072 of the Revised Code and rules adopted under it, and repair of damage to property that is caused by such activities. The chief may make expenditures for salaries, maintenance, equipment, or other administrative purposes, for costs directly attributed to locating, analyzing, stabilizing, designing, plugging, remediating, or restoring an orphaned well, and for determining if a well is an orphaned well.

Agents or employees of persons contracting with the chief to locate, analyze, stabilize, design, plug, remediate, or restore a well may enter upon any land, public or private, on which the well is located, or on adjacent parcels needed for access, 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 to locate, analyze, stabilize, design, plug, remediate, or restore 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 of the land of an adjacent parcel that will be entered upon, 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. The chief may include in the notice to the owner or lessee of the mine additional information, such as authorization to plug an orphaned well under section 1509.151 of the Revised Code.

(2)(a) The owner of the land on which at least one orphaned well is located who has received notice under division (D)(1)(b) of this section may plug any such orphaned well and be reimbursed by the division of oil and gas resources management for the reasonable cost of plugging such wells. In order to plug the orphaned wells, 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 and abandon the orphaned wells 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 orphaned wells properly and restore the site including the removal of all associated equipment and shall specify the price for doing the work. The contractor shall be insured.

Expenditures made under division (E)(2)(a) of this section shall be consistent with the expenditures for activities described in division (E)(1) of this section. In addition, expenditures made under division (E)(2) of this section are not subject to section 127.16 of the Revised Code. The application constitutes an application for a permit to plug the well for the purposes of section 1509.13 of the Revised Code and the applicant is not required to submit the fee otherwise required under that section.

(b) Within thirty days after receiving an application and accompanying proposed contract under division (E)(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 the well under section 1509.13 of the Revised Code. The chief may disapprove an application submitted under division (E)(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 (E)(2)(b) of this section, the landowner may 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 pay the contractor for the cost of the plugging and restoration as set forth in the proposed contract approved by the chief and changes or costs approved by the chief. The payment shall be paid from the oil and gas well fund. The chief shall only make payments for purposes of division (E)(2) of this section pursuant to a proper invoice as defined under section 125.01 of the Revised Code.

(e) If the chief determines that the plugging was not completed in accordance with the applicable requirements, the chief shall not pay the contractor or landowner for the cost of the plugging.

(f) If any equipment was removed from the well during the plugging and sold, the chief shall deduct the sale amount of the equipment from the payment to the contractor.

(g) Changes made to a contract executed under division (E)(2) of this section due to unanticipated conditions may be presented to the chief in the form of a written request for approval of the additional costs prior to completion of the work. The chief shall determine if the changes are necessary to comply with this chapter and rules adopted and orders issued under it and if the cost of the changes are reasonable. The chief shall provide to the contractor a written decision regarding the proposed changes. If the chief determines that the changes are not necessary or that the costs are not reasonable, the chief may either deny the request or establish the amount of the cost that the chief approves. Work completed prior to receipt of written approval from the chief is not eligible for payment, unless waived by the chief.

(3) The chief may establish an annual limit on the number of wells that may be plugged under division (E)(2) of this section or an annual limit on the expenditures to be made under that division. The chief may reject an application submitted under division (E)(2) of this section if the chief determines that the plugging of other wells take priority.

(4) As used in division (E)(2) of this section, "plug" and "plugging" include the plugging of the well, replugging of a previously plugged orphaned well or a well for which final restoration was completed under section 1509.072 of the Revised Code and rules adopted under it, drilling out or



cleanout of a well bore to remove material from a well, installation of casings, installation of a vault and vent, restoration, and the restoration of the land surface disturbed by the plugging.

(F)(1) Expenditures from the oil and gas well fund for the purpose of division (B)(1)(b) of this section may be made pursuant to contracts entered into by either the chief or another agency of the state with persons who agree to furnish 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 a 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 to locate, analyze, stabilize, design, plug, remediate, or restore a well under this division may enter upon any land, public or private, on which the well is located, or on parcels needed for access, for the purpose of performing the work.

(2) 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)(1)(b) 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.

(G) Contracts entered into by either the chief or another agency of the state under this section are not subject to any of the following:

(1) Chapter 4115. of the Revised Code;

(2) Chapter 153. of the Revised Code;

(3) Section 4733.17 of the Revised Code.

(H) The owner of land on which a well is located who has received notice under division (D)(1)(b) of this section, in lieu of plugging the well in accordance with division (E)(2) of this section, may cause ownership of the well to be transferred in accordance with section 1509.31 of the Revised Code.



If a well is transferred, the owner to whom it is transferred shall comply with this chapter and rules adopted under it and shall take 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 of the well.

(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; any state university or college as defined in section 3345.27 of the Revised Code; or a nonprofit corporation that is exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 26 U.S.C. 1, as amended. A contract entered into for purposes of a cooperative project is not subject to division (B) of section 127.16 of the Revised Code.

(J)(1) On or before the close of each calendar quarter, the chief shall submit a written report to the technical advisory council established under section 1509.38 of the Revised Code describing the efforts of the division of oil and gas resources management to plug orphaned wells during the immediately preceding calendar quarter. The chief also shall include in the report all of the following information:

- (a) The total number of known orphaned wells in the state and the total number in each county of the state;
- (b) The total number of newly discovered orphaned wells during the immediately preceding calendar quarter;
- (c) The total number of wells plugged in accordance with this section during the immediately preceding calendar quarter;
- (d) The total number of wells plugged in accordance with this section and the estimated average and indirect costs of plugging activities conducted under this section prior to the date of the report;
- (e) The number of wells approved for plugging in accordance with this section and the estimated average and indirect costs of plugging activities conducted under this section during the immediately preceding calendar quarter.





(2) Not later than the thirty-first day of March of each year, the chief and the technical advisory council shall jointly provide a report containing, at a minimum, the information required to be included in the quarterly reports during the previous one-year period to all of the following:

(a) The speaker of the house of representatives;

(b) The president of the senate;

(c) The chair of the committee of the house of representatives responsible for energy and natural resources issues;

(d) The chair of the committee of the senate responsible for energy and natural resources issues.