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OHIO LEGISLATIVE SERVICE
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DOCUMENT #536528

Ohio Revised Code

Section 1509.76 Statutory consolidation application.

Effective: September 23, 2026
Legislation: House Bill 170 - 136th General Assembly

(A) If, after good-faith negotiation, the applicant for a UIC Class VI permit cannot locate or reach an agreement with pore space owners in the proposed storage facility but has obtained the consent of owners of at least seventy per cent of the pore space proposed to be used in a storage facility, the applicant may submit a statutory consolidation application for the operation of the entire proposed storage facility to the chief of the division of oil and gas resources management. In calculating the seventy per cent, a pore space owner's entire interest in the proposed storage facility, including any divided, undivided, partial, fee, or other interest in the pore space, shall be included to the fullest extent of that interest.

(B) An applicant shall include the following with the application:

(1) A list of all persons reasonably known to own oil, gas, or coal interests above or below the pore space proposed to be used for the storage facility;

(2) An application fee in the amount of fifty thousand dollars. The division shall maintain a record of all costs incurred processing the application. If the costs of processing the application exceed the initial application fee, the division shall send the applicant a final statement of those additional costs. The applicant shall pay the additional amount before the division issues its final decision on the application. If the costs of processing the application are less than the initial application fee, the division shall refund the difference to the applicant. The division shall send the applicant the refund after the division issues its final decision on the application. Except for any portion of the application fee that is refunded, the applicant shall pay the complete application fee regardless of whether a permit is issued or denied or the application is withdrawn.

All application fees shall be credited to the carbon capture administrative fund created under section 1509.78 of the Revised Code.

(3) Proof of notice provided under division (D) of this section, if applicable;

(4) A notarized affidavit listing a minimum of three attempts to contact all known pore space owners on three separate dates;

(5) Any additional information reasonably requested by the chief.

(C) For each application, the chief shall provide notice to all pore space owners and lessees located within the proposed storage facility and all owners and lessees of the subsurface areas located above and below the proposed storage facility of the proposed carbon sequestration project, as identified by the applicant in the application. The notice shall be sent not later than thirty days after the chief determines that the application is complete. The chief shall not rule on an application until after such notice has been provided. If, upon receipt of the notice, an owner or lessee of the subsurface area that is located above or below the proposed storage facility expresses an objection to the chief regarding the design of the carbon sequestration project based on the potential adverse effect to an existing or future oil, gas, coal, or potable water operation, the storage operator shall demonstrate, to the satisfaction of the chief, that any such objection has been addressed as part of the application requirements established under this section. Such objections are not required to be submitted in the timeframe required for notifications to the chief under division (D) of this section, but shall be made not later than thirty days after receipt of a notification.

(D)(1) If the proposed storage facility contains pore space for which the owner is unknown or unlocatable, the storage operator shall do both of the following:

(a) Publish one notice in a newspaper of general circulation in each county in which the carbon sequestration project is located. The notice shall appear not more than thirty days prior to the date the application is submitted to the chief.

(b) Request the chief to post a notice on the division's web site. Upon receiving the request, the chief shall ensure that such notice is posted to the division's web site.

(2) Any notice published in accordance with division (D)(1) of this section shall:

(a) State that an application for statutory consolidation will be filed with the division;

(b) Describe the proposed storage facility;

(c) In the case of an unknown pore space owner, state the owner's interest in the proposed storage facility, and the name of the last known owner of that interest;

(d) State that a person claiming an interest in the pore space proposed to be consolidated shall notify the chief and the applicant at the published address within twenty days of the notice's publication date. Within seven days of receiving notice of a claim, the applicant shall provide information to the claimant, in a form and manner prescribed by the chief, regarding the right of the claimant to file an objection and participate in the application proceeding before the division.

(E)(1)(a) The chief shall hold a hearing regarding an application submitted under this section, except as otherwise provided in division (E)(1)(b) of this section.

(b) If the chief determines that an application is materially incomplete before the required hearing date, the chief shall notify the applicant. If the applicant does not timely correct the application, the chief may reschedule the hearing date.

(2) At the hearing, the chief shall consider whether the application is reasonably necessary to facilitate carbon sequestration.

(F)(1) The chief shall issue an order approving the application submitted under this section and providing for the operation of the proposed storage facility if the chief finds that such operation is reasonably necessary to facilitate carbon sequestration. The chief shall issue the order not later than sixty days after the date of the hearing under division (E) of this section, unless the chief denies the application by order within that sixty-day period.

(2) An order approving an application shall be upon terms and conditions that are just and reasonable and shall prescribe a plan for operations that include:

(a) A description of the pore space and storage facility proposed to be operated;

(b) The location of and means to access carbon injection wells, outbuildings, roads, and monitoring equipment;

(c) A statement of the nature of the operations contemplated;

(d)(i) An allocation to the separately owned interests in the storage facility of all economic benefits derived from operation of the storage facility. The order shall ensure that all pore space owners are compensated in a fair and reasonable manner.

(ii) The allocation shall be in accord with the agreement, if any, of the interested parties. If there is no agreement between the parties, the chief shall determine the value of each separately owned interest in the storage facility, exclusive of physical equipment, for development of the storage facility, and the economic benefits allocated to each interest shall be the proportion that the value of each interest so determined bears to the value of all interests in the storage facility.

(e) The time when the storage facility operations shall commence and the manner in which, and the circumstances under which, the operations shall terminate;

(f) Any additional provisions as are found to be appropriate for carrying on the operations, and for the protection or adjustment of correlative rights.

(3) The storage operator shall file a certified copy of the order and a survey of the storage facility in the office of the county recorder of the county in which all or a portion of the storage facility is located. The chief shall make the order publicly available, which may include posting the order on the division's web site.

(G) Storage facility operations conducted pursuant to an order issued under this section constitute a fulfillment of all the express or implied obligations of each lease or contract covering lands in the storage facility to the extent that compliance with such obligations cannot be had because of the order of the chief.

Economic benefits allocated to any interest shall be the property and income of the several persons to whom, or to whose credit, the same are allocated or payable under the order providing for storage facility operations.

(H) No order of the chief or other contract relating to the pore space and the storage of carbon dioxide from a separately owned interest shall be terminated by the order providing for storage facility operations, but shall remain in force until terminated in accordance with the provisions thereof.

Except to the extent that the parties affected so agree, no order providing for storage facility operations shall be construed to result in a transfer of any person's title to all or any part of the pore space in the storage facility. All property, whether real or personal, that may be acquired for the account of the owners within the storage facility shall be the property of such owners in the proportion that the expenses of operations are charged.

(I)(1) Except as provided in division (I)(2) of this section, the right to utilize pore space for a storage facility pursuant to this section does not confer a right to enter upon, or otherwise use, the surface of the land above such pore space unless authorized by a properly executed surface use agreement. A statutory consolidation order shall not grant the storage operator expressed or implied rights of surface use or access.

(2) Notwithstanding division (I)(1) of this section, a storage operator may have a right to enter upon the surface of the land as required by state or federal law, due to an imminent or emergent threat to public health, safety, or the environment pursuant to an order from the chief, or pursuant to any other order from the chief.