

Chapter 1510: OIL AND NATURAL GAS MARKETING PROGRAM

1510.01 Oil and natural gas marketing program definitions.

As used in this chapter:

(A) "First purchaser" means:

(1) With regard to crude oil and condensate, the person to whom title first is transferred beyond the gathering tank or tanks, beyond the facility from which the crude oil was first produced, or both;

(2) With regard to natural gas, the person to whom title first is transferred beyond the inlet side of the measurement station from which the natural gas was first produced.

(B) "Producer" means a person who complies with all of the following:

(1) Produces oil or natural gas in this state;

(2) Derives a majority of income from ownership in properties producing oil or natural gas;

(3) Is the owner of record for the respective wells from which assessments are levied under this chapter.

(C) "Independent producer" means a producer that is not engaged in refining either oil or natural gas.

(D) "Qualified independent producer association" means an association that complies with all of the following:

(1) It is in existence on December 18, 1997.

(2) It is organized and operating within this state.

(3) A majority of the members of its governing body are independent producers.

(E) "Technical advisory council" or "council" means the technical advisory council created in the division of oil and gas resources management under section [1509.38](#) of the Revised Code.

(F) "Condensate," "gas," "horizontal well," "oil," and "owner" have the same meanings as in section [1509.01](#) of the Revised Code.

Amended by 131st General Assembly File No. TBD, HB 471, §1, eff. 12/19/2016.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 06-14-2000 .

1510.02 Technical advisory council - powers and duties.

(A) In accordance with this chapter, the technical advisory council shall do all of the following:

(1) Establish procedures by which producers in this state may propose, develop, and operate a marketing program to do all of the following:

(a) Demonstrate to the general public the importance and economic significance of the oil and natural gas

industry in this state;

- (b) Encourage the wise and efficient use of energy;
 - (c) Promote environmentally sound production methods and technologies in the industry;
 - (d) Support research, training, and educational activities concerning the industry.
- (2) Establish procedures necessary to implement and administer this chapter;
 - (3) Determine the eligibility of producers to participate in referendums and other procedures that may be required to establish a marketing program for oil and natural gas.
- (B) The council may conduct business by a majority of those members voting without need of a quorum.

Amended by 131st General Assembly File No. TBD, HB 471, §1, eff. 12/19/2016.

Effective Date: 12-18-1997.

1510.03 Authority of marketing program.

A marketing program that is established under this chapter may include authority to do at least all of the following:

- (A) Carry out the purposes of the program identified in section [1510.02](#) of the Revised Code;
- (B) Enter into contracts with qualified organizations, agencies, or individuals, or any combination thereof, to carry out those purposes;
- (C) Contribute to any national or regional marketing program for oil and natural gas if the program is exclusively for the same purposes as the program established under this chapter.

Effective Date: 12-18-1997.

1510.04 Petition for referendum to establish a marketing program for oil and natural gas or to amend an existing program.

- (A)
- (1) Producers in this state may present the technical advisory council with a petition signed by the lesser of one hundred or ten per cent of all such producers requesting that the council hold a referendum in accordance with section [1510.05](#) of the Revised Code to establish a marketing program for oil and natural gas .
 - (2) Producers in this state also may present the operating committee appointed under section [1510.06](#) of the Revised Code or the council with a petition signed by the lesser of one hundred or ten per cent of all such producers requesting that the council hold a referendum in accordance with section [1510.05](#) of the Revised Code to amend an existing marketing program. The council may request the operating committee to perform any administrative duty during the amendment process provided for under this chapter and the operating committee shall perform any such administrative duty.
- (B) At the time of presentation of the petition to the council or committee under division (A) of this section, the

petitioners also shall present the proposed program or amendment, which shall include all of the following:

- (1) The rate of assessment to be made on the production of oil and natural gas in this state, which shall not exceed five cents per each gross barrel of oil and one cent per thousand cubic feet of natural gas;
- (2) Terms, conditions, limitations, and other qualifications for assessment;
- (3) Procedures to refund the assessment.

(C) Before the council makes a decision under this division to approve or disapprove a proposed program or amendment, the council or committee, as applicable, shall publish in at least two appropriate periodicals designated by the council a notice that the program or amendment has been proposed and informing interested persons of the procedures for submitting comments regarding the proposal. After publishing the notice, the council or committee shall provide interested persons with a copy of the proposed program or amendment and an opportunity to comment on the proposed program or amendment for thirty days after the publication of the notice. The petitioners may make changes to the proposed program or amendment based upon the comments received. The council or committee may make technical changes to the proposal to ensure compliance with this chapter. Subsequent to any changes made by the petitioners or any technical changes made by the council or committee to a proposed program or amendment, the council may approve or disapprove the proposed program or amendment.

(D) If the council approves the proposed program or amendment, with any changes made under division (C) of this section, the council shall hold a referendum in accordance with section [1510.05](#) of the Revised Code to establish a marketing program for oil and natural gas or to amend an existing program.

Amended by 131st General Assembly File No. TBD, HB 471, §1, eff. 12/19/2016.

Effective Date: 12-18-1997; 04-05-2007; 04-06-2007.

[1510.05 Procedure for referendum.](#)

(A) Not later than ninety days after the technical advisory council has approved a marketing program proposed under section [1510.04](#) of the Revised Code, or an amendment to such a program, the council shall determine by a referendum whether the eligible producers, as determined under division (A)(3) of section [1510.02](#) of the Revised Code, favor the proposed program or amendment. The council or committee shall cause a ballot request form to be published not less than thirty days before the beginning of the election period established under division (B) of this section in at least two appropriate periodicals designated by the council or committee and shall make the form available for reproduction to any qualified independent producer association.

(B) In a referendum held under this section, each eligible producer is entitled to one vote. The council or committee shall establish a three-day period during which eligible producers may vote either in person during normal business hours at polling places designated by the council or committee or by mailing a ballot to such a polling place. The council or committee shall send a mail-in ballot by first-class mail to any eligible producer who requests one by sending in the ballot request form provided for in division (A) of this section, by calling one of the polling places designated by the council or committee, or by any additional method that the council or committee may provide. A ballot that is returned by mail is not valid if it is postmarked later than the third day of the election period established by the council or committee.

(C) A marketing program or an amendment to a marketing program is favored by producers if a majority of the

producers who vote in the referendum vote in favor of the program or amendment. If the producers who vote in the referendum do not favor the proposed program or amendment, the council shall not hold another referendum on the proposed program or amendment during the ten months following the close of the referendum at which the producers did not favor the proposed program or amendment.

Amended by 131st General Assembly File No. TBD, HB 471, §1, eff. 12/19/2016.

Effective Date: 12-18-1997.

1510.06 Establishing marketing program.

(A) When the producers who vote in a referendum held under section [1510.05](#) of the Revised Code favor a proposed marketing program, the technical advisory council shall order the program established. The council shall appoint an operating committee consisting of thirteen members. Six of the members shall be independent producers and six of the members shall be primarily horizontal well operators. The council shall select those members from lists of names submitted by qualified independent producer associations. Each member who is a producer shall be at least twenty-five years old, have production in this state, and have at least five years of active experience in the oil and natural gas industry.

The thirteenth member shall be a member of an organization that represents farmers. The council shall select that member from a list submitted by such an organization.

Of the initial appointments made prior to the effective date of this amendment, the council shall appoint two members for terms of one year, two members for terms of two years, and three members for terms of three years. Thereafter, the council shall appoint each member for a three-year term unless the appointee is to fill a vacancy, in which case the appointee shall be appointed for the unexpired term. Each such subsequent appointment shall be made prior to the expiration date of the preceding or vacant term. The council shall not appoint any member of the operating committee to serve more than three successive full three-year terms.

Of the members who are primarily horizontal well operators who are appointed after the effective date of this amendment, the council shall appoint two members for terms of one year, two members for terms of two years, and two members for terms of three years. Thereafter, the council shall appoint each member for a three-year term unless the appointee is to fill a vacancy, in which case the appointee shall be appointed for the unexpired term. Each subsequent appointment shall be made prior to the expiration date of the preceding or vacant term. The council shall not appoint any member of the operating committee to serve more than three successive full three-year terms.

(B) Each member of the operating committee is entitled to actual and necessary travel and incidental expenses while attending meetings of the committee or while engaged in the performance of official responsibilities delegated to the committee.

(C) No person is liable in a civil action for any actions taken in good faith as a member or employee of an operating committee.

Amended by 131st General Assembly File No. TBD, HB 471, §1, eff. 12/19/2016.

Effective Date: 12-18-1997.

1510.07 Council to monitor actions of operating committee.

The technical advisory council shall monitor the actions of an operating committee to ensure all of the following:

- (A) A marketing program is self-supporting;
- (B) The committee keeps all records that are required for agencies of the state;
- (C) All program operations are in accord with both of the following:
 - (1) The provisions of the marketing program;
 - (2) This chapter and procedures established under it.

Effective Date: 12-18-1997.

1510.08 Assessments on production of oil and natural gas.

- (A)
 - (1) Except as provided in division (A)(2) of this section, an operating committee may levy assessments on the production of crude oil, condensate, and natural gas in this state for the purposes of a marketing program established under this chapter.
 - (2) The operating committee shall not levy an assessment that was not approved by producers or that exceeds the amount authorized under division (B)(1) of section [1510.04](#) of the Revised Code. The operating committee shall not levy an assessment against a producer who is not eligible to vote in a referendum for the marketing program that the operating committee administers, as determined under division (A)(3) of section [1510.02](#) of the Revised Code.
 - (B) The technical advisory council may require a first purchaser to withhold assessments from any amounts that the first purchaser owes to producers and, notwithstanding division (A)(2) of this section, to remit them to the chairperson of the council at the office of the division of oil and gas resources management. A first purchaser who pays an assessment that is levied pursuant to this section for a producer may deduct the amount of the assessment from any money that the first purchaser owes the producer.

The operating committee may, through the referendum process, elect to authorize the producer of a horizontal well to directly pay the assessment to the operating committee in lieu of having the first purchaser remit the assessment. The producer shall direct the payment to the operating committee along with a form furnished by the operating committee and approved as to content by a qualified independent producer association. The operating committee may establish, through the referendum process, additional terms, limitations, and conditions for assessment and refunds for those producers who directly pay the assessment to the operating committee.

(C) A marketing program shall require a refund of assessments collected under this section after receiving an application for a refund from a producer who is the owner or operator of the well that was assessed. The producer shall submit the application for a refund on a form furnished by the operating committee and approved as to content by a qualified independent producer association. The operating committee shall ensure that refund forms are available where assessments for its program are withheld.

A producer who desires a refund shall submit a request for a refund not later than the thirty-first day of March

of the year in which the request is submitted. The operating committee shall refund the assessment to the producer not later than the thirtieth day of June of the year in which the request for the refund is submitted.

(D) The operating committee shall not use money from any assessments that it levies for any political or legislative purpose or for preferential treatment of one person to the detriment of another person who is affected by the marketing program that the operating committee administers.

(E) If the operating committee requests that a producer seeking a refund provide additional information to support a refund request, any additional information provided to the operating committee is not a public record under section [149.43](#) of the Revised Code, is confidential, and the operating committee shall treat the information as confidential.

Amended by 131st General Assembly File No. TBD, HB 471, §1, eff. 12/19/2016.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 06-14-2000 .

1510.09 Fund for marketing program.

(A) There is hereby established a fund for any marketing program that is established by the technical advisory council under this chapter. The fund shall be in the custody of the treasurer of state, but shall not be part of the state treasury. Except as authorized in division (B) of this section, all money collected pursuant to section [1510.08](#) of the Revised Code for the marketing program shall be paid into the fund for the marketing program and shall be disbursed only pursuant to a voucher signed by the chairperson of the council for use in defraying the costs of administration of the marketing program and for carrying out sections [1510.02](#), [1510.03](#), and [1510.11](#) of the Revised Code.

(B) In lieu of deposits in the fund established under division (A) of this section, the operating committee of a marketing program established under this chapter may deposit all money collected pursuant to section [1510.08](#) of the Revised Code with a bank or a savings and loan association as defined in sections [1101.01](#) and [1151.01](#) of the Revised Code. All money collected pursuant to section [1510.08](#) of the Revised Code for the marketing program and deposited pursuant to this division also shall be used only in defraying the costs of administration of the marketing program and for carrying out sections [1510.02](#), [1510.03](#), and [1510.11](#) of the Revised Code.

(C) The operating committee shall establish a fiscal year for its marketing program, shall publish an activity and financial report within sixty days of the end of each fiscal year, and shall make the report available to each producer who pays an assessment or otherwise contributes to the marketing program that the committee administers and to other interested persons.

(D) In addition to the report required by division (C) of this section, an operating committee that deposits money in accordance with division (B) of this section shall annually submit to the council

a financial statement prepared by a certified public accountant holding valid certification from the Ohio board of accountancy issued pursuant to Chapter 4701. of the Revised Code. The operating committee shall file the financial statement with the council not more than one hundred fifty days after the end of each fiscal year.

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Effective Date: 12-18-1997.

1510.10 Suspending operation of program.

(A) The technical advisory council temporarily may suspend the operation of a marketing program, or any part of a program, for any reason upon recommendation by the operating committee of the program for a period of not more than twelve consecutive months.

(B) At least once in each five years of operation, or at any time upon written petition by the lesser of one hundred or ten per cent of the producers in this state, the council shall hold a hearing as prescribed in Chapter 119. of the Revised Code to consider the continuation of the program.

(C) Not later than thirty days after the close of any hearing to consider the continuation of a marketing program, the council shall recommend continuation or termination of the program, shall give public notice, and shall notify each producer of record, all parties appearing at the hearing, and other interested parties of the recommendation.

(D) When the council recommends termination of a marketing program, within forty-five days the council shall conduct a referendum to determine whether producers favor the proposed termination. Producers favor the termination of the program if a majority of the producers who vote in the referendum vote in favor of termination of the program.

Amended by 131st General Assembly File No. TBD, HB 471, §1, eff. 12/19/2016.

Effective Date: 12-18-1997.

1510.11 Termination procedure.

(A) When producers favor termination of a marketing program established under this chapter, the operating committee of the program and the technical advisory council shall terminate all operations of the program.

(B)

(1) Except as provided in division (B)(2) of this section, upon termination of a program, the council shall return any remaining unobligated money to the producers who paid the assessments levied under section [1510.08](#) of the Revised Code during the immediately preceding twelve months and shall prorate the money accordingly.

(2) If a program is operated by a nonprofit corporation that is organized under Chapter 1702. of the Revised Code for the purpose of carrying out the purposes identified in division (A)(1) of section [1510.02](#) of the Revised Code, and if the nonprofit corporation is exempt from federal income taxation pursuant to section 501(a) of the Internal Revenue Code and is described in section 501(c) (3) of the Internal Revenue Code, upon termination of the program, the nonprofit corporation shall distribute any remaining unobligated money to be used for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code or to the federal, a state, or a local government to be used for a public purpose. If there remains any unobligated money after the distribution by the nonprofit corporation, the court of common pleas of the county in which the principal office of the nonprofit corporation is located shall distribute the remaining unobligated money to be used for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, to the federal, a state, or a local government to be used for a public purpose, or to one or more organizations that are organized and operated exclusively for one or more of the purposes that are within the meaning of

section 501(c)(3) of the Internal Revenue Code, as the court determines is best to accomplish the exempt purposes of the nonprofit corporation.

Amended by 131st General Assembly File No. TBD, HB 471, §1, eff. 12/19/2016.

Effective Date: 12-18-1997; 09-16-2004.

1510.12 Action to enforce compliance.

The technical advisory council may institute an action at law or in equity that appears necessary to enforce compliance with this chapter, a procedure established under it, or a marketing program established under it.

Effective Date: 12-18-1997.

1510.13 Prohibited acts regarding assessments.

(A) No person shall knowingly fail or refuse to withhold or remit any assessment levied under section [1510.08](#) of the Revised Code.

(B) Before criminal proceedings are instituted pursuant to this section, the technical advisory council shall give the alleged violator an opportunity to present the alleged violator's views concerning why the proceedings should not be instituted.

Effective Date: 12-18-1997.

1510.99 Penalty.

Whoever violates section [1510.13](#) of the Revised Code is guilty of a misdemeanor of the fourth degree.

Effective Date: 12-18-1997.