

55-179. Investigation of complaint by the commission; findings; responsibility for remedial action; costs; hearings; orders. (a) Upon receipt of any complaint filed pursuant to K.S.A. 55-178 and amendments thereto, the commission shall make an investigation for the purpose of determining whether such abandoned well is polluting or is likely to pollute any usable water strata or supply or causing the loss of usable water, or the commission may initiate such investigation on its own motion. If the commission determines:

(1) That such abandoned well is causing or likely to cause such pollution or loss; and

(2) (A) that no person is legally responsible for the proper care and control of such well; or (B) that the person legally responsible for the care and control of such well is dead, is no longer in existence, is insolvent or cannot be found, then, after completing its investigation, and as funds are available, the commission shall plug, replug or repair such well, or cause it to be plugged, replugged or repaired, in such a manner as to prevent any further pollution or danger of pollution of any usable water strata or supply or loss of usable water, and shall remediate pollution from the well, whenever practicable and reasonable. The cost of the investigation; the plugging, replugging or repair; and the remediation shall be paid by the commission from the well plugging assurance fund or the abandoned oil and gas well fund, as appropriate.

(b) For the purposes of this section, a person who is legally responsible for the proper care and control of an abandoned well shall include, but is not limited to, one or more of the following: Any operator of a waterflood or other pressure maintenance program deemed to be causing pollution or loss of usable water; the current or last operator of the lease upon which such well is located, irrespective of whether such operator plugged or abandoned such well; the original operator who plugged or abandoned such well; and any person who without authorization tampers with or removes surface equipment or downhole equipment from an abandoned well.

(c) Whenever the commission determines that a well has been abandoned and is causing or is likely to cause pollution of any usable water strata or supply or loss of usable water, and whenever the commission has reason to believe that a particular person is legally responsible for the proper care and control of such well, the commission shall cause such person to come before it at a hearing held in accordance with the provisions of the Kansas administrative procedure act to show cause why the requisite care and control has not been exercised with respect to such well. After such hearing, if the commission finds that the person is legally responsible for the proper care and control of such well and that such well is abandoned, in fact, and is causing or is likely to cause pollution of any usable water strata or supply or loss of usable water, the commission may make any order or orders prescribed in K.S.A. 55-162, and amendments thereto. Proceedings for reconsideration and judicial review of any of the commission's orders may be held pursuant to K.S.A. 55-606, and amendments thereto.

(d) For the purpose of this section, any well which has been abandoned, in fact, and has not been plugged pursuant to the rules and regulations in effect at the time of plugging such well shall be and is hereby deemed likely to cause pollution of any usable water strata or supply.

(e) For the purpose of this section, the person legally responsible for the proper care and control of an abandoned well shall not include the landowner or surface owner unless the landowner or surface owner has operated or produced the well, has deliberately altered or tampered with such well thereby causing the pollution or has assumed by written contract such responsibility.

History: L. 1986, ch. 201, § 31; L. 1988, ch. 356, § 165; L. 1993, ch. 62, § 1; L. 1996, ch. 263, § 7; L. 2001, ch. 191, § 6; July 1.