

As Introduced

**131st General Assembly
Regular Session
2015-2016**

S. B. No. 47

**Senator Skindell
Cosponsors: Senator Tavares**

A BILL

To amend sections 1509.01, 1509.02, 1509.03, 1
1509.05, 1509.06, 1509.08, 1509.21, 1509.22, 2
1509.222, 1509.223, 1509.224, and 1509.99, to 3
enact section 1509.051, and to repeal section 4
1509.226 of the Revised Code to prohibit land 5
application and deep well injection of brine, to 6
prohibit the conversion of wells, and to 7
eliminate the injection fee that is levied under 8
the Oil and Gas Law. 9

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1509.01, 1509.02, 1509.03, 10
1509.05, 1509.06, 1509.08, 1509.21, 1509.22, 1509.222, 1509.223, 11
1509.224, and 1509.99 be amended and section 1509.051 of the 12
Revised Code be enacted to read as follows: 13

Sec. 1509.01. As used in this chapter: 14

(A) "Well" means any borehole, whether drilled or bored, 15
within the state for production, extraction, or injection of any 16
gas or liquid mineral, excluding potable water to be used as 17
such, but including natural or artificial brines and oil field 18

waters.	19
(B) "Oil" means crude petroleum oil and all other hydrocarbons, regardless of gravity, that are produced in liquid form by ordinary production methods, but does not include hydrocarbons that were originally in a gaseous phase in the reservoir.	20 21 22 23 24
(C) "Gas" means all natural gas and all other fluid hydrocarbons that are not oil, including condensate.	25 26
(D) "Condensate" means liquid hydrocarbons separated at or near the well pad or along the gas production or gathering system prior to gas processing.	27 28 29
(E) "Pool" means an underground reservoir containing a common accumulation of oil or gas, or both, but does not include a gas storage reservoir. Each zone of a geological structure that is completely separated from any other zone in the same structure may contain a separate pool.	30 31 32 33 34
(F) "Field" means the general area underlaid by one or more pools.	35 36
(G) "Drilling unit" means the minimum acreage on which one well may be drilled, but does not apply to a well for injecting gas into or removing gas from a gas storage reservoir.	37 38 39
(H) "Waste" includes all of the following:	40
(1) Physical waste, as that term generally is understood in the oil and gas industry;	41 42
(2) Inefficient, excessive, or improper use, or the unnecessary dissipation, of reservoir energy;	43 44
(3) Inefficient storing of oil or gas;	45

(4) Locating, drilling, equipping, operating, or producing an oil or gas well in a manner that reduces or tends to reduce the quantity of oil or gas ultimately recoverable under prudent and proper operations from the pool into which it is drilled or that causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas;

(5) Other underground or surface waste in the production or storage of oil, gas, or condensate, however caused.

(I) "Correlative rights" means the reasonable opportunity to every person entitled thereto to recover and receive the oil and gas in and under the person's tract or tracts, or the equivalent thereof, without having to drill unnecessary wells or incur other unnecessary expense.

(J) "Tract" means a single, individually taxed parcel of land appearing on the tax list.

(K) "Owner," unless referring to a mine, means the person who has the right to drill on a tract or drilling unit, to drill into and produce from a pool, and to appropriate the oil or gas produced therefrom either for the person or for others, except that a person ceases to be an owner with respect to a well when the well has been plugged in accordance with applicable rules adopted and orders issued under this chapter. "Owner" does not include a person who obtains a lease of the mineral rights for oil and gas on a parcel of land if the person does not attempt to produce or produce oil or gas from a well or obtain a permit under this chapter for a well or if the entire interest of a well is transferred to the person in accordance with division (B) of section 1509.31 of the Revised Code.

(L) "Royalty interest" means the fee holder's share in the

production from a well.	75
(M) "Discovery well" means the first well capable of producing oil or gas in commercial quantities from a pool.	76 77
(N) "Prepared clay" means a clay that is plastic and is thoroughly saturated with fresh water to a weight and consistency great enough to settle through saltwater in the well in which it is to be used, except as otherwise approved by the chief of the division of oil and gas resources management.	78 79 80 81 82
(O) "Rock sediment" means the combined cutting and residue from drilling sedimentary rocks and formation.	83 84
(P) "Excavations and workings," "mine," and "pillar" have the same meanings as in section 1561.01 of the Revised Code.	85 86
(Q) "Coal bearing township" means a township designated as such by the chief of the division of mineral resources management under section 1561.06 of the Revised Code.	87 88 89
(R) "Gas storage reservoir" means a continuous area of a subterranean porous sand or rock stratum or strata into which gas is or may be injected for the purpose of storing it therein and removing it therefrom and includes a gas storage reservoir as defined in section 1571.01 of the Revised Code.	90 91 92 93 94
(S) "Safe Drinking Water Act" means the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended by the "Safe Drinking Water Amendments of 1977," 91 Stat. 1393, 42 U.S.C.A. 300(f), the "Safe Drinking Water Act Amendments of 1986," 100 Stat. 642, 42 U.S.C.A. 300(f), and the "Safe Drinking Water Act Amendments of 1996," 110 Stat. 1613, 42 U.S.C.A. 300(f), and regulations adopted under those acts.	95 96 97 98 99 100 101
(T) "Person" includes any political subdivision,	102

department, agency, or instrumentality of this state; the United States and any department, agency, or instrumentality thereof; and any legal entity defined as a person under section 1.59 of the Revised Code.

(U) "Brine" means all saline geological formation water resulting from, obtained from, or produced in connection with exploration, drilling, well stimulation, production of oil or gas, or plugging of a well.

(V) "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, springs, irrigation systems, drainage systems, and other bodies of water, surface or underground, natural or artificial, that are situated wholly or partially within this state or within its jurisdiction, except those private waters that do not combine or effect a junction with natural surface or underground waters.

(W) "Exempt Mississippian well" means a well that meets all of the following criteria:

(1) Was drilled and completed before January 1, 1980;

(2) Is located in an unglaciated part of the state;

(3) Was completed in a reservoir no deeper than the Mississippian Big Injun sandstone in areas underlain by Pennsylvanian or Permian stratigraphy, or the Mississippian Berea sandstone in areas directly underlain by Permian stratigraphy;

(4) Is used primarily to provide oil or gas for domestic use.

(X) "Exempt domestic well" means a well that meets all of the following criteria:

(1) Is owned by the owner of the surface estate of the tract on which the well is located;	131 132
(2) Is used primarily to provide gas for the owner's domestic use;	133 134
(3) Is located more than two hundred feet horizontal distance from any inhabited private dwelling house other than an inhabited private dwelling house located on the tract on which the well is located;	135 136 137 138
(4) Is located more than two hundred feet horizontal distance from any public building that may be used as a place of resort, assembly, education, entertainment, lodging, trade, manufacture, repair, storage, traffic, or occupancy by the public.	139 140 141 142 143
(Y) "Urbanized area" means an area where a well or production facilities of a well are located within a municipal corporation or within a township that has an unincorporated population of more than five thousand in the most recent federal decennial census prior to the issuance of the permit for the well or production facilities.	144 145 146 147 148 149
(Z) "Well stimulation" or "stimulation of a well" means the process of enhancing well productivity, including hydraulic fracturing operations.	150 151 152
(AA) "Production operation" means all operations and activities and all related equipment, facilities, and other structures that may be used in or associated with the exploration and production of oil, gas, or other mineral resources that are regulated under this chapter, including operations and activities associated with site preparation, site construction, access road construction, well drilling, well	153 154 155 156 157 158 159

completion, well stimulation, well site activities, reclamation, 160
and plugging. "Production operation" also includes all of the 161
following: 162

(1) The piping, equipment, and facilities used for the 163
production and preparation of hydrocarbon gas or liquids for 164
transportation or delivery; 165

(2) The processes of extraction and recovery, lifting, 166
stabilization, treatment, separation, production processing, 167
storage, waste disposal, and measurement of hydrocarbon gas and 168
liquids, including related equipment and facilities; 169

(3) The processes and related equipment and facilities 170
associated with production compression, gas lift, gas injection, 171
fuel gas supply, well drilling, well stimulation, and well 172
completion activities, including dikes, pits, and earthen and 173
other impoundments used for the temporary storage of fluids and 174
waste substances associated with well drilling, well 175
stimulation, and well completion activities; 176

(4) Equipment and facilities at a wellpad or other 177
location that are used for the transportation, handling, 178
recycling, temporary storage, management, processing, or 179
treatment of any equipment, material, and by-products or other 180
substances from an operation at a wellpad that may be used or 181
reused at the same or another operation at a wellpad or that 182
will be disposed of in accordance with applicable laws and rules 183
adopted under them. 184

(BB) "Annular overpressurization" means the accumulation 185
of fluids within an annulus with sufficient pressure to allow 186
migration of annular fluids into underground sources of drinking 187
water. 188

(CC) "Idle and orphaned well" means a well for which a bond has been forfeited or an abandoned well for which no money is available to plug the well in accordance with this chapter and rules adopted under it.

(DD) "Temporarily inactive well" means a well that has been granted temporary inactive status under section 1509.062 of the Revised Code.

(EE) "Material and substantial violation" means any of the following:

(1) Failure to obtain a permit to drill, reopen, ~~convert,~~ plugback, or plug a well under this chapter;

(2) Failure to obtain, maintain, update, or submit proof of insurance coverage that is required under this chapter;

(3) Failure to obtain, maintain, update, or submit proof of a surety bond that is required under this chapter;

(4) Failure to plug an abandoned well or idle and orphaned well unless the well has been granted temporary inactive status under section 1509.062 of the Revised Code or the chief of the division of oil and gas resources management has approved another option concerning the abandoned well or idle and orphaned well;

(5) Failure to restore a disturbed land surface as required by section 1509.072 of the Revised Code;

(6) Failure to reimburse the oil and gas well fund pursuant to a final order issued under section 1509.071 of the Revised Code;

(7) Failure to comply with a final nonappealable order of the chief issued under section 1509.04 of the Revised Code;

(8) Failure to submit a report, test result, fee, or document that is required in this chapter or rules adopted under it. 217
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(FF) "Severer" has the same meaning as in section 5749.01 of the Revised Code. 220
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(GG) "Horizontal well" means a well that is drilled for the production of oil or gas in which the wellbore reaches a horizontal or near horizontal position in the Point Pleasant, Utica, or Marcellus formation and the well is stimulated. 222
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(HH) "Well pad" means the area that is cleared or prepared for the drilling of one or more horizontal wells. 226
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Sec. 1509.02. There is hereby created in the department of natural resources the division of oil and gas resources management, which shall be administered by the chief of the division of oil and gas resources management. The division has sole and exclusive authority to regulate the permitting, location, and spacing of oil and gas wells and production operations within the state, excepting only those activities regulated under federal laws for which oversight has been delegated to the environmental protection agency and activities regulated under sections 6111.02 to 6111.028 of the Revised Code. The regulation of oil and gas activities is a matter of general statewide interest that requires uniform statewide regulation, and this chapter and rules adopted under it constitute a comprehensive plan with respect to all aspects of the locating, drilling, well stimulation, completing, and operating of oil and gas wells within this state, including site construction and restoration, permitting related to those activities, and the disposal of wastes from those wells. In order to assist the division in the furtherance of its sole and 228
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exclusive authority as established in this section, the chief 247
may enter into cooperative agreements with other state agencies 248
for advice and consultation, including visitations at the 249
surface location of a well on behalf of the division. Such 250
cooperative agreements do not confer on other state agencies any 251
authority to administer or enforce this chapter and rules 252
adopted under it. In addition, such cooperative agreements shall 253
not be construed to dilute or diminish the division's sole and 254
exclusive authority as established in this section. Nothing in 255
this section affects the authority granted to the director of 256
transportation and local authorities in section 723.01 or 257
4513.34 of the Revised Code, provided that the authority granted 258
under those sections shall not be exercised in a manner that 259
discriminates against, unfairly impedes, or obstructs oil and 260
gas activities and operations regulated under this chapter. 261

The chief shall not hold any other public office, nor 262
shall the chief be engaged in any occupation or business that 263
might interfere with or be inconsistent with the duties as 264
chief. 265

All moneys collected by the chief pursuant to sections 266
1509.06, 1509.061, 1509.062, 1509.071, 1509.13, ~~1509.22,~~ 267
1509.222, 1509.28, 1509.34, and 1509.50 of the Revised Code, 268
ninety per cent of moneys received by the treasurer of state 269
from the tax levied in divisions (A) (5) and (6) of section 270
5749.02 of the Revised Code, all civil penalties paid under 271
section 1509.33 of the Revised Code, and, notwithstanding any 272
section of the Revised Code relating to the distribution or 273
crediting of fines for violations of the Revised Code, all fines 274
imposed under divisions (A) and (B) of section 1509.99 of the 275
Revised Code and fines imposed under divisions (C) and (D) of 276
section 1509.99 of the Revised Code for all violations 277

prosecuted by the attorney general and for violations prosecuted 278
by prosecuting attorneys that do not involve the transportation 279
of brine by vehicle shall be deposited into the state treasury 280
to the credit of the oil and gas well fund, which is hereby 281
created. Fines imposed under divisions (C) and (D) of section 282
1509.99 of the Revised Code for violations prosecuted by 283
prosecuting attorneys that involve the transportation of brine 284
by vehicle and penalties associated with a compliance agreement 285
entered into pursuant to this chapter shall be paid to the 286
county treasury of the county where the violation occurred. 287

The fund shall be used solely and exclusively for the 288
purposes enumerated in division (B) of section 1509.071 of the 289
Revised Code, for the expenses of the division associated with 290
the administration of this chapter and Chapter 1571. of the 291
Revised Code and rules adopted under them, and for expenses that 292
are critical and necessary for the protection of human health 293
and safety and the environment related to oil and gas production 294
in this state. The expenses of the division in excess of the 295
moneys available in the fund shall be paid from general revenue 296
fund appropriations to the department. 297

Sec. 1509.03. (A) The chief of the division of oil and gas 298
resources management shall adopt, rescind, and amend, in 299
accordance with Chapter 119. of the Revised Code, rules for the 300
administration, implementation, and enforcement of this chapter. 301
The rules shall include an identification of the subjects that 302
the chief shall address when attaching terms and conditions to a 303
permit with respect to a well and production facilities of a 304
well that are located within an urbanized area or with respect 305
to a horizontal well and production facilities associated with a 306
horizontal well. The subjects shall include all of the 307
following: 308

(1) Safety concerning the drilling or operation of a well;	309
(2) Protection of the public and private water supply, including the amount of water used and the source or sources of the water;	310 311 312
(3) Fencing and screening of surface facilities of a well;	313
(4) Containment and disposal of drilling and production wastes;	314 315
(5) Construction of access roads for purposes of the drilling and operation of a well;	316 317
(6) Noise mitigation for purposes of the drilling of a well and the operation of a well, excluding safety and maintenance operations.	318 319 320
No person shall violate any rule of the chief adopted under this chapter.	321 322
(B) (1) Any order issuing, denying, or modifying a permit or notices required to be made by the chief pursuant to this chapter shall be made in compliance with Chapter 119. of the Revised Code, except that personal service may be used in lieu of service by mail. Every order issuing, denying, or modifying a permit under this chapter and described as such shall be considered an adjudication order for purposes of Chapter 119. of the Revised Code. Division (B) (1) of this section does not apply to a permit issued under section 1509.06 of the Revised Code.	323 324 325 326 327 328 329 330 331
(2) Where notice to the owners is required by this chapter, the notice shall be given as prescribed by a rule adopted by the chief to govern the giving of notices. The rule shall provide for notice by publication except in those cases where other types of notice are necessary in order to meet the	332 333 334 335 336

requirements of the law. 337

(C) The chief or the chief's authorized representative may 338
at any time enter upon lands, public or private, for the purpose 339
of administration or enforcement of this chapter, the rules 340
adopted or orders made thereunder, or terms or conditions of 341
permits or registration certificates issued thereunder and may 342
examine and copy records pertaining to the drilling, conversion, 343
or operation of a well for injection of fluids and logs required 344
by division (C) of section 1509.223 of the Revised Code. No 345
person shall prevent or hinder the chief or the chief's 346
authorized representative in the performance of official duties. 347
If entry is prevented or hindered, the chief or the chief's 348
authorized representative may apply for, and the court of common 349
pleas may issue, an appropriate inspection warrant necessary to 350
achieve the purposes of this chapter within the court's 351
territorial jurisdiction. 352

(D) The chief may issue orders to enforce this chapter, 353
rules adopted thereunder, and terms or conditions of permits 354
issued thereunder. Any such order shall be considered an 355
adjudication order for the purposes of Chapter 119. of the 356
Revised Code. No person shall violate any order of the chief 357
issued under this chapter. No person shall violate a term or 358
condition of a permit or registration certificate issued under 359
this chapter. 360

(E) Orders of the chief denying, suspending, or revoking a 361
registration certificate; approving or denying approval of an 362
application for revision of a registered transporter's plan for 363
disposal; or to implement, administer, or enforce division (A) 364
of section 1509.224 and sections 1509.22, 1509.222, 1509.223, 365
and 1509.225, ~~and 1509.226~~ of the Revised Code pertaining to the 366

transportation of brine by vehicle and the disposal of brine so 367
transported are not adjudication orders for purposes of Chapter 368
119. of the Revised Code. The chief shall issue such orders 369
under division (A) or (B) of section 1509.224 of the Revised 370
Code, as appropriate. 371

Sec. 1509.05. No person shall drill a new well, drill an 372
existing well any deeper, reopen a well, ~~convert a well to any~~ 373
~~use other than its original purpose,~~ or plug back a well to a 374
source of supply different from the existing pool, without 375
having a permit to do so issued by the chief of the division of 376
oil and gas resources management, and until the original permit 377
or a photostatic copy thereof is posted or displayed in a 378
conspicuous and easily accessible place at the well site, with 379
the name, current address, and telephone number of the permit 380
holder and the telephone numbers for fire and emergency medical 381
services maintained on the posted permit or copy. The permit or 382
a copy shall be continuously displayed in that manner at all 383
times during the work authorized by the permit. 384

Sec. 1509.051. No person shall convert a well to a use 385
other than its original purpose. 386

Sec. 1509.06. (A) An application for a permit to drill a 387
new well, drill an existing well deeper, reopen a well, ~~convert~~ 388
~~a well to any use other than its original purpose,~~ or plug back 389
a well to a different source of supply, including associated 390
production operations, shall be filed with the chief of the 391
division of oil and gas resources management upon such form as 392
the chief prescribes and shall contain each of the following 393
that is applicable: 394

(1) The name and address of the owner and, if a 395
corporation, the name and address of the statutory agent; 396

(2) The signature of the owner or the owner's authorized agent. When an authorized agent signs an application, it shall be accompanied by a certified copy of the appointment as such agent.

(3) The names and addresses of all persons holding the royalty interest in the tract upon which the well is located or is to be drilled or within a proposed drilling unit;

(4) The location of the tract or drilling unit on which the well is located or is to be drilled identified by section or lot number, city, village, township, and county;

(5) Designation of the well by name and number;

(6) (a) The geological formation to be tested or used and the proposed total depth of the well;

(b) If the well is for the injection of a liquid, identity of the geological formation to be used as the injection zone and the composition of the liquid to be injected.

(7) The type of drilling equipment to be used;

(8) (a) An identification, to the best of the owner's knowledge, of each proposed source of ground water and surface water that will be used in the production operations of the well. The identification of each proposed source of water shall indicate if the water will be withdrawn from the Lake Erie watershed or the Ohio river watershed. In addition, the owner shall provide, to the best of the owner's knowledge, the proposed estimated rate and volume of the water withdrawal for the production operations. If recycled water will be used in the production operations, the owner shall provide the estimated volume of recycled water to be used. The owner shall submit to the chief an update of any of the information that is required

by division (A) (8) (a) of this section if any of that information 426
changes before the chief issues a permit for the application. 427

(b) Except as provided in division (A) (8) (c) of this 428
section, for an application for a permit to drill a new well 429
within an urbanized area, the results of sampling of water wells 430
within three hundred feet of the proposed well prior to 431
commencement of drilling. In addition, the owner shall include a 432
list that identifies the location of each water well where the 433
owner of the property on which the water well is located denied 434
the owner access to sample the water well. The sampling shall be 435
conducted in accordance with the guidelines established in "Best 436
Management Practices For Pre-drilling Water Sampling" in effect 437
at the time that the application is submitted. The division 438
shall furnish those guidelines upon request and shall make them 439
available on the division's web site. If the chief determines 440
that conditions at the proposed well site warrant a revision, 441
the chief may revise the distance established in this division 442
for purposes of pre-drilling water sampling. 443

(c) For an application for a permit to drill a new 444
horizontal well, the results of sampling of water wells within 445
one thousand five hundred feet of the proposed horizontal 446
wellhead prior to commencement of drilling. In addition, the 447
owner shall include a list that identifies the location of each 448
water well where the owner of the property on which the water 449
well is located denied the owner access to sample the water 450
well. The sampling shall be conducted in accordance with the 451
guidelines established in "Best Management Practices For Pre- 452
drilling Water Sampling" in effect at the time that the 453
application is submitted. The division shall furnish those 454
guidelines upon request and shall make them available on the 455
division's web site. If the chief determines that conditions at 456

the proposed well site warrant a revision, the chief may revise 457
the distance established in this division for purposes of pre- 458
drilling water sampling. 459

(9) For an application for a permit to drill a new well 460
within an urbanized area, a sworn statement that the applicant 461
has provided notice by regular mail of the application to the 462
owner of each parcel of real property that is located within 463
five hundred feet of the surface location of the well and to the 464
executive authority of the municipal corporation or the board of 465
township trustees of the township, as applicable, in which the 466
well is to be located. In addition, the notice shall contain a 467
statement that informs an owner of real property who is required 468
to receive the notice under division (A) (9) of this section that 469
within five days of receipt of the notice, the owner is required 470
to provide notice under section 1509.60 of the Revised Code to 471
each residence in an occupied dwelling that is located on the 472
owner's parcel of real property. The notice shall contain a 473
statement that an application has been filed with the division 474
of oil and gas resources management, identify the name of the 475
applicant and the proposed well location, include the name and 476
address of the division, and contain a statement that comments 477
regarding the application may be sent to the division. The 478
notice may be provided by hand delivery or regular mail. The 479
identity of the owners of parcels of real property shall be 480
determined using the tax records of the municipal corporation or 481
county in which a parcel of real property is located as of the 482
date of the notice. 483

(10) A plan for restoration of the land surface disturbed 484
by drilling operations. The plan shall provide for compliance 485
with the restoration requirements of division (A) of section 486
1509.072 of the Revised Code and any rules adopted by the chief 487

pertaining to that restoration. 488

(11) (a) A description by name or number of the county, 489
township, and municipal corporation roads, streets, and highways 490
that the applicant anticipates will be used for access to and 491
egress from the well site; 492

(b) For an application for a permit for a horizontal well, 493
a copy of an agreement concerning maintenance and safe use of 494
the roads, streets, and highways described in division (A) (11) 495
(a) of this section entered into on reasonable terms with the 496
public official that has the legal authority to enter into such 497
maintenance and use agreements for each county, township, and 498
municipal corporation, as applicable, in which any such road, 499
street, or highway is located or an affidavit on a form 500
prescribed by the chief attesting that the owner attempted in 501
good faith to enter into an agreement under division (A) (11) (b) 502
of this section with the applicable public official of each such 503
county, township, or municipal corporation, but that no 504
agreement was executed. 505

(12) Such other relevant information as the chief 506
prescribes by rule. 507

Each application shall be accompanied by a map, on a scale 508
not smaller than four hundred feet to the inch, prepared by an 509
Ohio registered surveyor, showing the location of the well and 510
containing such other data as may be prescribed by the chief. If 511
the well is or is to be located within the excavations and 512
workings of a mine, the map also shall include the location of 513
the mine, the name of the mine, and the name of the person 514
operating the mine. 515

(B) The chief shall cause a copy of the weekly circular 516

prepared by the division to be provided to the county engineer 517
of each county that contains active or proposed drilling 518
activity. The weekly circular shall contain, in the manner 519
prescribed by the chief, the names of all applicants for 520
permits, the location of each well or proposed well, the 521
information required by division (A) (11) of this section, and 522
any additional information the chief prescribes. In addition, 523
the chief promptly shall transfer an electronic copy or 524
facsimile, or if those methods are not available to a municipal 525
corporation or township, a copy via regular mail, of a drilling 526
permit application to the clerk of the legislative authority of 527
the municipal corporation or to the clerk of the township in 528
which the well or proposed well is or is to be located if the 529
legislative authority of the municipal corporation or the board 530
of township trustees has asked to receive copies of such 531
applications and the appropriate clerk has provided the chief an 532
accurate, current electronic mailing address or facsimile 533
number, as applicable. 534

(C) (1) Except as provided in division (C) (2) of this 535
section, the chief shall not issue a permit for at least ten 536
days after the date of filing of the application for the permit 537
unless, upon reasonable cause shown, the chief waives that 538
period or a request for expedited review is filed under this 539
section. However, the chief shall issue a permit within twenty- 540
one days of the filing of the application unless the chief 541
denies the application by order. 542

(2) If the location of a well or proposed well will be or 543
is within an urbanized area, the chief shall not issue a permit 544
for at least eighteen days after the date of filing of the 545
application for the permit unless, upon reasonable cause shown, 546
the chief waives that period or the chief at the chief's 547

discretion grants a request for an expedited review. However, 548
the chief shall issue a permit for a well or proposed well 549
within an urbanized area within thirty days of the filing of the 550
application unless the chief denies the application by order. 551

(D) An applicant may file a request with the chief for 552
expedited review of a permit application if the well is not or 553
is not to be located in a gas storage reservoir or reservoir 554
protective area, as "reservoir protective area" is defined in 555
section 1571.01 of the Revised Code. If the well is or is to be 556
located in a coal bearing township, the application shall be 557
accompanied by the affidavit of the landowner prescribed in 558
section 1509.08 of the Revised Code. 559

In addition to a complete application for a permit that 560
meets the requirements of this section and the permit fee 561
prescribed by this section, a request for expedited review shall 562
be accompanied by a separate nonrefundable filing fee of two 563
hundred fifty dollars. Upon the filing of a request for 564
expedited review, the chief shall cause the county engineer of 565
the county in which the well is or is to be located to be 566
notified of the filing of the permit application and the request 567
for expedited review by telephone or other means that in the 568
judgment of the chief will provide timely notice of the 569
application and request. The chief shall issue a permit within 570
seven days of the filing of the request unless the chief denies 571
the application by order. Notwithstanding the provisions of this 572
section governing expedited review of permit applications, the 573
chief may refuse to accept requests for expedited review if, in 574
the chief's judgment, the acceptance of the requests would 575
prevent the issuance, within twenty-one days of their filing, of 576
permits for which applications are pending. 577

(E) A well shall be drilled and operated in accordance 578
with the plans, sworn statements, and other information 579
submitted in the approved application. 580

(F) The chief shall issue an order denying a permit if the 581
chief finds that there is a substantial risk that the operation 582
will result in violations of this chapter or rules adopted under 583
it that will present an imminent danger to public health or 584
safety or damage to the environment, provided that where the 585
chief finds that terms or conditions to the permit can 586
reasonably be expected to prevent such violations, the chief 587
shall issue the permit subject to those terms or conditions, 588
including, if applicable, terms and conditions regarding 589
subjects identified in rules adopted under section 1509.03 of 590
the Revised Code. The issuance of a permit shall not be 591
considered an order of the chief. 592

The chief shall post notice of each permit that has been 593
approved under this section on the division's web site not later 594
than two business days after the application for a permit has 595
been approved. 596

(G) Each application for a permit required by section 597
1509.05 of the Revised Code, except an application to plug back 598
an existing well that is required by that section ~~and an~~ 599
~~application for a well drilled or reopened for purposes of~~ 600
~~section 1509.22 of the Revised Code~~, also shall be accompanied 601
by a nonrefundable fee as follows: 602

(1) Five hundred dollars for a permit to conduct 603
activities in a township with a population of fewer than ten 604
thousand; 605

(2) Seven hundred fifty dollars for a permit to conduct 606

activities in a township with a population of ten thousand or more, but fewer than fifteen thousand; 607
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(3) One thousand dollars for a permit to conduct activities in either of the following: 609
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(a) A township with a population of fifteen thousand or more; 611
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(b) A municipal corporation regardless of population. 613

(4) If the application is for a permit that requires mandatory pooling, an additional five thousand dollars. 614
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For purposes of calculating fee amounts, populations shall be determined using the most recent federal decennial census. 616
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Each application for the revision or reissuance of a permit shall be accompanied by a nonrefundable fee of two hundred fifty dollars. 618
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(H) (1) Prior to the commencement of well pad construction and prior to the issuance of a permit to drill a proposed horizontal well or a proposed well that is to be located in an urbanized area, the division shall conduct a site review to identify and evaluate any site-specific terms and conditions that may be attached to the permit. At the site review, a representative of the division shall consider fencing, screening, and landscaping requirements, if any, for similar structures in the community in which the well is proposed to be located. The terms and conditions that are attached to the permit shall include the establishment of fencing, screening, and landscaping requirements for the surface facilities of the proposed well, including a tank battery of the well. 621
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(2) Prior to the issuance of a permit to drill a proposed 634

well, the division shall conduct a review to identify and 635
evaluate any site-specific terms and conditions that may be 636
attached to the permit if the proposed well will be located in a 637
one-hundred-year floodplain or within the five-year time of 638
travel associated with a public drinking water supply. 639

(I) A permit shall be issued by the chief in accordance 640
with this chapter. A permit issued under this section for a well 641
that is or is to be located in an urbanized area shall be valid 642
for twelve months, and all other permits issued under this 643
section shall be valid for twenty-four months. 644

(J) An applicant or a permittee, as applicable, shall 645
submit to the chief an update of the information that is 646
required under division (A) (8) (a) of this section if any of that 647
information changes prior to commencement of production 648
operations. 649

(K) A permittee or a permittee's authorized representative 650
shall notify an inspector from the division at least twenty-four 651
hours, or another time period agreed to by the chief's 652
authorized representative, prior to the commencement of well pad 653
construction and of drilling, reopening, ~~converting,~~ well 654
stimulation, or plugback operations. 655

Sec. 1509.08. Upon receipt of an application for a permit 656
required by section 1509.05 of the Revised Code, or upon receipt 657
of an application for a permit to plug and abandon under section 658
1509.13 of the Revised Code, the chief of the division of oil 659
and gas resources management shall determine whether the well is 660
or is to be located in a coal bearing township. 661

Whether or not the well is or is to be located in a coal 662
bearing township, the chief, by order, may refuse to issue a 663

permit required by section 1509.05 of the Revised Code to any 664
applicant who at the time of applying for the permit is in 665
material or substantial violation of this chapter or rules 666
adopted or orders issued under it. The chief shall refuse to 667
issue a permit to any applicant who at the time of applying for 668
the permit has been found liable by a final nonappealable order 669
of a court of competent jurisdiction for damage to streets, 670
roads, highways, bridges, culverts, or drainways pursuant to 671
section 4513.34 or 5577.12 of the Revised Code until the 672
applicant provides the chief with evidence of compliance with 673
the order. No applicant shall attempt to circumvent this 674
provision by applying for a permit under a different name or 675
business organization name, by transferring responsibility to 676
another person or entity, by abandoning the well or lease, or by 677
any other similar act. 678

If the well is not or is not to be located in a coal 679
bearing township, or if it is to be located in a coal bearing 680
township, but the landowner submits an affidavit attesting to 681
ownership of the property in fee simple, including the coal, and 682
has no objection to the well, the chief shall issue the permit. 683

If the application to drill, ~~or reopen, or convert~~ 684
concerns a well that is or is to be located in a coal bearing 685
township, the chief shall transmit to the chief of the division 686
of mineral resources management two copies of the application 687
and three copies of the map required in section 1509.06 of the 688
Revised Code, except that, when the affidavit with the waiver of 689
objection described above is submitted, the chief of the 690
division of oil and gas resources management shall not transmit 691
the copies. 692

The chief of the division of mineral resources management 693

immediately shall notify the owner or lessee of any affected 694
mine that the application has been filed and send to the owner 695
or lessee two copies of the map accompanying the application 696
setting forth the location of the well. 697

If the owner or lessee objects to the location of the well 698
or objects to any location within fifty feet of the original 699
location as a possible site for relocation of the well, the 700
owner or lessee shall notify the chief of the division of 701
mineral resources management of the objection, giving the 702
reasons for the objection and, if applicable, indicating on a 703
copy of the map the particular location or locations within 704
fifty feet of the original location to which the owner or lessee 705
objects as a site for possible relocation of the well, within 706
six days after the receipt of the notice. If the chief receives 707
no objections from the owner or lessee of the mine within ten 708
days after the receipt of the notice by the owner or lessee, or 709
if in the opinion of the chief the objections offered by the 710
owner or lessee are not sufficiently well founded, the chief 711
immediately shall notify the owner or lessee of those findings. 712
The owner or lessee may appeal the decision of the chief to the 713
reclamation commission under section 1513.13 of the Revised 714
Code. The appeal shall be filed within fifteen days, 715
notwithstanding provisions in ~~divisions~~ division (A) (1) of 716
section 1513.13 of the Revised Code to the contrary, from the 717
date on which the owner or lessee receives the notice. If the 718
appeal is not filed within that time, the chief immediately 719
shall approve the application, retain a copy of the application 720
and map, and return a copy of the application to the chief of 721
the division of oil and gas resources management with the 722
approval noted on it. The chief of the division of oil and gas 723
resources management then shall issue the permit if the 724

provisions of this chapter pertaining to the issuance of such a 725
permit have been complied with. 726

If the chief of the division of mineral resources 727
management receives an objection from the owner or lessee of the 728
mine as to the location of the well within ten days after 729
receipt of the notice by the owner or lessee, and if in the 730
opinion of the chief the objection is well founded, the chief 731
shall disapprove the application and immediately return it to 732
the chief of the division of oil and gas resources management 733
together with the reasons for disapproval and a suggestion for a 734
new location for the well, provided that the suggested new 735
location shall not be a location within fifty feet of the 736
original location to which the owner or lessee has objected as a 737
site for possible relocation of the well if the chief of the 738
division of mineral resources management has determined that the 739
objection is well founded. The chief of the division of oil and 740
gas resources management immediately shall notify the applicant 741
for the permit of the disapproval and any suggestion made by the 742
chief of the division of mineral resources management as to a 743
new location for the well. The applicant may withdraw the 744
application or amend the application to drill the well at the 745
location suggested by the chief, or the applicant may appeal the 746
disapproval of the application by the chief to the reclamation 747
commission. 748

If the chief of the division of mineral resources 749
management receives no objection from the owner or lessee of a 750
mine as to the location of the well, but does receive an 751
objection from the owner or lessee as to one or more locations 752
within fifty feet of the original location as possible sites for 753
relocation of the well within ten days after receipt of the 754
notice by the owner or lessee, and if in the opinion of the 755

chief the objection is well founded, the chief nevertheless 756
shall approve the application and shall return it immediately to 757
the chief of the division of oil and gas resources management 758
together with the reasons for disapproving any of the locations 759
to which the owner or lessee objects as possible sites for the 760
relocation of the well. The chief of the division of oil and gas 761
resources management then shall issue a permit if the provisions 762
of this chapter pertaining to the issuance of such a permit have 763
been complied with, incorporating as a term or condition of the 764
permit that the applicant is prohibited from commencing drilling 765
at any location within fifty feet of the original location that 766
has been disapproved by the chief of the division of mineral 767
resources management. The applicant may appeal to the 768
reclamation commission the terms and conditions of the permit 769
prohibiting the commencement of drilling at any such location 770
disapproved by the chief of the division of mineral resources 771
management. 772

Any such appeal shall be filed within fifteen days, 773
notwithstanding provisions in division (A)(1) of section 1513.13 774
of the Revised Code to the contrary, from the date the applicant 775
receives notice of the disapproval of the application, any other 776
location within fifty feet of the original location, or terms or 777
conditions of the permit, or the owner or lessee receives notice 778
of the chief's decision. No approval or disapproval of an 779
application shall be delayed by the chief of the division of 780
mineral resources management for more than fifteen days from the 781
date of sending the notice of the application to the mine owner 782
or lessee as required by this section. 783

All appeals provided for in this section shall be treated 784
as expedited appeals. The reclamation commission shall hear any 785
such appeal in accordance with section 1513.13 of the Revised 786

Code and issue a decision within thirty days of the filing of 787
the notice of appeal. 788

The chief of the division of oil and gas resources 789
management shall not issue a permit to drill a new well or 790
reopen a well that is or is to be located within three hundred 791
feet of any opening of any mine used as a means of ingress, 792
egress, or ventilation for persons employed in the mine, nor 793
within one hundred feet of any building or inflammable structure 794
connected with the mine and actually used as a part of the 795
operating equipment of the mine, unless the chief of the 796
division of mineral resources management determines that life or 797
property will not be endangered by drilling and operating the 798
well in that location. 799

The chief of the division of mineral resources management 800
may suspend the drilling or reopening of a well in a coal 801
bearing township after determining that the drilling or 802
reopening activities present an imminent and substantial threat 803
to public health or safety or to miners' health or safety and 804
having been unable to contact the chief of the division of oil 805
and gas resources management to request an order of suspension 806
under section 1509.06 of the Revised Code. Before issuing a 807
suspension order for that purpose, the chief of the division of 808
mineral resources management shall notify the owner in a manner 809
that in the chief's judgment would provide reasonable 810
notification that the chief intends to issue a suspension order. 811
The chief may issue such an order without prior notification if 812
reasonable attempts to notify the owner have failed, but in that 813
event notification shall be given as soon thereafter as 814
practical. Within five calendar days after the issuance of the 815
order, the chief shall provide the owner an opportunity to be 816
heard and to present evidence that the activities do not present 817

an imminent and substantial threat to public health or safety or 818
to miners' health or safety. If, after considering the evidence 819
presented by the owner, the chief determines that the activities 820
do not present such a threat, the chief shall revoke the 821
suspension order. An owner may appeal a suspension order issued 822
by the chief of the division of mineral resources management 823
under this section to the reclamation commission in accordance 824
with section 1513.13 of the Revised Code or may appeal the order 825
directly to the court of common pleas of the county in which the 826
well is located. 827

Sec. 1509.21. ~~No~~ (A) Except as provided in division (B) of 828
this section, no person shall, without first having obtained a 829
permit from the chief of the division of oil and gas resources 830
management, conduct secondary or additional recovery operations, 831
including any underground injection of fluids or carbon dioxide 832
for the secondary or tertiary recovery of oil or natural gas or 833
for the storage of hydrocarbons that are liquid at standard 834
temperature or pressure, unless a rule of the chief expressly 835
authorizes such operations without a permit. The permit shall be 836
in addition to any permit required by section 1509.05 of the 837
Revised Code. Secondary or additional recovery operations shall 838
be conducted in accordance with rules and orders of the chief 839
and any terms or conditions of the permit authorizing such 840
operations. In addition, the chief may authorize tests to 841
evaluate whether fluids or carbon dioxide may be injected in a 842
reservoir and to determine the maximum allowable injection 843
pressure. The tests shall be conducted in accordance with 844
methods prescribed in rules of the chief or conditions of the 845
permit. Rules adopted under this section shall include 846
provisions regarding applications for and the issuance of 847
permits; the terms and conditions of permits; entry to conduct 848

inspections and to examine records to ascertain compliance with 849
this section and rules, orders, and terms and conditions of 850
permits adopted or issued thereunder; the provision and 851
maintenance of information through monitoring, recordkeeping, 852
and reporting; and other provisions in furtherance of the goals 853
of this section and the Safe Drinking Water Act. To implement 854
the goals of the Safe Drinking Water Act, the chief shall not 855
issue a permit for the underground injection of fluids for the 856
secondary or tertiary recovery of oil or natural gas or for the 857
storage of hydrocarbons that are liquid at standard temperature 858
and pressure, unless the chief concludes that the applicant has 859
demonstrated that the injection will not result in the presence 860
of any contaminant in underground water that supplies or can be 861
reasonably expected to supply any public water system, such that 862
the presence of any such contaminant may result in the system's 863
not complying with any national primary drinking water 864
regulation or may otherwise adversely affect the health of 865
persons. Rules, orders, and terms or conditions of permits 866
adopted or issued under this section shall be construed to be no 867
more stringent than required for compliance with the Safe 868
Drinking Water Act, unless essential to ensure that underground 869
sources of drinking water will not be endangered. 870

(B) No person shall dispose of brine in association with a 871
method of enhanced recovery conducted pursuant to division (A) 872
of this section. 873

Sec. 1509.22. (A) ~~Except when acting in accordance with~~ 874
~~section 1509.226 of the Revised Code, no~~ (1) No person shall 875
place or cause to be placed brine in or on the land or in 876
surface or ground water. 877

(2) No person shall place or cause to be placed in ground 878

water or in or on the land or discharge or cause to be 879
discharged in surface water ~~brine,~~ crude oil, natural gas, or 880
other fluids associated with the exploration, development, well 881
stimulation, production operations, or plugging of oil and gas 882
resources that ~~causes~~ cause or could reasonably be anticipated 883
to cause damage or injury to public health or safety or the 884
environment. 885

(3) Divisions (A) (1) and (2) of this section apply 886
regardless of whether brine, crude oil, natural gas, or other 887
fluids associated with the exploration or development of oil and 888
gas resources have been treated in a public water system or 889
other treatment system or process. 890

(B) (1) No person shall store or dispose of brine in 891
violation of a plan approved under division (A) of section 892
1509.222 ~~or section 1509.226~~ of the Revised Code, ~~in violation~~ 893
~~of a resolution submitted under section 1509.226 of the Revised~~ 894
~~Code,~~ or in violation of rules or orders applicable to those 895
plans ~~or resolutions~~. 896

(2) (a) On and after January 1, 2014, no person shall 897
store, recycle, treat, process, or dispose of in this state 898
brine or other waste substances associated with the exploration, 899
development, well stimulation, production operations, or 900
plugging of oil and gas resources without an order or a permit 901
issued under this section or section 1509.06 or 1509.21 of the 902
Revised Code or rules adopted under any of those sections. For 903
purposes of division (B) (2) (a) of this section, a permit or 904
other form of authorization issued by another agency of the 905
state or a political subdivision of the state shall not be 906
considered a permit or order issued by the chief of the division 907
of oil and gas resources management under this chapter. 908

(b) Division (B) (2) (a) of this section does not apply to a person that disposes of such waste substances other than brine in accordance with Chapter 3734. of the Revised Code and rules adopted under it.

(C) The chief shall adopt rules regarding storage, recycling, treatment, processing, and disposal of brine and other waste substances. The rules shall establish procedures and requirements in accordance with which a person shall apply for a permit or order for the storage, recycling, treatment, processing, or disposal of brine and other waste substances that are not subject to a permit issued under section 1509.06 or 1509.21 of the Revised Code and in accordance with which the chief may issue such a permit or order. An application for such a permit shall be accompanied by a nonrefundable fee of two thousand five hundred dollars.

The storage, recycling, treatment, processing, and disposal of brine and other waste substances and the chief's rules relating to storage, recycling, treatment, processing, and disposal are subject to all of the following standards:

(1) Brine from any well ~~except an exempt Mississippian well~~ shall be disposed of only as follows:

~~(a) By injection into an underground formation, including annular disposal if approved by rule of the chief, which injection shall be subject to division (D) of this section;~~

~~(b) By surface application in accordance with section 1509.226 of the Revised Code;~~

~~(c) In association with a method of enhanced recovery as provided in section 1509.21 of the Revised Code;~~

~~(d) In any other manner not specified in divisions (C) (1)~~

~~(a) to (c) of this section that is by a method approved by a permit or order issued by the chief for testing or implementing a new technology or method of disposal. No person shall fail to comply with this division.~~ 938
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~~(2) Brine from exempt Mississippian wells shall not be discharged directly into the waters of the state.~~ 942
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~~(3)~~ Muds, cuttings, and other waste substances shall not be disposed of in violation of this chapter or any rule adopted under it. 944
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~~(4)~~ (3) Pits or steel tanks shall be used as authorized by the chief for containing brine and other waste substances resulting from, obtained from, or produced in connection with drilling, well stimulation, reworking, reconditioning, plugging back, or plugging operations. The pits and steel tanks shall be constructed and maintained to prevent the escape of brine and other waste substances. 947
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~~(5)~~ (4) A dike or pit may be used for spill prevention and control. A dike or pit so used shall be constructed and maintained to prevent the escape of brine and crude oil, and the reservoir within such a dike or pit shall be kept reasonably free of brine, crude oil, and other waste substances. 954
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~~(6)~~ (5) Impoundments constructed utilizing a synthetic liner pursuant to the division's specifications may be used for the temporary storage of waste substances used in the construction, stimulation, or plugging of a well. 959
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~~(7)~~ (6) No pit or dike shall be used for the temporary storage of brine or other waste substances except in accordance with divisions (C) ~~(4)~~ (3) and ~~(5)~~ (4) of this section. 963
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~~(8)~~ (7) No pit or dike shall be used for the ultimate 966

disposal of brine or other liquid waste substances. 967

~~(D) (1) No Except as provided in division (D) (2) of this 968
section, no person, without first having obtained a permit from 969
the chief, shall inject brine or other waste substances 970
resulting from, obtained from, or produced in connection with 971
oil or gas drilling, exploration, or production into an 972
underground formation unless a rule of the chief expressly 973
authorizes the injection without a permit. The permit shall be 974
in addition to any permit required by section 1509.05 of the 975
Revised Code, and the permit application shall be accompanied by 976
a permit fee of one thousand dollars. The chief shall adopt 977
rules in accordance with Chapter 119. of the Revised Code 978
regarding the injection into wells of brine and other waste 979
substances resulting from, obtained from, or produced in 980
connection with oil or gas drilling, exploration, or production. 981
The rules shall include provisions regarding all of the 982
following: 983~~

~~(a) Applications for and issuance of the permits required 984
by this division; 985~~

~~(b) Entry to conduct inspections and to examine and copy 986
records to ascertain compliance with this division and rules, 987
orders, and terms and conditions of permits adopted or issued 988
under it; 989~~

~~(c) The provision and maintenance of information through 990
monitoring, recordkeeping, and reporting. In addition, the rules 991
shall require the owner of an injection well who has been issued 992
a permit under division (D) of this section to quarterly submit 993
electronically to the chief information concerning each shipment 994
of brine or other waste substances received by the owner for 995
injection into the well. 996~~

~~(d) The provision and electronic reporting quarterly of information concerning brine and other waste substances from a transporter that is registered under section 1509.222 of the Revised Code prior to the injection of the transported brine or other waste substances;~~ 997
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~~(e) Any other provisions in furtherance of the goals of this section and the Safe Drinking Water Act.~~ 1002
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(2) The chief may adopt rules in accordance with Chapter 119. of the Revised Code authorizing tests to evaluate whether fluids other than brine or carbon dioxide may be injected in a reservoir and to determine the maximum allowable injection pressure, which shall be conducted in accordance with methods prescribed in the rules or in accordance with conditions of ~~the~~ a permit issued by the chief for that purpose. In addition, the chief may adopt rules that do both of the following: 1004
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(a) Establish the total depth of a well for which a permit has been applied for or issued under this division; 1012
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(b) Establish requirements and procedures to protect public health and safety. 1014
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(3) ~~To implement the goals of the Safe Drinking Water Act~~ Except as provided in division (D)(2) of this section, the chief shall not issue a permit for the injection of brine or other waste substances resulting from, obtained from, or produced in connection with oil or gas drilling, exploration, or production ~~unless the chief concludes that the applicant has demonstrated that the injection will not result in the presence of any contaminant in ground water that supplies or can reasonably be expected to supply any public water system, such that the presence of the contaminant may result in the system's not~~ 1016
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~~complying with any national primary drinking water regulation or~~ 1026
~~may otherwise adversely affect the health of persons.~~ 1027

(4) The chief may issue an order to the owner of a well in 1028
existence on September 10, 2012, to make changes in the 1029
operation of the well in order to correct problems or to address 1030
safety concerns. 1031

~~(5) This division and rules, orders, and terms and~~ 1032
~~conditions of permits adopted or issued under it shall be~~ 1033
~~construed to be no more stringent than required for compliance~~ 1034
~~with the Safe Drinking Water Act unless essential to ensure that~~ 1035
~~underground sources of drinking water will not be endangered.~~ 1036

(E) The owner holding a permit, or an assignee or 1037
transferee who has assumed the obligations and liabilities 1038
imposed by this chapter and any rules adopted or orders issued 1039
under it pursuant to section 1509.31 of the Revised Code, and 1040
the operator of a well shall be liable for a violation of this 1041
section or any rules adopted or orders or terms or conditions of 1042
a permit issued under it. 1043

(F) An owner shall replace the water supply of the holder 1044
of an interest in real property who obtains all or part of the 1045
holder's supply of water for domestic, agricultural, industrial, 1046
or other legitimate use from an underground or surface source 1047
where the supply has been substantially disrupted by 1048
contamination, diminution, or interruption proximately resulting 1049
from the owner's oil or gas operation, or the owner may elect to 1050
compensate the holder of the interest in real property for the 1051
difference between the fair market value of the interest before 1052
the damage occurred to the water supply and the fair market 1053
value after the damage occurred if the cost of replacing the 1054
water supply exceeds this difference in fair market values. 1055

However, during the pendency of any order issued under this 1056
division, the owner shall obtain for the holder or shall 1057
reimburse the holder for the reasonable cost of obtaining a 1058
water supply from the time of the contamination, diminution, or 1059
interruption by the operation until the owner has complied with 1060
an order of the chief for compliance with this division or such 1061
an order has been revoked or otherwise becomes not effective. If 1062
the owner elects to pay the difference in fair market values, 1063
but the owner and the holder have not agreed on the difference 1064
within thirty days after the chief issues an order for 1065
compliance with this division, within ten days after the 1066
expiration of that thirty-day period, the owner and the chief 1067
each shall appoint an appraiser to determine the difference in 1068
fair market values, except that the holder of the interest in 1069
real property may elect to appoint and compensate the holder's 1070
own appraiser, in which case the chief shall not appoint an 1071
appraiser. The two appraisers appointed shall appoint a third 1072
appraiser, and within thirty days after the appointment of the 1073
third appraiser, the three appraisers shall hold a hearing to 1074
determine the difference in fair market values. Within ten days 1075
after the hearing, the appraisers shall make their determination 1076
by majority vote and issue their final determination of the 1077
difference in fair market values. The chief shall accept a 1078
determination of the difference in fair market values made by 1079
agreement of the owner and holder or by appraisers under this 1080
division and shall make and dissolve orders accordingly. This 1081
division does not affect in any way the right of any person to 1082
enforce or protect, under applicable law, the person's interest 1083
in water resources affected by an oil or gas operation. 1084

(G) In any action brought by the state for a violation of 1085
division (A) of this section involving any well at which annular 1086

disposal is used, there shall be a rebuttable presumption 1087
available to the state that the annular disposal caused the 1088
violation if the well is located within a one-quarter-mile 1089
radius of the site of the violation. 1090

~~(H) (1) There is levied on the owner of an injection well 1091
who has been issued a permit under division (D) of this section 1092
the following fees: 1093~~

~~(a) Five cents per barrel of each substance that is 1094
delivered to a well to be injected in the well when the 1095
substance is produced within the division of oil and gas 1096
resources management regulatory district in which the well is 1097
located or within an adjoining oil and gas resources management 1098
regulatory district; 1099~~

~~(b) Twenty cents per barrel of each substance that is 1100
delivered to a well to be injected in the well when the 1101
substance is not produced within the division of oil and gas 1102
resources management regulatory district in which the well is 1103
located or within an adjoining oil and gas resources management 1104
regulatory district. 1105~~

~~(2) The maximum number of barrels of substance per 1106
injection well in a calendar year on which a fee may be levied 1107
under division (H) of this section is five hundred thousand. If 1108
in a calendar year the owner of an injection well receives more 1109
than five hundred thousand barrels of substance to be injected 1110
in the owner's well and if the owner receives at least one 1111
substance that is produced within the division's regulatory 1112
district in which the well is located or within an adjoining 1113
regulatory district and at least one substance that is not 1114
produced within the division's regulatory district in which the 1115
well is located or within an adjoining regulatory district, the 1116~~

~~fee shall be calculated first on all of the barrels of substance
that are not produced within the division's regulatory district
in which the well is located or within an adjoining district at
the rate established in division (H) (2) of this section. The fee
then shall be calculated on the barrels of substance that are
produced within the division's regulatory district in which the
well is located or within an adjoining district at the rate
established in division (H) (1) of this section until the maximum
number of barrels established in division (H) (2) of this section
has been attained.~~

~~(3) The owner of an injection well who is issued a permit
under division (D) of this section shall collect the fee levied
by division (H) of this section on behalf of the division of oil
and gas resources management and forward the fee to the
division. The chief shall transmit all money received under
division (H) of this section to the treasurer of state who shall
deposit the money in the state treasury to the credit of the oil
and gas well fund created in section 1509.02 of the Revised
Code. The owner of an injection well who collects the fee levied
by this division may retain up to three per cent of the amount
that is collected.~~

~~(4) The chief shall adopt rules in accordance with Chapter
119. of the Revised Code establishing requirements and
procedures for collection of the fee levied by division (H) of
this section.~~

Sec. 1509.222. ~~(A) (1) Except as provided in section
1509.226 of the Revised Code, no~~ No person shall transport brine
by vehicle in this state unless the business entity that employs
the person first registers with and obtains a registration
certificate and identification number from the chief of the

division of oil and gas resources management. 1147

(2) No more than one registration certificate shall be 1148
required of any business entity. Registration certificates 1149
issued under this section are not transferable. An applicant 1150
shall file an application with the chief, containing such 1151
information in such form as the chief prescribes. The 1152
application shall include at least all of the following: 1153

(a) A list that identifies each vehicle, vessel, railcar, 1154
and container that will be used in the transportation of brine; 1155

(b) A plan for disposal that provides for compliance with 1156
the requirements of this chapter and rules of the chief 1157
pertaining to the transportation of brine by vehicle and the 1158
disposal of brine so transported and that lists all disposal 1159
sites that the applicant intends to use; 1160

(c) The bond required by section 1509.225 of the Revised 1161
Code; 1162

(d) A certificate issued by an insurance company 1163
authorized to do business in this state certifying that the 1164
applicant has in force a liability insurance policy in an amount 1165
not less than three hundred thousand dollars bodily injury 1166
coverage and three hundred thousand dollars property damage 1167
coverage to pay damages for injury to persons or property caused 1168
by the collecting, handling, transportation, or disposal of 1169
brine. 1170

The insurance policy required by division (A) (2) (d) of 1171
this section shall be maintained in effect during the term of 1172
the registration certificate. The policy or policies providing 1173
the coverage shall require the insurance company to give notice 1174
to the chief if the policy or policies lapse for any reason. 1175

Upon such termination of the policy, the chief may suspend the registration certificate until proper insurance coverage is obtained.

(3) Each application for a registration certificate shall be accompanied by a nonrefundable fee of five hundred dollars.

(4) If a business entity that has been issued a registration certificate under this section changes its name due to a business reorganization or merger, the business entity shall revise the bond or certificates of deposit required by section 1509.225 of the Revised Code and obtain a new certificate from an insurance company in accordance with division (A)(2)(e) of this section to reflect the change in the name of the business entity.

(B) The chief shall issue an order denying an application for a registration certificate if the chief finds that either of the following applies:

(1) The applicant, at the time of applying for the registration certificate, has been found liable by a final nonappealable order of a court of competent jurisdiction for damage to streets, roads, highways, bridges, culverts, or drainways pursuant to section 4513.34 or 5577.12 of the Revised Code until the applicant provides the chief with evidence of compliance with the order.

(2) The applicant's plan for disposal does not provide for compliance with the requirements of this chapter and rules of the chief pertaining to the transportation of brine by vehicle and the disposal of brine so transported.

(C) No applicant shall attempt to circumvent division (B) of this section by applying for a registration certificate under

a different name or business organization name, by transferring 1205
responsibility to another person or entity, or by any similar 1206
act. 1207

(D) A registered transporter shall apply to revise a 1208
disposal plan under procedures that the chief shall prescribe by 1209
rule. However, at a minimum, an application for a revision shall 1210
list all sources and disposal sites of brine currently 1211
transported. The chief shall deny any application for a revision 1212
of a plan under this division if the chief finds that the 1213
proposed revised plan does not provide for compliance with the 1214
requirements of this chapter and rules of the chief pertaining 1215
to the transportation of brine by vehicle and the disposal of 1216
brine so transported. Approvals and denials of revisions shall 1217
be by order of the chief. 1218

(E) The chief may adopt rules, issue orders, and attach 1219
terms and conditions to registration certificates as may be 1220
necessary to administer, implement, and enforce sections 1221
1509.222 to ~~1509.226~~1509.225 of the Revised Code for protection 1222
of public health or safety or conservation of natural resources. 1223

Sec. 1509.223. (A) No permit holder or owner of a well 1224
shall enter into an agreement with or permit any person to 1225
transport brine produced from the well who is not registered 1226
pursuant to section 1509.222 of the Revised Code ~~or exempt from~~ 1227
~~registration under section 1509.226 of the Revised Code.~~ 1228

(B) Each registered transporter shall file with the chief 1229
of the division of oil and gas resources management, on or 1230
before the fifteenth day of April, a statement concerning brine 1231
transported, including quantities transported and source and 1232
delivery points, during the last preceding calendar year, and 1233
such other information in such form as the chief may prescribe. 1234

(C) Each registered transporter shall keep on each vehicle used to transport brine a daily log and have it available upon the request of the chief or an authorized representative of the chief or a peace officer. The log shall, at a minimum, include all of the following information:

(1) The name of the owner or owners of the well or wells producing the brine to be transported;

(2) The date and time the brine is loaded;

(3) The name of the driver;

(4) The amount of brine loaded at each collection point;

(5) The disposal location;

(6) The date and time the brine is disposed of and the amount of brine disposed of at each location.

The chief, by rule, may establish procedures for the electronic submission to the chief of the information that is required to be included in the daily log. No registered transporter shall falsify or fail to keep or submit the log required by this division.

(D) Each registered transporter shall legibly identify with reflective paints all vehicles employed in transporting or disposing of brine. Letters shall be no less than four inches in height and shall indicate the identification number issued by the chief, the word "brine," and the name and telephone number of the transporter.

(E) The chief shall maintain and keep a current list of persons registered to transport brine under section 1509.222 of the Revised Code. The list shall be open to public inspection. It is an affirmative defense to a charge under division (A) of

this section that at the time the permit holder or owner of a 1263
well entered into an agreement with or permitted a person to 1264
transport brine, the person was shown on the list as currently 1265
registered to transport brine. 1266

Sec. 1509.224. (A) In addition to any other remedies 1267
provided in this chapter, if the chief of the division of oil 1268
and gas resources management has reason to believe that a 1269
pattern of the same or similar violations of any requirements of 1270
section 1509.22, 1509.222, or 1509.223 of the Revised Code, or 1271
any rule adopted thereunder or term or condition of the 1272
registration certificate issued thereunder exists or has 1273
existed, and the violations are caused by the transporter's 1274
indifference, lack of diligence, or lack of reasonable care, or 1275
are willfully caused by the transporter, the chief shall 1276
immediately issue an order to the transporter to show cause why 1277
the certificate should not be suspended or revoked. After the 1278
issuance of the order, the chief shall provide the transporter 1279
an opportunity to be heard and to present evidence at an 1280
informal hearing conducted by the chief. If, at the conclusion 1281
of the hearing, the chief finds that such a pattern of 1282
violations exists or has existed, the chief shall issue an order 1283
suspending or revoking the transporter's registration 1284
certificate. An order suspending or revoking a certificate under 1285
this section may be appealed under sections 1509.36 and 1509.37 1286
of the Revised Code, or notwithstanding any other provision of 1287
this chapter, may be appealed directly to the court of common 1288
pleas of Franklin county. 1289

(B) Before issuing an order denying a registration 1290
certificate; approving or denying approval of an application for 1291
revision of a registered transporter's plan for disposal; or to 1292
implement, administer, or enforce section 1509.22, 1509.222, 1293

1509.223, or 1509.225, ~~or 1509.226~~ of the Revised Code and rules 1294
and terms and conditions of registration certificates adopted or 1295
issued thereunder pertaining to the transportation of brine by 1296
vehicle and the disposal of brine so transported, the chief 1297
shall issue a preliminary order indicating the chief's intent to 1298
issue a final order. The preliminary order shall clearly state 1299
the nature of the chief's proposed action and the findings on 1300
which it is based and shall state that the preliminary order 1301
becomes a final order thirty days after its issuance unless the 1302
person to whom the preliminary order is directed submits to the 1303
chief a written request for an informal hearing before the chief 1304
within that thirty-day period. At the hearing the person may 1305
present evidence as to why the preliminary order should be 1306
revoked or modified. Based upon the findings from the informal 1307
hearing, the chief shall revoke, issue, or modify and issue the 1308
preliminary order as a final order. A final order may be 1309
appealed under sections 1509.36 and 1509.37 of the Revised Code. 1310

Sec. 1509.99. (A) Whoever violates sections 1509.01 to 1311
1509.31 of the Revised Code or any rules adopted or orders or 1312
terms or conditions of a permit issued pursuant to these 1313
sections for which no specific penalty is provided in this 1314
section shall be fined not less than one hundred nor more than 1315
one thousand dollars for a first offense; for each subsequent 1316
offense the person shall be fined not less than two hundred nor 1317
more than two thousand dollars. 1318

(B) Whoever violates section 1509.221 of the Revised Code 1319
or any rules adopted or orders or terms or conditions of a 1320
permit issued thereunder shall be fined not more than five 1321
thousand dollars for each violation. 1322

(C) Whoever knowingly violates section 1509.072, division 1323

(A), (B), or (D) of section 1509.22, division (A)(1) or (C) of 1324
section 1509.222, or division (A) or (D) of section 1509.223 of 1325
the Revised Code or any rules adopted or orders issued under 1326
division (C) of section 1509.22 or rules adopted or orders or 1327
terms or conditions of a registration certificate issued under 1328
division (E) of section 1509.222 of the Revised Code shall be 1329
fined ten thousand dollars or imprisoned for six months, or both 1330
for a first offense; for each subsequent offense the person 1331
shall be fined twenty thousand dollars or imprisoned for two 1332
years, or both. Whoever negligently violates those divisions, 1333
sections, rules, orders, or terms or conditions of a 1334
registration certificate shall be fined not more than five 1335
thousand dollars. 1336

(D) Whoever violates division (C) of section 1509.223 of 1337
the Revised Code shall be fined not more than five hundred 1338
dollars for a first offense and not more than one thousand 1339
dollars for a subsequent offense. 1340

(E) Whoever negligently violates section 1509.051, 1341
division (B) of section 1509.21, or division (C)(1) of section 1342
1509.22 of the Revised Code shall be fined not less than one 1343
hundred nor more than one thousand dollars for a first offense; 1344
for each subsequent offense the person shall be fined not less 1345
than two hundred nor more than two thousand dollars. 1346

(F) The prosecuting attorney of the county in which the 1347
offense was committed or the attorney general may prosecute an 1348
action under this section. 1349

~~(F)~~(G) For purposes of this section, each day of 1350
violation constitutes a separate offense. 1351

Section 2. That existing sections 1509.01, 1509.02, 1352

1509.03, 1509.05, 1509.06, 1509.08, 1509.21, 1509.22, 1509.222,	1353
1509.223, 1509.224, and 1509.99 and section 1509.226 of the	1354
Revised Code are hereby repealed.	1355