

As Introduced

**129th General Assembly
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H. B. No. 474

Representative Goyal

**Cosponsors: Representatives Hagan, R., Foley, Driehaus, Boyd, O'Brien,
Murray, Gerberry, Antonio, Fedor, Heard**

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A B I L L

To amend sections 1509.02, 1509.06, 1509.22, 1
1509.221, and 1509.31 and to enact sections 2
1509.074, 1509.227, and 1590.228 of the Revised 3
Code to require a background check of an applicant 4
for an injection well, to establish recycling and 5
treatment requirements for wastewater from oil and 6
gas drilling and production operations, to revise 7
the procedures and requirements governing the 8
application for and issuance of a permit for a 9
well to inject such wastewater, to establish an 10
additional fee on that injection, and to establish 11
requirements governing ground water monitoring 12
related to that injection. 13

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

Section 1. That sections 1509.02, 1509.06, 1509.22, 1509.221, 14
and 1509.31 be amended and sections 1509.074, 1509.227, and 15
1509.228 of the Revised Code be enacted to read as follows: 16

Sec. 1509.02. There is hereby created in the department of 17
natural resources the division of oil and gas resources 18

management, which shall be administered by the chief of the 19
division of oil and gas resources management. The division has 20
sole and exclusive authority to regulate the permitting, location, 21
and spacing of oil and gas wells and production operations within 22
the state, excepting only those activities regulated under federal 23
laws for which oversight has been delegated to the environmental 24
protection agency, the permitting of a well to inject brine or 25
other waste substances under division (D) of section 1509.22 of 26
the Revised Code, and activities regulated under sections 6111.02 27
to 6111.029 of the Revised Code. The regulation of oil and gas 28
activities is a matter of general statewide interest that requires 29
uniform statewide regulation, and this chapter and rules adopted 30
under it constitute a comprehensive plan with respect to all 31
aspects of the locating, drilling, well stimulation, completing, 32
and operating of oil and gas wells within this state, including 33
site construction and restoration, permitting related to those 34
activities, and the disposal of wastes from those wells. Nothing 35
in this section affects the authority granted to the director of 36
transportation and local authorities in section 723.01 or 4513.34 37
of the Revised Code, provided that the authority granted under 38
those sections shall not be exercised in a manner that 39
discriminates against, unfairly impedes, or obstructs oil and gas 40
activities and operations regulated under this chapter. 41

The chief shall not hold any other public office, nor shall 42
the chief be engaged in any occupation or business that might 43
interfere with or be inconsistent with the duties as chief. 44

All moneys collected by the chief pursuant to sections 45
1509.06, 1509.061, 1509.062, 1509.071, 1509.13, 1509.22, ~~1509.221,~~ 46
1509.222, 1509.34, and 1509.50 and division (B)(1) of section 47
1509.221 of the Revised Code, ninety per cent of moneys received 48
by the treasurer of state from the tax levied in divisions (A)(5) 49
and (6) of section 5749.02 of the Revised Code, all civil 50

penalties paid under section 1509.33 of the Revised Code, and, 51
notwithstanding any section of the Revised Code relating to the 52
distribution or crediting of fines for violations of the Revised 53
Code, all fines imposed under divisions (A) and (B) of section 54
1509.99 of the Revised Code and fines imposed under divisions (C) 55
and (D) of section 1509.99 of the Revised Code for all violations 56
prosecuted by the attorney general and for violations prosecuted 57
by prosecuting attorneys that do not involve the transportation of 58
brine by vehicle shall be deposited into the state treasury to the 59
credit of the oil and gas well fund, which is hereby created. 60
Fines imposed under divisions (C) and (D) of section 1509.99 of 61
the Revised Code for violations prosecuted by prosecuting 62
attorneys that involve the transportation of brine by vehicle and 63
penalties associated with a compliance agreement entered into 64
pursuant to this chapter shall be paid to the county treasury of 65
the county where the violation occurred. 66

The fund shall be used solely and exclusively for the 67
purposes enumerated in division (B) of section 1509.071 of the 68
Revised Code, for the expenses of the division associated with the 69
administration of this chapter and Chapter 1571. of the Revised 70
Code and rules adopted under them, and for expenses that are 71
critical and necessary for the protection of human health and 72
safety and the environment related to oil and gas production in 73
this state. The expenses of the division in excess of the moneys 74
available in the fund shall be paid from general revenue fund 75
appropriations to the department. 76

Sec. 1509.06. (A) An application for a permit to drill a new 77
well, drill an existing well deeper, reopen a well, convert a well 78
to any use other than its original purpose, or plug back a well to 79
a different source of supply, including associated production 80
operations, shall be filed with the chief of the division of oil 81
and gas resources management upon such form as the chief 82

prescribes and shall contain each of the following that is applicable: 83
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(1) The name and address of the owner and, if a corporation, the name and address of the statutory agent; 85
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(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. 87
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(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; 90
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(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; 93
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(5) Designation of the well by name and number; 96

(6) The geological formation to be tested or used and the proposed total depth of the well; 97
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(7) The type of drilling equipment to be used; 99

(8) 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; 100
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(9) For an application for a permit to drill a new well within an urbanized area, a sworn statement that the applicant has provided notice by regular mail of the application to the owner of each parcel of real property that is located within five hundred feet of the surface location of the well and to the executive authority of the municipal corporation or the board of township trustees of the township, as applicable, in which the well is to be located. In addition, the notice shall contain a statement that informs an owner of real property who is required to receive the notice under division (A)(9) of this section that within five days 103
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of receipt of the notice, the owner is required to provide notice 113
under section 1509.60 of the Revised Code to each residence in an 114
occupied dwelling that is located on the owner's parcel of real 115
property. The notice shall contain a statement that an application 116
has been filed with the division of oil and gas resources 117
management, identify the name of the applicant and the proposed 118
well location, include the name and address of the division, and 119
contain a statement that comments regarding the application may be 120
sent to the division. The notice may be provided by hand delivery 121
or regular mail. The identity of the owners of parcels of real 122
property shall be determined using the tax records of the 123
municipal corporation or county in which a parcel of real property 124
is located as of the date of the notice. 125

(10) A plan for restoration of the land surface disturbed by 126
drilling operations. The plan shall provide for compliance with 127
the restoration requirements of division (A) of section 1509.072 128
of the Revised Code and any rules adopted by the chief pertaining 129
to that restoration. 130

(11) A description by name or number of the county, township, 131
and municipal corporation roads, streets, and highways that the 132
applicant anticipates will be used for access to and egress from 133
the well site; 134

(12) On and after the effective date of the rules adopted 135
under section 1509.074 of the Revised Code, a plan that complies 136
with that section and those rules for the recycling and treatment 137
of wastewater, including brine and other waste substances, that 138
results from, is obtained from, or is produced in connection with 139
oil or gas drilling, exploration, or production; 140

(13) Such other relevant information as the chief prescribes 141
by rule. 142

Each application shall be accompanied by a map, on a scale 143

not smaller than four hundred feet to the inch, prepared by an 144
Ohio registered surveyor, showing the location of the well and 145
containing such other data as may be prescribed by the chief. If 146
the well is or is to be located within the excavations and 147
workings of a mine, the map also shall include the location of the 148
mine, the name of the mine, and the name of the person operating 149
the mine. 150

(B) The chief shall cause a copy of the weekly circular 151
prepared by the division to be provided to the county engineer of 152
each county that contains active or proposed drilling activity. 153
The weekly circular shall contain, in the manner prescribed by the 154
chief, the names of all applicants for permits, the location of 155
each well or proposed well, the information required by division 156
(A)(11) of this section, and any additional information the chief 157
prescribes. In addition, the chief promptly shall transfer an 158
electronic copy or facsimile, or if those methods are not 159
available to a municipal corporation or township, a copy via 160
regular mail, of a drilling permit application to the clerk of the 161
legislative authority of the municipal corporation or to the clerk 162
of the township in which the well or proposed well is or is to be 163
located if the legislative authority of the municipal corporation 164
or the board of township trustees has asked to receive copies of 165
such applications and the appropriate clerk has provided the chief 166
an accurate, current electronic mailing address or facsimile 167
number, as applicable. 168

(C)(1) Except as provided in division (C)(2) of this section, 169
the chief shall not issue a permit for at least ten days after the 170
date of filing of the application for the permit unless, upon 171
reasonable cause shown, the chief waives that period or a request 172
for expedited review is filed under this section. However, the 173
chief shall issue a permit within twenty-one days of the filing of 174
the application unless the chief denies the application by order. 175

(2) If the location of a well or proposed well will be or is within an urbanized area, the chief shall not issue a permit for at least eighteen days after the date of filing of the application for the permit unless, upon reasonable cause shown, the chief waives that period or the chief at the chief's discretion grants a request for an expedited review. However, the chief shall issue a permit for a well or proposed well within an urbanized area within thirty days of the filing of the application unless the chief denies the application by order.

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

In addition to a complete application for a permit that meets the requirements of this section and the permit fee prescribed by this section, a request for expedited review shall be accompanied by a separate nonrefundable filing fee of two hundred fifty dollars. Upon the filing of a request for expedited review, the chief shall cause the county engineer of the county in which the well is or is to be located to be notified of the filing of the permit application and the request for expedited review by telephone or other means that in the judgment of the chief will provide timely notice of the application and request. The chief shall issue a permit within seven days of the filing of the request unless the chief denies the application by order. Notwithstanding the provisions of this section governing expedited review of permit applications, the chief may refuse to accept requests for expedited review if, in the chief's judgment, the

acceptance of the requests would prevent the issuance, within 208
twenty-one days of their filing, of permits for which applications 209
are pending. 210

(E) A well shall be drilled and operated in accordance with 211
the plans, sworn statements, and other information submitted in 212
the approved application. 213

(F) The chief shall issue an order denying a permit if the 214
chief finds that there is a substantial risk that the operation 215
will result in violations of this chapter or rules adopted under 216
it that will present an imminent danger to public health or safety 217
or damage to the environment, provided that where the chief finds 218
that terms or conditions to the permit can reasonably be expected 219
to prevent such violations, the chief shall issue the permit 220
subject to those terms or conditions, including, if applicable, 221
terms and conditions regarding subjects identified in rules 222
adopted under section 1509.03 of the Revised Code. The issuance of 223
a permit shall not be considered an order of the chief. 224

(G) Each application for a permit required by section 1509.05 225
of the Revised Code, except an application to plug back an 226
existing well that is required by that section and an application 227
for a well drilled or reopened for purposes of section 1509.22 of 228
the Revised Code, also shall be accompanied by a nonrefundable fee 229
as follows: 230

(1) Five hundred dollars for a permit to conduct activities 231
in a township with a population of fewer than ten thousand; 232

(2) Seven hundred fifty dollars for a permit to conduct 233
activities in a township with a population of ten thousand or 234
more, but fewer than fifteen thousand; 235

(3) One thousand dollars for a permit to conduct activities 236
in either of the following: 237

(a) A township with a population of fifteen thousand or more; 238

(b) A municipal corporation regardless of population.	239
(4) If the application is for a permit that requires mandatory pooling, an additional five thousand dollars.	240 241
For purposes of calculating fee amounts, populations shall be determined using the most recent federal decennial census.	242 243
Each application for the revision or reissuance of a permit shall be accompanied by a nonrefundable fee of two hundred fifty dollars.	244 245 246
(H) Prior to the issuance of a permit to drill 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.	247 248 249 250 251 252 253 254 255 256 257
(I) A permit shall be issued by the chief in accordance with this chapter. A permit issued under this section for a well that is or is to be located in an urbanized area shall be valid for twelve months, and all other permits issued under this section shall be valid for twenty-four months.	258 259 260 261 262
(J) A permittee or a permittee's authorized representative shall notify an inspector from the division at least twenty-four hours, or another time period agreed to by the chief's authorized representative, prior to the commencement of drilling, reopening, converting, well stimulation, or plugback operations.	263 264 265 266 267
<u>Sec. 1509.074.</u> (A) On and after the effective date of the	268

rules adopted under division (B) of this section, the owner of a 269
well that has been issued a permit under section 1509.06 of the 270
Revised Code shall recycle or treat wastewater, including brine 271
and other waste substances, that results from, is obtained from, 272
or is produced in connection with oil or gas drilling, 273
exploration, or production in accordance with the plan submitted 274
under division (A)(12) of that section. 275

(B) The chief of the division of oil and gas resources 276
management shall adopt rules in accordance with Chapter 119. of 277
the Revised Code establishing all of the following: 278

(1) Requirements governing the content and implementation of 279
the plan that must be submitted under division (A)(12) of section 280
1509.06 of the Revised Code; 281

(2) Procedures and requirements in accordance with which the 282
chief may authorize an owner to dispose of wastewater, including 283
brine and other waste substances, that results from, is obtained 284
from, or is produced in connection with oil or gas drilling, 285
exploration, or production in accordance with section 1509.22 of 286
the Revised Code if the owner demonstrates to the satisfaction of 287
the chief that such wastewater cannot be recycled or otherwise 288
treated; 289

(3) Any other requirement that the chief determines is 290
necessary to administer this section and division (A)(12) of 291
section 1509.06 of the Revised Code. 292

Sec. 1509.22. (A) Except when acting in accordance with 293
section 1509.226 of the Revised Code, no person shall place or 294
cause to be placed brine, crude oil, natural gas, or other fluids 295
associated with the exploration or development of oil and gas 296
resources in surface or ground water or in or on the land in such 297
quantities or in such manner as actually causes or could 298
reasonably be anticipated to cause either of the following: 299

(1) Water used for consumption by humans or domestic animals	300
to exceed the standards of the Safe Drinking Water Act;	301
(2) Damage or injury to public health or safety or the	302
environment.	303
(B) No person shall store or dispose of brine in violation of	304
a plan approved under division (A) of section 1509.222 or section	305
1509.226 of the Revised Code, in violation of a resolution	306
submitted under section 1509.226 of the Revised Code, or in	307
violation of rules or orders applicable to those plans or	308
resolutions.	309
(C) The chief of the division of oil and gas resources	310
management shall adopt rules and issue orders regarding storage	311
and disposal of brine and other waste substances; however, the	312
storage and disposal of brine and other waste substances and the	313
chief's rules relating to storage and disposal are subject to all	314
of the following standards:	315
(1) Brine from any well except an exempt Mississippian well	316
shall be disposed of only by injection into an underground	317
formation, including annular disposal if approved by rule of the	318
chief, which injection shall be subject to division (D) of this	319
section; by surface application in accordance with section	320
1509.226 of the Revised Code; in association with a method of	321
enhanced recovery as provided in section 1509.21 of the Revised	322
Code; or by other methods approved by the chief for testing or	323
implementing a new technology or method of disposal. Brine from	324
exempt Mississippian wells shall not be discharged directly into	325
the waters of the state.	326
(2) Muds, cuttings, and other waste substances shall not be	327
disposed of in violation of any rule.	328
(3) Pits or steel tanks shall be used as authorized by the	329
chief for containing brine and other waste substances resulting	330

from, obtained from, or produced in connection with drilling, well 331
stimulation, reworking, reconditioning, plugging back, or plugging 332
operations. The pits and steel tanks shall be constructed and 333
maintained to prevent the escape of brine and other waste 334
substances. 335

(4) A dike or pit may be used for spill prevention and 336
control. A dike or pit so used shall be constructed and maintained 337
to prevent the escape of brine and crude oil, and the reservoir 338
within such a dike or pit shall be kept reasonably free of brine, 339
crude oil, and other waste substances. 340

(5) Earthen impoundments constructed pursuant to the 341
division's specifications may be used for the temporary storage of 342
fluids used in the stimulation of a well. 343

(6) No pit, earthen impoundment, or dike shall be used for 344
the temporary storage of brine or other substances except in 345
accordance with divisions (C)(3) to (5) of this section. 346

(7) No pit or dike shall be used for the ultimate disposal of 347
brine or other liquid waste substances. 348

(D)(1) No person, without first having obtained a permit from 349
the chief, shall inject brine or other waste substances resulting 350
from, obtained from, or produced in connection with oil or gas 351
drilling, exploration, or production into an underground formation 352
unless a rule of the chief expressly authorizes the injection 353
without a permit. The permit shall be in addition to any permit 354
required by section 1509.05 of the Revised Code, and the permit 355
application shall be accompanied by a permit fee of one thousand 356
dollars, the information that is required in section 1509.228 of 357
the Revised Code, and the waste analysis plan that is required by 358
division (D)(2) of this section. ~~The~~ 359

(2)(a) A person that submits an application for a permit to 360
inject brine or other waste substances resulting from, obtained 361

from, or produced in connection with oil or gas drilling, 362
exploration, or production into an underground formation shall 363
prepare and submit to the chief a waste analysis plan. The plan 364
shall consist of a written document that will be used as the basis 365
for analyzing the contents in each container of brine or other 366
waste substances that will be injected in the well. The waste 367
analysis plan shall include all of the following: 368

(i) A detailed description of the physical and chemical tests 369
that will be used to identify the contents in each container of 370
brine or other waste substances; 371

(ii) An explanation of the reasons for the selection of the 372
physical and chemical tests described pursuant to division 373
(D)(2)(a)(i) of this section; 374

(iii) A detailed description of the methods that will be used 375
to obtain a sample of the contents in each container of brine or 376
waste substances; 377

(iv) A detailed description of the quality assurance 378
procedures that will be used in the analysis of the contents in 379
each container of brine or other waste substances that will be 380
injected in the well; 381

(v) Any other information that the chief determines is 382
necessary. 383

(b) The chief shall review a waste analysis plan submitted 384
under division (D)(2)(a) of this section and approve or disapprove 385
the plan. The chief shall notify the applicant of the chief's 386
approval or disapproval of the plan. If the chief disapproves the 387
waste analysis plan, the applicant may correct any deficiencies 388
and resubmit the plan for approval. 389

(c) A person that obtains a permit under this section shall 390
revise the permittee's waste analysis plan as needed and shall 391
submit the revised plan to the chief for approval in the same 392

manner as the original plan. If the chief disapproves the revised 393
plan, the permittee may correct any deficiencies and resubmit the 394
revised plan for approval. For the purpose of division (D)(2)(d) 395
of this section, the permittee may continue to use the waste 396
analysis plan that was approved immediately prior to the 397
submission of a revised plan until the revised plan is approved. 398
The permittee of an injection well may analyze the contents in 399
each container of brine or other waste substances in accordance 400
with the revised plan. 401

(d) A permittee shall analyze the contents in each container 402
of brine or other waste substances in accordance with an approved 403
waste analysis plan prior to injecting the brine or other waste 404
substances into an underground formation. 405

(3)(a) After the chief determines that an application for a 406
permit is complete, the chief shall post on the division of oil 407
and gas resources management's web site a notification that 408
contains information regarding the application that is the same as 409
the information that is required to be contained in the weekly 410
circular of the division in division (B) of section 1509.06 of the 411
Revised Code. In addition, the chief shall establish the time, 412
date, and location of the public hearing that is required by 413
division (D)(3)(b) of this section and provide to the applicant 414
information regarding the public hearing, the permit application 415
number, and the location where a copy of the application may be 416
inspected. 417

(b) The chief shall hold a public hearing in the township or 418
municipal corporation, as applicable, where the proposed injection 419
well is to be located on the application for a permit submitted 420
under this section. The meeting shall be held not later than sixty 421
days after the applicant's fourth publication in a newspaper that 422
is required by division (D)(3)(c) of this section. 423

(c) Beginning in the week following the week of receipt of 424

the information provided by the chief under division (D)(3)(a) of 425
this section, the applicant shall publish a notice, at least once 426
a week for four consecutive weeks, in a newspaper of general 427
circulation in the county in which the proposed injection well is 428
to be located and, if available, in any local weekly news 429
publication that serves the township or municipal corporation in 430
which the proposed well is to be located. The font for the notice 431
shall be of a reasonable size. In addition, the notice shall 432
contain all of the following information: 433

(i) The name of the applicant; 434

(ii) A statement that the applicant intends to drill an 435
injection well; 436

(iii) A description of the location at which the proposed 437
well will be drilled; 438

(iv) The permit application number; 439

(v) The time, date, and location of the public hearing that 440
the chief will hold under division (D)(3)(b) of this section; 441

(vi) The location where a copy of the permit application may 442
be inspected. 443

(d) The chief shall provide a notice containing all of the 444
information required by division (D)(3)(c) of this section to all 445
of the following, as applicable: 446

(i) The board of county commissioners of the county in which 447
the proposed injection well is to be located; 448

(ii) The legislative authority of the municipal corporation 449
or the board of township trustees of the township in which the 450
proposed well is to be located; 451

(iii) Each private water company that has a well or a 452
reservoir that is located within a two-mile radius of the proposed 453
location of the well; 454

(iv) The board of directors of each conservancy district established under Chapter 6101. of the Revised Code with jurisdiction in the area in which the well is proposed to be located, if applicable; 455
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(v) Each planning commission with jurisdiction in the area in which the well is proposed to be located; 459
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(vi) Each state and federal legislator in whose legislative district the well is proposed to be located. 461
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An individual or entity that received a notice under division (D)(3)(d) of this section may submit to the chief written comments concerning the application with respect to the effects of the operation of the proposed injection well on the environment that are within the individual's or entity's area of responsibility. The written comments shall be submitted to the chief not later than thirty days after the individual's or entity's receipt of the notice. If the chief receives such written comments concerning an application, the chief immediately shall transmit a copy of the comments to the applicant and post a copy of them on the division's web site. 463
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(e) Any person may submit a written comment or objection to the chief with respect to an application submitted under division (D)(1) of this section. A comment or objection shall be submitted not later than ninety days after the date of the first publication of the notice by the applicant under division (D)(3)(c) of this section unless the chief grants an extension. 474
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(4)(a) A person that submits an application for a permit under division (D)(1) of this section shall conduct reflection seismology at the location of the proposed injection well in order to identify geologic features under the surface location of the proposed injection well. The person shall submit the results of the reflection seismology to the chief. 480
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(b) As used in division (D)(4)(a) of this section, "geologic features" means lateral stratigraphic changes, faults, fractures, or other structural irregularities. 486
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(5) The board of township trustees of the township or the legislative authority of the municipal corporation, as applicable, in which an injection well is proposed to be located for which an application was submitted under division (D)(1) of this section may adopt a resolution or enact an ordinance, as applicable, objecting to the issuance of a permit for the well. The board or the legislative authority may submit the resolution or ordinance to the chief. 489
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(6) The chief shall not issue a permit for an application submitted under division (D)(1) of this section if any of the following applies: 497
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(a) The applicant has not submitted a waste analysis plan under division (D)(2)(a) of this section. 500
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(b) The chief has not approved the applicant's waste analysis plan under division (D)(2)(b) of this section. 502
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(c) The applicant has not conducted and submitted the results of reflection seismology at the location of the proposed injection well under division (D)(4) of this section. 504
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(d) The chief has received within thirty days after the public hearing required by division (D)(3)(b) of this section a resolution or an ordinance under division (D)(5) of this section objecting to the issuance of a permit for the well from the board of township trustees of the township or the legislative authority of the municipal corporation, as applicable, in which the proposed injection well is to be located. 507
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(7) To implement the goals of the Safe Drinking Water Act, the chief shall not issue a permit for the injection of brine or other waste substances resulting from, obtained from, or produced 514
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in connection with oil or gas drilling, exploration, or production 517
unless the chief concludes that the applicant has demonstrated 518
that the injection will not result in the presence of any 519
contaminant in ground water that supplies or can reasonably be 520
expected to supply any public water system, such that the presence 521
of the contaminant may result in the system's not complying with 522
any national primary drinking water regulation or may otherwise 523
adversely affect the health of persons. 524

(E) The chief shall adopt rules in accordance with Chapter 525
119. of the Revised Code regarding the injection into wells of 526
brine and other waste substances resulting from, obtained from, or 527
produced in connection with oil or gas drilling, exploration, or 528
production. The rules shall require a person who has been issued a 529
permit under division (D) of this section for such a well to add a 530
stable benign chemical tracer into the well in an amount and at a 531
frequency that are determined by the chief for the purposes of 532
determining if brine and other waste substances that are injected 533
into the well have migrated and if impacts to ground water have 534
occurred from the operation of the well. The rules may authorize 535
tests to evaluate whether fluids or carbon dioxide may be injected 536
in a reservoir and to determine the maximum allowable injection 537
pressure, which shall be conducted in accordance with methods 538
prescribed in the rules or in accordance with conditions of the 539
permit. In addition, the rules shall include provisions regarding 540
applications all of the following: 541

(1) Applications for and issuance of the permits required by 542
~~this~~ division (D) of this section; ~~entry~~ 543

(2) Entry to conduct inspections and to examine and copy 544
records to ascertain compliance with this ~~division~~ section and 545
rules, orders, and terms and conditions of permits adopted or 546
issued under it; ~~the~~ 547

(3) The provision and maintenance of information through 548

monitoring, recordkeeping, and reporting; ~~and other~~ 549

~~(4) Other provisions in furtherance of the goals of this 550
section and the Safe Drinking Water Act. To implement the goals of 551
the Safe Drinking Water Act, the chief shall not issue a permit 552
for the injection of brine or other waste substances resulting 553
from, obtained from, or produced in connection with oil or gas 554
drilling, exploration, or production unless the chief concludes 555
that the applicant has demonstrated that the injection will not 556
result in the presence of any contaminant in ground water that 557
supplies or can reasonably be expected to supply any public water 558
system, such that the presence of the contaminant may result in 559
the system's not complying with any national primary drinking 560
water regulation or may otherwise adversely affect the health of 561
persons. This division 562~~

~~(F) Divisions (D) and (E) of this section and rules, orders, 563
and terms and conditions of permits adopted or issued under ~~it~~ 564
those divisions shall be construed to be no more stringent than 565
required for compliance with the Safe Drinking Water Act unless 566
essential to ensure that underground sources of drinking water 567
will not be endangered. 568~~

~~(E)~~(G) The owner holding a permit, or an assignee or 569
transferee who has assumed the obligations and liabilities imposed 570
by this chapter and any rules adopted or orders issued under it 571
pursuant to section 1509.31 of the Revised Code, and the operator 572
of a well shall be liable for a violation of this section or any 573
rules adopted or orders or terms or conditions of a permit issued 574
under it. 575

~~(F)~~(H) An owner shall replace the water supply of the holder 576
of an interest in real property who obtains all or part of the 577
holder's supply of water for domestic, agricultural, industrial, 578
or other legitimate use from an underground or surface source 579
where the supply has been substantially disrupted by 580

contamination, diminution, or interruption proximately resulting 581
from the owner's oil or gas operation, or the owner may elect to 582
compensate the holder of the interest in real property for the 583
difference between the fair market value of the interest before 584
the damage occurred to the water supply and the fair market value 585
after the damage occurred if the cost of replacing the water 586
supply exceeds this difference in fair market values. However, 587
during the pendency of any order issued under this division, the 588
owner shall obtain for the holder or shall reimburse the holder 589
for the reasonable cost of obtaining a water supply from the time 590
of the contamination, diminution, or interruption by the operation 591
until the owner has complied with an order of the chief for 592
compliance with this division or such an order has been revoked or 593
otherwise becomes not effective. If the owner elects to pay the 594
difference in fair market values, but the owner and the holder 595
have not agreed on the difference within thirty days after the 596
chief issues an order for compliance with this division, within 597
ten days after the expiration of that thirty-day period, the owner 598
and the chief each shall appoint an appraiser to determine the 599
difference in fair market values, except that the holder of the 600
interest in real property may elect to appoint and compensate the 601
holder's own appraiser, in which case the chief shall not appoint 602
an appraiser. The two appraisers appointed shall appoint a third 603
appraiser, and within thirty days after the appointment of the 604
third appraiser, the three appraisers shall hold a hearing to 605
determine the difference in fair market values. Within ten days 606
after the hearing, the appraisers shall make their determination 607
by majority vote and issue their final determination of the 608
difference in fair market values. The chief shall accept a 609
determination of the difference in fair market values made by 610
agreement of the owner and holder or by appraisers under this 611
division and shall make and dissolve orders accordingly. This 612
division does not affect in any way the right of any person to 613

enforce or protect, under applicable law, the person's interest in 614
water resources affected by an oil or gas operation. 615

~~(G)~~(I) In any action brought by the state for a violation of 616
division (A) of this section involving any well at which annular 617
disposal is used, there shall be a rebuttable presumption 618
available to the state that the annular disposal caused the 619
violation if the well is located within a one-quarter-mile radius 620
of the site of the violation. 621

(J) An owner who has been issued a permit for a well under 622
division (D) of this section and the operator of the well shall 623
allow the board of township trustees of the township or the 624
legislative authority of the municipal corporation, as applicable, 625
in which the injection well is located to remove a sample for 626
analysis from any container of brine or other waste substances 627
that is delivered to the well prior to injecting the brine or 628
other waste substances into the well. 629

Sec. 1509.221. (A) No person, without first having obtained a 630
permit from the chief of the division of oil and gas resources 631
management, shall drill a well or inject a substance into a well 632
for the exploration for or extraction of minerals or energy, other 633
than oil or natural gas, including, but not limited to, the mining 634
of sulfur by the Frasch process, the solution mining of minerals, 635
the in situ combustion of fossil fuel, or the recovery of 636
geothermal energy to produce electric power, unless a rule of the 637
chief expressly authorizes the activity without a permit. The 638
permit shall be in addition to any permit required by section 639
1509.05 of the Revised Code. The chief shall adopt rules in 640
accordance with Chapter 119. of the Revised Code governing the 641
issuance of permits under this section. The rules shall include 642
provisions regarding the matters the applicant for a permit shall 643
demonstrate to establish eligibility for a permit; the form and 644

content of applications for permits; the terms and conditions of 645
permits; entry to conduct inspections and to examine and copy 646
records to ascertain compliance with this section and rules, 647
orders, and terms and conditions of permits adopted or issued 648
thereunder; provision and maintenance of information through 649
monitoring, recordkeeping, and reporting; and other provisions in 650
furtherance of the goals of this section and the Safe Drinking 651
Water Act. To implement the goals of the Safe Drinking Water Act, 652
the chief shall not issue a permit under this section, unless the 653
chief concludes that the applicant has demonstrated that the 654
drilling, injection of a substance, and extraction of minerals or 655
energy will not result in the presence of any contaminant in 656
underground water that supplies or can reasonably be expected to 657
supply any public water system, such that the presence of the 658
contaminant may result in the system's not complying with any 659
national primary drinking water regulation or may otherwise 660
adversely affect the health of persons. The chief may issue, 661
without a prior adjudication hearing, orders requiring compliance 662
with this section and rules, orders, and terms and conditions of 663
permits adopted or issued thereunder. This section and rules, 664
orders, and terms and conditions of permits adopted or issued 665
thereunder shall be construed to be no more stringent than 666
required for compliance with the Safe Drinking Water Act, unless 667
essential to ensure that underground sources of drinking water 668
will not be endangered. 669

(B)(1) There is levied on the owner of an injection well who 670
has been issued a permit under division (D) of section 1509.22 of 671
the Revised Code the following fees: 672

(a) Five cents per barrel of each substance that is delivered 673
to a well to be injected in the well when the substance is 674
produced within the division of oil and gas resources management 675
regulatory district in which the well is located or within an 676

adjoining oil and gas resources management regulatory district; 677

(b) Twenty cents per barrel of each substance that is 678
delivered to a well to be injected in the well when the substance 679
is not produced within the division of oil and gas resources 680
management regulatory district in which the well is located or 681
within an adjoining oil and gas resources management regulatory 682
district. 683

~~(2) The maximum number of barrels of substance per injection 684
well in a calendar year on which a fee may be levied under 685
division (B) of this section is five hundred thousand. If in a 686
calendar year the owner of an injection well receives more than 687
five hundred thousand barrels of substance to be injected in the 688
owner's well and if the owner receives at least one substance that 689
is produced within the division's regulatory district in which the 690
well is located or within an adjoining regulatory district and at 691
least one substance that is not produced within the division's 692
regulatory district in which the well is located or within an 693
adjoining regulatory district, the fee shall be calculated first 694
on all of the barrels of substance that are not produced within 695
the division's regulatory district in which the well is located or 696
within an adjoining district at the rate established in division 697
(B)(2) of this section. The fee then shall be calculated on the 698
barrels of substance that are produced within the division's 699
regulatory district in which the well is located or within an 700
adjoining district at the rate established in division (B)(1) of 701
this section until the maximum number of barrels established in 702
division (B)(2) of this section has been attained There is levied 703
on the owner of an injection well who has been issued a permit 704
under division (D) of section 1509.22 of the Revised Code an 705
additional fee of five cents per barrel of each substance that is 706
delivered to the well to be injected in the well. 707~~

(3) The owner of an injection well who is issued a permit 708

under division (D) of section 1509.22 of the Revised Code shall 709
collect the ~~fee~~ fees levied by division (B) of this section on 710
behalf of the division of oil and gas resources management and 711
forward the ~~fee~~ fees to the division. The chief shall transmit all 712
money received under division (B)(1) of this section to the 713
treasurer of state who shall deposit the money in the state 714
treasury to the credit of the oil and gas well fund created in 715
section 1509.02 of the Revised Code. The chief shall transmit all 716
money received under division (B)(2) of this section to the 717
treasurer of state who shall deposit the money in the state 718
treasury to the credit of the injection well ground water 719
monitoring fund created in section 1509.227 of the Revised Code. 720
The owner of an injection well who collects the ~~fee~~ fees levied by 721
~~this~~ division (B) of this section may retain up to three per cent 722
of the amount that is collected. 723

(4) The chief shall adopt rules in accordance with Chapter 724
119. of the Revised Code establishing requirements and procedures 725
for collection of the ~~fee~~ fees levied by division (B) of this 726
section. 727

(C) In an action under section 1509.04 or 1509.33 of the 728
Revised Code to enforce this section, the court shall grant 729
preliminary and permanent injunctive relief and impose a civil 730
penalty upon the showing that the person against whom the action 731
is brought has violated, is violating, or will violate this 732
section or rules, orders, or terms or conditions of permits 733
adopted or issued thereunder. The court shall not require, prior 734
to granting such preliminary and permanent injunctive relief or 735
imposing a civil penalty, proof that the violation was, is, or 736
will be the result of intentional conduct or negligence. In any 737
such action, any person may intervene as a plaintiff upon the 738
demonstration that the person has an interest that is or may be 739
adversely affected by the activity for which injunctive relief or 740

a civil penalty is sought. 741

Sec. 1509.227. (A) There is hereby created in the state 742
treasury the injection well ground water monitoring fund 743
consisting of money credited to it under section 1509.221 of the 744
Revised Code. The chief of the division of oil and gas resources 745
management shall administer the fund and shall use money credited 746
to it solely to conduct ground water monitoring in accordance with 747
rules adopted under division (B) of this section. 748

(B) The chief shall adopt rules in accordance with Chapter 749
119. of the Revised Code establishing requirements for the 750
installation of ground water monitoring wells and the monitoring 751
of ground water quality and quantity prior to the commencement of 752
drilling of a well for which a permit is issued under division (D) 753
of section 1509.22 of the Revised Code and during the injection of 754
brine or other waste substances into such a well. The rules shall 755
require that ground water monitoring be capable of determining 756
impacts resulting from the operation of the injection well. In 757
addition, the rules shall establish requirements governing ground 758
water assessment and corrective actions for impacts to ground 759
water. Further, the rules shall require that the owner of an 760
injection well submit to the chief a monitoring report that has 761
been prepared by a qualified ground water scientist and that 762
includes all of the following: 763

(1) A determination of any impacts to ground water from the 764
migration of contaminants from the injection well; 765

(2) A list of the contaminants from the injection well that 766
may be causing contamination of ground water; 767

(3) Recommendations for actions, if any, that should be taken 768
to investigate or remediate the source of any ground water 769
contamination. 770

Sec. 1509.228. (A) An application for a permit for an 771
injection well that is submitted under section 1509.22 of the 772
Revised Code shall include all of the following: 773

(1) A listing of all injection wells that the owner of the 774
proposed new injection well or a key employee of the owner has 775
operated or is operating in this state; 776

(2) A listing of the injection wells that the owner or a key 777
employee of the owner has operated or is operating elsewhere in 778
the United States together with a listing of the injection wells 779
that the owner or a key employee of the owner has operated or is 780
operating outside the United States; 781

(3) A listing of all administrative enforcement orders issued 782
to the owner or a key employee of the owner, all civil actions in 783
which the owner or a key employee of the owner was determined by 784
the trier of fact to be liable in damages or was the subject of 785
injunctive relief or another type of civil relief, and all 786
criminal actions in which the owner or a key employee of the owner 787
pleaded guilty or was convicted, during the ten years immediately 788
preceding the submission of the application, in connection with 789
any violation by the owner or a key employee of the owner of an 790
applicable state or federal law pertaining to oil and gas 791
operations or environmental protection or the laws of another 792
country pertaining to oil and gas operations or environmental 793
protection; 794

(4) A listing of all administrative enforcement orders, civil 795
actions, or criminal actions pending at the time of the submission 796
of the application for a permit for an injection well in 797
connection with a violation of any applicable state or federal law 798
pertaining to oil and gas operations or environmental protection 799
that was alleged to have been committed by the owner or a key 800
employee of the owner. 801

The lists of injection wells operated by the owner or a key employee of the owner within or outside this state or outside the United States shall include all such injection wells operated by the owner or a key employee of the owner during the ten-year period immediately preceding the submission of the application.

(B) If the applicant for a permit for an injection well has been involved in any prior activity involving the operation of an injection well, the chief of the division of oil and gas resources management may deny the application if the chief finds from the application, the information submitted under divisions (A)(1) to (4) of this section, pertinent information submitted to the chief, and other pertinent information obtained by the chief at the chief's discretion that the applicant or any other person listed on the application, in the operation of injection wells, has a history of substantial noncompliance with state and federal laws pertaining to oil and gas operations or environmental protection or the laws of another country pertaining to oil and gas operations or environmental protection that indicates that the applicant lacks sufficient reliability, expertise, and competence to operate the proposed new injection well in substantial compliance with this chapter and rules adopted under it.

(C) An owner that has submitted the information required under division (A) of this section annually shall submit to the chief all information required to be submitted under division (A) of this section that has changed or been added in the immediately preceding year. If, during that period, there have been no changes in or additions to that information, the owner shall submit to the chief an affidavit stating that there have been no changes in or additions to that information during that time period. The chief may revoke the permit for the injection well if the updated information indicates any of the reasons specified in division (B) of this section for the denial of an application for a permit for

an injection well. 834

(D) When the owner of an injection well employs a new key 835
employee, the owner shall submit or shall require the new key 836
employee to submit to the chief information regarding the new key 837
employee that is required to be submitted under division (A) of 838
this section by an applicant for a permit for an injection well. 839
The chief may revoke the permit for the injection well if the 840
information regarding the new key employee indicates any of the 841
reasons specified in division (B) of this section for the denial 842
of an application for a permit for an injection well. 843

(E) As used in this section: 844

(1) "Injection well" means a well for which an application 845
for a permit has been submitted under division (D) of section 846
1509.22 of the Revised Code. 847

(2) "Key employee" means an individual employed by an 848
applicant for a permit for an injection well in a supervisory 849
capacity or who is empowered to make discretionary decisions with 850
respect to the injection well operations of the applicant, but 851
does not include an employee who is exclusively engaged in the 852
physical or mechanical transportation or disposal of brine or 853
other waste substances. If the applicant has entered into a 854
contract with another person to operate the injection well that is 855
the subject of the application, "key employee" includes an 856
employee of the contractor who acts in a supervisory capacity or 857
is empowered to make discretionary decisions with respect to the 858
operation of the injection well. 859

Sec. 1509.31. (A) Whenever the entire interest of an oil and 860
gas lease is assigned or otherwise transferred, the assignor or 861
transferor shall notify the holders of the royalty interests, and, 862
if a well or wells exist on the lease, the division of oil and gas 863
resources management, of the name and address of the assignee or 864

transferee by certified mail, return receipt requested, not later 865
than thirty days after the date of the assignment or transfer. 866
When notice of any such assignment or transfer is required to be 867
provided to the division, it shall be provided on a form 868
prescribed and provided by the division and verified by both the 869
assignor or transferor and by the assignee or transferee and shall 870
be accompanied by a nonrefundable fee of one hundred dollars for 871
each well. The notice form applicable to assignments or transfers 872
of a well to the owner of the surface estate of the tract on which 873
the well is located shall contain a statement informing the 874
landowner that the well may require periodic servicing to maintain 875
its productivity; that, upon assignment or transfer of the well to 876
the landowner, the landowner becomes responsible for compliance 877
with the requirements of this chapter and rules adopted under it, 878
including, without limitation, the proper disposal of brine 879
obtained from the well, the plugging of the well when it becomes 880
incapable of producing oil or gas, and the restoration of the well 881
site; and that, upon assignment or transfer of the well to the 882
landowner, the landowner becomes responsible for the costs of 883
compliance with the requirements of this chapter and rules adopted 884
under it and the costs for operating and servicing the well. 885

(B) When the entire interest of a well is proposed to be 886
assigned or otherwise transferred to the landowner for use as an 887
exempt domestic well, the owner who has been issued a permit under 888
this chapter for the well shall submit to the chief of the 889
division of oil and gas resources management an application for 890
the assignment or transfer that contains all documents that the 891
chief requires and a nonrefundable fee of one hundred dollars. The 892
application for such an assignment or transfer shall be prescribed 893
and provided by the chief. The chief may approve the application 894
if the application is accompanied by a release of all of the oil 895
and gas leases that are included in the applicable formation of 896
the drilling unit, the release is in a form such that the well 897

ownership merges with the fee simple interest of the surface 898
tract, and the release is in a form that may be recorded. However, 899
if the owner of the well does not release the oil and gas leases 900
associated with the well that is proposed to be assigned or 901
otherwise transferred or if the fee simple tract that results from 902
the merger of the well ownership with the fee simple interest of 903
the surface tract is less than five acres, the proposed exempt 904
domestic well owner shall post a five thousand dollar bond with 905
the division prior to the assignment or transfer of the well to 906
ensure that the well will be properly plugged. The chief, for good 907
cause, may modify the requirements of this section governing the 908
assignment or transfer of the interests of a well to the 909
landowner. Upon the assignment or transfer of the well, the owner 910
of an exempt domestic well is not subject to the severance tax 911
levied under section 5749.02 of the Revised Code, but is subject 912
to all applicable fees established in this chapter. 913

(C) The owner holding a permit under section 1509.05 of the 914
Revised Code is responsible for all obligations and liabilities 915
imposed by this chapter and any rules, orders, and terms and 916
conditions of a permit adopted or issued under it, and no 917
assignment or transfer by the owner relieves the owner of the 918
obligations and liabilities until and unless the assignee or 919
transferee files with the division the information described in 920
divisions (A)(1), (2), (3), (4), (5), (10), (11), and ~~(12)~~ (13) of 921
section 1509.06 of the Revised Code; obtains liability insurance 922
coverage required by section 1509.07 of the Revised Code, except 923
when none is required by that section; and executes and files a 924
surety bond, negotiable certificates of deposit or irrevocable 925
letters of credit, or cash, as described in that section. Instead 926
of a bond, but only upon acceptance by the chief, the assignee or 927
transferee may file proof of financial responsibility, described 928
in section 1509.07 of the Revised Code. Section 1509.071 of the 929
Revised Code applies to the surety bond, cash, and negotiable 930

certificates of deposit and irrevocable letters of credit 931
described in this section. Unless the chief approves a 932
modification, each assignee or transferee shall operate in 933
accordance with the plans and information filed by the permit 934
holder pursuant to section 1509.06 of the Revised Code. 935

(D) If a mortgaged property that is being foreclosed is 936
subject to an oil or gas lease, pipeline agreement, or other 937
instrument related to the production or sale of oil or natural gas 938
and the lease, agreement, or other instrument was recorded 939
subsequent to the mortgage, and if the lease, agreement, or other 940
instrument is not in default, the oil or gas lease, pipeline 941
agreement, or other instrument, as applicable, has priority over 942
all other liens, claims, or encumbrances on the property so that 943
the oil or gas lease, pipeline agreement, or other instrument is 944
not terminated or extinguished upon the foreclosure sale of the 945
mortgaged property. If the owner of the mortgaged property was 946
entitled to oil and gas royalties before the foreclosure sale, the 947
oil or gas royalties shall be paid to the purchaser of the 948
foreclosed property. 949

Section 2. That existing sections 1509.02, 1509.06, 1509.22, 950
1509.221, and 1509.31 of the Revised Code are hereby repealed. 951