

As Introduced

**130th General Assembly
Regular Session
2013-2014**

H. B. No. 148

Representatives Driehaus, Hagan, R.

Cosponsors: Representatives Antonio, Lundy, Boyd

—

A B I L L

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

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

Section 1. That sections 1509.01, 1509.02, 1509.03, 1509.05, 9
1509.06, 1509.08, 1509.21, 1509.22, 1509.222, 1509.223, and 10
1509.224 be amended and section 1509.051 of the Revised Code be 11
enacted to read as follows: 12

Sec. 1509.01. As used in this chapter: 13

(A) "Well" means any borehole, whether drilled or bored, 14
within the state for production, extraction, or injection of any 15
gas or liquid mineral, excluding potable water to be used as such, 16
but including natural or artificial brines and oil field waters. 17

(B) "Oil" means crude petroleum oil and all other 18
hydrocarbons, regardless of gravity, that are produced in liquid 19

form by ordinary production methods, but does not include 20
hydrocarbons that were originally in a gaseous phase in the 21
reservoir. 22

(C) "Gas" means all natural gas and all other fluid 23
hydrocarbons that are not oil, including condensate. 24

(D) "Condensate" means liquid hydrocarbons separated at or 25
near the well pad or along the gas production or gathering system 26
prior to gas processing. 27

(E) "Pool" means an underground reservoir containing a common 28
accumulation of oil or gas, or both, but does not include a gas 29
storage reservoir. Each zone of a geological structure that is 30
completely separated from any other zone in the same structure may 31
contain a separate pool. 32

(F) "Field" means the general area overlaid by one or more 33
pools. 34

(G) "Drilling unit" means the minimum acreage on which one 35
well may be drilled, but does not apply to a well for injecting 36
gas into or removing gas from a gas storage reservoir. 37

(H) "Waste" includes all of the following: 38

(1) Physical waste, as that term generally is understood in 39
the oil and gas industry; 40

(2) Inefficient, excessive, or improper use, or the 41
unnecessary dissipation, of reservoir energy; 42

(3) Inefficient storing of oil or gas; 43

(4) Locating, drilling, equipping, operating, or producing an 44
oil or gas well in a manner that reduces or tends to reduce the 45
quantity of oil or gas ultimately recoverable under prudent and 46
proper operations from the pool into which it is drilled or that 47
causes or tends to cause unnecessary or excessive surface loss or 48
destruction of oil or gas; 49

(5) Other underground or surface waste in the production or storage of oil, gas, or condensate, however caused. 50
51

(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. 52
53
54
55
56

(J) "Tract" means a single, individually taxed parcel of land appearing on the tax list. 57
58

(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. 59
60
61
62
63
64
65
66
67
68
69
70
71

(L) "Royalty interest" means the fee holder's share in the production from a well. 72
73

(M) "Discovery well" means the first well capable of producing oil or gas in commercial quantities from a pool. 74
75

(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. 76
77
78
79
80

(O) "Rock sediment" means the combined cutting and residue 81
from drilling sedimentary rocks and formation. 82

(P) "Excavations and workings," "mine," and "pillar" have the 83
same meanings as in section 1561.01 of the Revised Code. 84

(Q) "Coal bearing township" means a township designated as 85
such by the chief of the division of mineral resources management 86
under section 1561.06 of the Revised Code. 87

(R) "Gas storage reservoir" means a continuous area of a 88
subterranean porous sand or rock stratum or strata into which gas 89
is or may be injected for the purpose of storing it therein and 90
removing it therefrom and includes a gas storage reservoir as 91
defined in section 1571.01 of the Revised Code. 92

(S) "Safe Drinking Water Act" means the "Safe Drinking Water 93
Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended by the 94
"Safe Drinking Water Amendments of 1977," 91 Stat. 1393, 42 95
U.S.C.A. 300(f), the "Safe Drinking Water Act Amendments of 1986," 96
100 Stat. 642, 42 U.S.C.A. 300(f), and the "Safe Drinking Water 97
Act Amendments of 1996," 110 Stat. 1613, 42 U.S.C.A. 300(f), and 98
regulations adopted under those acts. 99

(T) "Person" includes any political subdivision, department, 100
agency, or instrumentality of this state; the United States and 101
any department, agency, or instrumentality thereof; and any legal 102
entity defined as a person under section 1.59 of the Revised Code. 103

(U) "Brine" means all saline geological formation water 104
resulting from, obtained from, or produced in connection with 105
exploration, drilling, well stimulation, production of oil or gas, 106
or plugging of a well. 107

(V) "Waters of the state" means all streams, lakes, ponds, 108
marshes, watercourses, waterways, springs, irrigation systems, 109
drainage systems, and other bodies of water, surface or 110
underground, natural or artificial, that are situated wholly or 111

partially within this state or within its jurisdiction, except 112
those private waters that do not combine or effect a junction with 113
natural surface or underground waters. 114

(W) "Exempt Mississippian well" means a well that meets all 115
of the following criteria: 116

(1) Was drilled and completed before January 1, 1980; 117

(2) Is located in an unglaciated part of the state; 118

(3) Was completed in a reservoir no deeper than the 119
Mississippian Big Injun sandstone in areas underlain by 120
Pennsylvanian or Permian stratigraphy, or the Mississippian Berea 121
sandstone in areas directly underlain by Permian stratigraphy; 122

(4) Is used primarily to provide oil or gas for domestic use. 123

(X) "Exempt domestic well" means a well that meets all of the 124
following criteria: 125

(1) Is owned by the owner of the surface estate of the tract 126
on which the well is located; 127

(2) Is used primarily to provide gas for the owner's domestic 128
use; 129

(3) Is located more than two hundred feet horizontal distance 130
from any inhabited private dwelling house other than an inhabited 131
private dwelling house located on the tract on which the well is 132
located; 133

(4) Is located more than two hundred feet horizontal distance 134
from any public building that may be used as a place of resort, 135
assembly, education, entertainment, lodging, trade, manufacture, 136
repair, storage, traffic, or occupancy by the public. 137

(Y) "Urbanized area" means an area where a well or production 138
facilities of a well are located within a municipal corporation or 139
within a township that has an unincorporated population of more 140
than five thousand in the most recent federal decennial census 141

prior to the issuance of the permit for the well or production facilities. 142
143

(Z) "Well stimulation" or "stimulation of a well" means the process of enhancing well productivity, including hydraulic fracturing operations. 144
145
146

(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 completion, well stimulation, well site activities, reclamation, and plugging. "Production operation" also includes all of the following: 147
148
149
150
151
152
153
154
155

(1) The piping, equipment, and facilities used for the production and preparation of hydrocarbon gas or liquids for transportation or delivery; 156
157
158

(2) The processes of extraction and recovery, lifting, stabilization, treatment, separation, production processing, storage, waste disposal, and measurement of hydrocarbon gas and liquids, including related equipment and facilities; 159
160
161
162

(3) The processes and related equipment and facilities associated with production compression, gas lift, gas injection, fuel gas supply, well drilling, well stimulation, and well completion activities, including dikes, pits, and earthen and other impoundments used for the temporary storage of fluids and waste substances associated with well drilling, well stimulation, and well completion activities. 163
164
165
166
167
168
169

(BB) "Annular overpressurization" means the accumulation of fluids within an annulus with sufficient pressure to allow migration of annular fluids into underground sources of drinking 170
171
172

water.	173
(CC) "Idle and orphaned well" means a well for which a bond	174
has been forfeited or an abandoned well for which no money is	175
available to plug the well in accordance with this chapter and	176
rules adopted under it.	177
(DD) "Temporarily inactive well" means a well that has been	178
granted temporary inactive status under section 1509.062 of the	179
Revised Code.	180
(EE) "Material and substantial violation" means any of the	181
following:	182
(1) Failure to obtain a permit to drill, reopen, convert,	183
plugback, or plug a well under this chapter;	184
(2) Failure to obtain, maintain, update, or submit proof of	185
insurance coverage that is required under this chapter;	186
(3) Failure to obtain, maintain, update, or submit proof of a	187
surety bond that is required under this chapter;	188
(4) Failure to plug an abandoned well or idle and orphaned	189
well unless the well has been granted temporary inactive status	190
under section 1509.062 of the Revised Code or the chief of the	191
division of oil and gas resources management has approved another	192
option concerning the abandoned well or idle and orphaned well;	193
(5) Failure to restore a disturbed land surface as required	194
by section 1509.072 of the Revised Code;	195
(6) Failure to reimburse the oil and gas well fund pursuant	196
to a final order issued under section 1509.071 of the Revised	197
Code;	198
(7) Failure to comply with a final nonappealable order of the	199
chief issued under section 1509.04 of the Revised Code;	200
(8) Failure to submit a report, test result, fee, or document	201
that is required in this chapter or rules adopted under it.	202

(FF) "Severer" has the same meaning as in section 5749.01 of the Revised Code. 203
204

(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. 205
206
207
208

(HH) "Well pad" means the area that is cleared or prepared for the drilling of one or more horizontal wells. 209
210

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 6111.029 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 exclusive authority as established in this section, the chief may enter into cooperative agreements with other state agencies for advice and consultation, including visitations at the surface location of a well on behalf of the division. Such cooperative agreements do not confer on other state agencies any authority to 211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233

administer or enforce this chapter and rules adopted under it. In 234
addition, such cooperative agreements shall not be construed to 235
dilute or diminish the division's sole and exclusive authority as 236
established in this section. Nothing in this section affects the 237
authority granted to the director of transportation and local 238
authorities in section 723.01 or 4513.34 of the Revised Code, 239
provided that the authority granted under those sections shall not 240
be exercised in a manner that discriminates against, unfairly 241
impedes, or obstructs oil and gas activities and operations 242
regulated under this chapter. 243

The chief shall not hold any other public office, nor shall 244
the chief be engaged in any occupation or business that might 245
interfere with or be inconsistent with the duties as chief. 246

All moneys collected by the chief pursuant to sections 247
1509.06, 1509.061, 1509.062, 1509.071, 1509.13, ~~1509.22~~, 1509.222, 248
1509.28, 1509.34, and 1509.50 of the Revised Code, ninety per cent 249
of moneys received by the treasurer of state from the tax levied 250
in divisions (A)(5) and (6) of section 5749.02 of the Revised 251
Code, all civil penalties paid under section 1509.33 of the 252
Revised Code, and, notwithstanding any section of the Revised Code 253
relating to the distribution or crediting of fines for violations 254
of the Revised Code, all fines imposed under divisions (A) and (B) 255
of section 1509.99 of the Revised Code and fines imposed under 256
divisions (C) and (D) of section 1509.99 of the Revised Code for 257
all violations prosecuted by the attorney general and for 258
violations prosecuted by prosecuting attorneys that do not involve 259
the transportation of brine by vehicle shall be deposited into the 260
state treasury to the credit of the oil and gas well fund, which 261
is hereby created. Fines imposed under divisions (C) and (D) of 262
section 1509.99 of the Revised Code for violations prosecuted by 263
prosecuting attorneys that involve the transportation of brine by 264
vehicle and penalties associated with a compliance agreement 265

entered into pursuant to this chapter shall be paid to the county treasury of the county where the violation occurred.

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

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

- (1) Safety concerning the drilling or operation of a well;
- (2) Protection of the public and private water supply, including the amount of water used and the source or sources of the water;
- (3) Fencing and screening of surface facilities of a well;
- (4) Containment and disposal of drilling and production wastes;
- (5) Construction of access roads for purposes of the drilling

and operation of a well;	296
(6) Noise mitigation for purposes of the drilling of a well	297
and the operation of a well, excluding safety and maintenance	298
operations.	299
No person shall violate any rule of the chief adopted under	300
this chapter.	301
(B)(1) Any order issuing, denying, or modifying a permit or	302
notices required to be made by the chief pursuant to this chapter	303
shall be made in compliance with Chapter 119. of the Revised Code,	304
except that personal service may be used in lieu of service by	305
mail. Every order issuing, denying, or modifying a permit under	306
this chapter and described as such shall be considered an	307
adjudication order for purposes of Chapter 119. of the Revised	308
Code. Division (B)(1) of this section does not apply to a permit	309
issued under section 1509.06 of the Revised Code.	310
(2) Where notice to the owners is required by this chapter,	311
the notice shall be given as prescribed by a rule adopted by the	312
chief to govern the giving of notices. The rule shall provide for	313
notice by publication except in those cases where other types of	314
notice are necessary in order to meet the requirements of the law.	315
(C) The chief or the chief's authorized representative may at	316
any time enter upon lands, public or private, for the purpose of	317
administration or enforcement of this chapter, the rules adopted	318
or orders made thereunder, or terms or conditions of permits or	319
registration certificates issued thereunder and may examine and	320
copy records pertaining to the drilling, conversion, or operation	321
of a well for injection of fluids and logs required by division	322
(C) of section 1509.223 of the Revised Code. No person shall	323
prevent or hinder the chief or the chief's authorized	324
representative in the performance of official duties. If entry is	325
prevented or hindered, the chief or the chief's authorized	326

representative may apply for, and the court of common pleas may 327
issue, an appropriate inspection warrant necessary to achieve the 328
purposes of this chapter within the court's territorial 329
jurisdiction. 330

(D) The chief may issue orders to enforce this chapter, rules 331
adopted thereunder, and terms or conditions of permits issued 332
thereunder. Any such order shall be considered an adjudication 333
order for the purposes of Chapter 119. of the Revised Code. No 334
person shall violate any order of the chief issued under this 335
chapter. No person shall violate a term or condition of a permit 336
or registration certificate issued under this chapter. 337

(E) Orders of the chief denying, suspending, or revoking a 338
registration certificate; approving or denying approval of an 339
application for revision of a registered transporter's plan for 340
disposal; or to implement, administer, or enforce division (A) of 341
section 1509.224 and sections 1509.22, 1509.222, 1509.223, and 342
1509.225, ~~and 1509.226~~ of the Revised Code pertaining to the 343
transportation of brine by vehicle and the disposal of brine so 344
transported are not adjudication orders for purposes of Chapter 345
119. of the Revised Code. The chief shall issue such orders under 346
division (A) or (B) of section 1509.224 of the Revised Code, as 347
appropriate. 348

Sec. 1509.05. No person shall drill a new well, drill an 349
existing well any deeper, reopen a well, ~~convert a well to any use~~ 350
~~other than its original purpose,~~ or plug back a well to a source 351
of supply different from the existing pool, without having a 352
permit to do so issued by the chief of the division of oil and gas 353
resources management, and until the original permit or a 354
photostatic copy thereof is posted or displayed in a conspicuous 355
and easily accessible place at the well site, with the name, 356
current address, and telephone number of the permit holder and the 357

telephone numbers for fire and emergency medical services 358
maintained on the posted permit or copy. The permit or a copy 359
shall be continuously displayed in that manner at all times during 360
the work authorized by the permit. 361

Sec. 1509.051. No person shall convert a well to a use other 362
than its original purpose. 363

Sec. 1509.06. (A) An application for a permit to drill a new 364
well, drill an existing well deeper, reopen a well, ~~convert a well~~ 365
~~to any use other than its original purpose,~~ or plug back a well to 366
a different source of supply, including associated production 367
operations, shall be filed with the chief of the division of oil 368
and gas resources management upon such form as the chief 369
prescribes and shall contain each of the following that is 370
applicable: 371

(1) The name and address of the owner and, if a corporation, 372
the name and address of the statutory agent; 373

(2) The signature of the owner or the owner's authorized 374
agent. When an authorized agent signs an application, it shall be 375
accompanied by a certified copy of the appointment as such agent. 376

(3) The names and addresses of all persons holding the 377
royalty interest in the tract upon which the well is located or is 378
to be drilled or within a proposed drilling unit; 379

(4) The location of the tract or drilling unit on which the 380
well is located or is to be drilled identified by section or lot 381
number, city, village, township, and county; 382

(5) Designation of the well by name and number; 383

(6)(a) The geological formation to be tested or used and the 384
proposed total depth of the well; 385

(b) If the well is for the injection of a liquid, identity of 386

the geological formation to be used as the injection zone and the 387
composition of the liquid to be injected. 388

(7) The type of drilling equipment to be used; 389

(8)(a) An identification, to the best of the owner's 390
knowledge, of each proposed source of ground water and surface 391
water that will be used in the production operations of the well. 392
The identification of each proposed source of water shall indicate 393
if the water will be withdrawn from the Lake Erie watershed or the 394
Ohio river watershed. In addition, the owner shall provide, to the 395
best of the owner's knowledge, the proposed estimated rate and 396
volume of the water withdrawal for the production operations. If 397
recycled water will be used in the production operations, the 398
owner shall provide the estimated volume of recycled water to be 399
used. The owner shall submit to the chief an update of any of the 400
information that is required by division (A)(8)(a) of this section 401
if any of that information changes before the chief issues a 402
permit for the application. 403

(b) Except as provided in division (A)(8)(c) of this section, 404
for an application for a permit to drill a new well within an 405
urbanized area, the results of sampling of water wells within 406
three hundred feet of the proposed well prior to commencement of 407
drilling. In addition, the owner shall include a list that 408
identifies the location of each water well where the owner of the 409
property on which the water well is located denied the owner 410
access to sample the water well. The sampling shall be conducted 411
in accordance with the guidelines established in "Best Management 412
Practices For Pre-drilling Water Sampling" in effect at the time 413
that the application is submitted. The division shall furnish 414
those guidelines upon request and shall make them available on the 415
division's web site. If the chief determines that conditions at 416
the proposed well site warrant a revision, the chief may revise 417
the distance established in this division for purposes of 418

pre-drilling water sampling. 419

(c) For an application for a permit to drill a new horizontal 420
well, the results of sampling of water wells within one thousand 421
five hundred feet of the proposed horizontal wellhead prior to 422
commencement of drilling. In addition, the owner shall include a 423
list that identifies the location of each water well where the 424
owner of the property on which the water well is located denied 425
the owner access to sample the water well. The sampling shall be 426
conducted in accordance with the guidelines established in "Best 427
Management Practices For Pre-drilling Water Sampling" in effect at 428
the time that the application is submitted. The division shall 429
furnish those guidelines upon request and shall make them 430
available on the division's web site. If the chief determines that 431
conditions at the proposed well site warrant a revision, the chief 432
may revise the distance established in this division for purposes 433
of pre-drilling water sampling. 434

(9) For an application for a permit to drill a new well 435
within an urbanized area, a sworn statement that the applicant has 436
provided notice by regular mail of the application to the owner of 437
each parcel of real property that is located within five hundred 438
feet of the surface location of the well and to the executive 439
authority of the municipal corporation or the board of township 440
trustees of the township, as applicable, in which the well is to 441
be located. In addition, the notice shall contain a statement that 442
informs an owner of real property who is required to receive the 443
notice under division (A)(9) of this section that within five days 444
of receipt of the notice, the owner is required to provide notice 445
under section 1509.60 of the Revised Code to each residence in an 446
occupied dwelling that is located on the owner's parcel of real 447
property. The notice shall contain a statement that an application 448
has been filed with the division of oil and gas resources 449
management, identify the name of the applicant and the proposed 450

well location, include the name and address of the division, and 451
contain a statement that comments regarding the application may be 452
sent to the division. The notice may be provided by hand delivery 453
or regular mail. The identity of the owners of parcels of real 454
property shall be determined using the tax records of the 455
municipal corporation or county in which a parcel of real property 456
is located as of the date of the notice. 457

(10) A plan for restoration of the land surface disturbed by 458
drilling operations. The plan shall provide for compliance with 459
the restoration requirements of division (A) of section 1509.072 460
of the Revised Code and any rules adopted by the chief pertaining 461
to that restoration. 462

(11)(a) A description by name or number of the county, 463
township, and municipal corporation roads, streets, and highways 464
that the applicant anticipates will be used for access to and 465
egress from the well site; 466

(b) For an application for a permit for a horizontal well, a 467
copy of an agreement concerning maintenance and safe use of the 468
roads, streets, and highways described in division (A)(11)(a) of 469
this section entered into on reasonable terms with the public 470
official that has the legal authority to enter into such 471
maintenance and use agreements for each county, township, and 472
municipal corporation, as applicable, in which any such road, 473
street, or highway is located or an affidavit on a form prescribed 474
by the chief attesting that the owner attempted in good faith to 475
enter into an agreement under division (A)(11)(b) of this section 476
with the applicable public official of each such county, township, 477
or municipal corporation, but that no agreement was executed. 478

(12) Such other relevant information as the chief prescribes 479
by rule. 480

Each application shall be accompanied by a map, on a scale 481

not smaller than four hundred feet to the inch, prepared by an 482
Ohio registered surveyor, showing the location of the well and 483
containing such other data as may be prescribed by the chief. If 484
the well is or is to be located within the excavations and 485
workings of a mine, the map also shall include the location of the 486
mine, the name of the mine, and the name of the person operating 487
the mine. 488

(B) The chief shall cause a copy of the weekly circular 489
prepared by the division to be provided to the county engineer of 490
each county that contains active or proposed drilling activity. 491
The weekly circular shall contain, in the manner prescribed by the 492
chief, the names of all applicants for permits, the location of 493
each well or proposed well, the information required by division 494
(A)(11) of this section, and any additional information the chief 495
prescribes. In addition, the chief promptly shall transfer an 496
electronic copy or facsimile, or if those methods are not 497
available to a municipal corporation or township, a copy via 498
regular mail, of a drilling permit application to the clerk of the 499
legislative authority of the municipal corporation or to the clerk 500
of the township in which the well or proposed well is or is to be 501
located if the legislative authority of the municipal corporation 502
or the board of township trustees has asked to receive copies of 503
such applications and the appropriate clerk has provided the chief 504
an accurate, current electronic mailing address or facsimile 505
number, as applicable. 506

(C)(1) Except as provided in division (C)(2) of this section, 507
the chief shall not issue a permit for at least ten days after the 508
date of filing of the application for the permit unless, upon 509
reasonable cause shown, the chief waives that period or a request 510
for expedited review is filed under this section. However, the 511
chief shall issue a permit within twenty-one days of the filing of 512
the application unless the chief denies the application by order. 513

(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 546
twenty-one days of their filing, of permits for which applications 547
are pending. 548

(E) A well shall be drilled and operated in accordance with 549
the plans, sworn statements, and other information submitted in 550
the approved application. 551

(F) The chief shall issue an order denying a permit if the 552
chief finds that there is a substantial risk that the operation 553
will result in violations of this chapter or rules adopted under 554
it that will present an imminent danger to public health or safety 555
or damage to the environment, provided that where the chief finds 556
that terms or conditions to the permit can reasonably be expected 557
to prevent such violations, the chief shall issue the permit 558
subject to those terms or conditions, including, if applicable, 559
terms and conditions regarding subjects identified in rules 560
adopted under section 1509.03 of the Revised Code. The issuance of 561
a permit shall not be considered an order of the chief. 562

The chief shall post notice of each permit that has been 563
approved under this section on the division's web site not later 564
than two business days after the application for a permit has been 565
approved. 566

(G) Each application for a permit required by section 1509.05 567
of the Revised Code, except an application to plug back an 568
existing well that is required by that section ~~and an application~~ 569
~~for a well drilled or reopened for purposes of section 1509.22 of~~ 570
~~the Revised Code~~, also shall be accompanied by a nonrefundable fee 571
as follows: 572

(1) Five hundred dollars for a permit to conduct activities 573
in a township with a population of fewer than ten thousand; 574

(2) Seven hundred fifty dollars for a permit to conduct 575
activities in a township with a population of ten thousand or 576

more, but fewer than fifteen thousand; 577

(3) One thousand dollars for a permit to conduct activities 578
in either of the following: 579

(a) A township with a population of fifteen thousand or more; 580

(b) A municipal corporation regardless of population. 581

(4) If the application is for a permit that requires 582
mandatory pooling, an additional five thousand dollars. 583

For purposes of calculating fee amounts, populations shall be 584
determined using the most recent federal decennial census. 585

Each application for the revision or reissuance of a permit 586
shall be accompanied by a nonrefundable fee of two hundred fifty 587
dollars. 588

(H)(1) Prior to the commencement of well pad construction and 589
prior to the issuance of a permit to drill a proposed horizontal 590
well or a proposed well that is to be located in an urbanized 591
area, the division shall conduct a site review to identify and 592
evaluate any site-specific terms and conditions that may be 593
attached to the permit. At the site review, a representative of 594
the division shall consider fencing, screening, and landscaping 595
requirements, if any, for similar structures in the community in 596
which the well is proposed to be located. The terms and conditions 597
that are attached to the permit shall include the establishment of 598
fencing, screening, and landscaping requirements for the surface 599
facilities of the proposed well, including a tank battery of the 600
well. 601

(2) Prior to the issuance of a permit to drill a proposed 602
well, the division shall conduct a review to identify and evaluate 603
any site-specific terms and conditions that may be attached to the 604
permit if the proposed well will be located in a one-hundred-year 605
floodplain or within the five-year time of travel associated with 606

a public drinking water supply. 607

(I) A permit shall be issued by the chief in accordance with 608
this chapter. A permit issued under this section for a well that 609
is or is to be located in an urbanized area shall be valid for 610
twelve months, and all other permits issued under this section 611
shall be valid for twenty-four months. 612

(J) An applicant or a permittee, as applicable, shall submit 613
to the chief an update of the information that is required under 614
division (A)(8)(a) of this section if any of that information 615
changes prior to commencement of production operations. 616

(K) A permittee or a permittee's authorized representative 617
shall notify an inspector from the division at least twenty-four 618
hours, or another time period agreed to by the chief's authorized 619
representative, prior to the commencement of well pad construction 620
and of drilling, reopening, ~~converting~~, well stimulation, or 621
plugback operations. 622

Sec. 1509.08. Upon receipt of an application for a permit 623
required by section 1509.05 of the Revised Code, or upon receipt 624
of an application for a permit to plug and abandon under section 625
1509.13 of the Revised Code, the chief of the division of oil and 626
gas resources management shall determine whether the well is or is 627
to be located in a coal bearing township. 628

Whether or not the well is or is to be located in a coal 629
bearing township, the chief, by order, may refuse to issue a 630
permit required by section 1509.05 of the Revised Code to any 631
applicant who at the time of applying for the permit is in 632
material or substantial violation of this chapter or rules adopted 633
or orders issued under it. The chief shall refuse to issue a 634
permit to any applicant who at the time of applying for the permit 635
has been found liable by a final nonappealable order of a court of 636
competent jurisdiction for damage to streets, roads, highways, 637

bridges, culverts, or drainways pursuant to section 4513.34 or 638
5577.12 of the Revised Code until the applicant provides the chief 639
with evidence of compliance with the order. No applicant shall 640
attempt to circumvent this provision by applying for a permit 641
under a different name or business organization name, by 642
transferring responsibility to another person or entity, by 643
abandoning the well or lease, or by any other similar act. 644

If the well is not or is not to be located in a coal bearing 645
township, or if it is to be located in a coal bearing township, 646
but the landowner submits an affidavit attesting to ownership of 647
the property in fee simple, including the coal, and has no 648
objection to the well, the chief shall issue the permit. 649

If the application to drill, or reopen, ~~or convert~~ concerns a 650
well that is or is to be located in a coal bearing township, the 651
chief shall transmit to the chief of the division of mineral 652
resources management two copies of the application and three 653
copies of the map required in section 1509.06 of the Revised Code, 654
except that, when the affidavit with the waiver of objection 655
described above is submitted, the chief of the division of oil and 656
gas resources management shall not transmit the copies. 657

The chief of the division of mineral resources management 658
immediately shall notify the owner or lessee of any affected mine 659
that the application has been filed and send to the owner or 660
lessee two copies of the map accompanying the application setting 661
forth the location of the well. 662

If the owner or lessee objects to the location of the well or 663
objects to any location within fifty feet of the original location 664
as a possible site for relocation of the well, the owner or lessee 665
shall notify the chief of the division of mineral resources 666
management of the objection, giving the reasons for the objection 667
and, if applicable, indicating on a copy of the map the particular 668
location or locations within fifty feet of the original location 669

to which the owner or lessee objects as a site for possible 670
relocation of the well, within six days after the receipt of the 671
notice. If the chief receives no objections from the owner or 672
lessee of the mine within ten days after the receipt of the notice 673
by the owner or lessee, or if in the opinion of the chief the 674
objections offered by the owner or lessee are not sufficiently 675
well founded, the chief immediately shall notify the owner or 676
lessee of those findings. The owner or lessee may appeal the 677
decision of the chief to the reclamation commission under section 678
1513.13 of the Revised Code. The appeal shall be filed within 679
fifteen days, notwithstanding provisions in ~~divisions~~ division 680
(A)(1) of section 1513.13 of the Revised Code to the contrary, 681
from the date on which the owner or lessee receives the notice. If 682
the appeal is not filed within that time, the chief immediately 683
shall approve the application, retain a copy of the application 684
and map, and return a copy of the application to the chief of the 685
division of oil and gas resources management with the approval 686
noted on it. The chief of the division of oil and gas resources 687
management then shall issue the permit if the provisions of this 688
chapter pertaining to the issuance of such a permit have been 689
complied with. 690

If the chief of the division of mineral resources management 691
receives an objection from the owner or lessee of the mine as to 692
the location of the well within ten days after receipt of the 693
notice by the owner or lessee, and if in the opinion of the chief 694
the objection is well founded, the chief shall disapprove the 695
application and immediately return it to the chief of the division 696
of oil and gas resources management together with the reasons for 697
disapproval and a suggestion for a new location for the well, 698
provided that the suggested new location shall not be a location 699
within fifty feet of the original location to which the owner or 700
lessee has objected as a site for possible relocation of the well 701
if the chief of the division of mineral resources management has 702

determined that the objection is well founded. The chief of the 703
division of oil and gas resources management immediately shall 704
notify the applicant for the permit of the disapproval and any 705
suggestion made by the chief of the division of mineral resources 706
management as to a new location for the well. The applicant may 707
withdraw the application or amend the application to drill the 708
well at the location suggested by the chief, or the applicant may 709
appeal the disapproval of the application by the chief to the 710
reclamation commission. 711

If the chief of the division of mineral resources management 712
receives no objection from the owner or lessee of a mine as to the 713
location of the well, but does receive an objection from the owner 714
or lessee as to one or more locations within fifty feet of the 715
original location as possible sites for relocation of the well 716
within ten days after receipt of the notice by the owner or 717
lessee, and if in the opinion of the chief the objection is well 718
founded, the chief nevertheless shall approve the application and 719
shall return it immediately to the chief of the division of oil 720
and gas resources management together with the reasons for 721
disapproving any of the locations to which the owner or lessee 722
objects as possible sites for the relocation of the well. The 723
chief of the division of oil and gas resources management then 724
shall issue a permit if the provisions of this chapter pertaining 725
to the issuance of such a permit have been complied with, 726
incorporating as a term or condition of the permit that the 727
applicant is prohibited from commencing drilling at any location 728
within fifty feet of the original location that has been 729
disapproved by the chief of the division of mineral resources 730
management. The applicant may appeal to the reclamation commission 731
the terms and conditions of the permit prohibiting the 732
commencement of drilling at any such location disapproved by the 733
chief of the division of mineral resources management. 734

Any such appeal shall be filed within fifteen days, 735
notwithstanding provisions in division (A)(1) of section 1513.13 736
of the Revised Code to the contrary, from the date the applicant 737
receives notice of the disapproval of the application, any other 738
location within fifty feet of the original location, or terms or 739
conditions of the permit, or the owner or lessee receives notice 740
of the chief's decision. No approval or disapproval of an 741
application shall be delayed by the chief of the division of 742
mineral resources management for more than fifteen days from the 743
date of sending the notice of the application to the mine owner or 744
lessee as required by this section. 745

All appeals provided for in this section shall be treated as 746
expedited appeals. The reclamation commission shall hear any such 747
appeal in accordance with section 1513.13 of the Revised Code and 748
issue a decision within thirty days of the filing of the notice of 749
appeal. 750

The chief of the division of oil and gas resources management 751
shall not issue a permit to drill a new well or reopen a well that 752
is or is to be located within three hundred feet of any opening of 753
any mine used as a means of ingress, egress, or ventilation for 754
persons employed in the mine, nor within one hundred feet of any 755
building or inflammable structure connected with the mine and 756
actually used as a part of the operating equipment of the mine, 757
unless the chief of the division of mineral resources management 758
determines that life or property will not be endangered by 759
drilling and operating the well in that location. 760

The chief of the division of mineral resources management may 761
suspend the drilling or reopening of a well in a coal bearing 762
township after determining that the drilling or reopening 763
activities present an imminent and substantial threat to public 764
health or safety or to miners' health or safety and having been 765
unable to contact the chief of the division of oil and gas 766

resources management to request an order of suspension under 767
section 1509.06 of the Revised Code. Before issuing a suspension 768
order for that purpose, the chief of the division of mineral 769
resources management shall notify the owner in a manner that in 770
the chief's judgment would provide reasonable notification that 771
the chief intends to issue a suspension order. The chief may issue 772
such an order without prior notification if reasonable attempts to 773
notify the owner have failed, but in that event notification shall 774
be given as soon thereafter as practical. Within five calendar 775
days after the issuance of the order, the chief shall provide the 776
owner an opportunity to be heard and to present evidence that the 777
activities do not present an imminent and substantial threat to 778
public health or safety or to miners' health or safety. If, after 779
considering the evidence presented by the owner, the chief 780
determines that the activities do not present such a threat, the 781
chief shall revoke the suspension order. An owner may appeal a 782
suspension order issued by the chief of the division of mineral 783
resources management under this section to the reclamation 784
commission in accordance with section 1513.13 of the Revised Code 785
or may appeal the order directly to the court of common pleas of 786
the county in which the well is located. 787

Sec. 1509.21. ~~No~~ (A) Except as provided in division (B) of 788
this section, no person shall, without first having obtained a 789
permit from the chief of the division of oil and gas resources 790
management, conduct secondary or additional recovery operations, 791
including any underground injection of fluids or carbon dioxide 792
for the secondary or tertiary recovery of oil or natural gas or 793
for the storage of hydrocarbons that are liquid at standard 794
temperature or pressure, unless a rule of the chief expressly 795
authorizes such operations without a permit. The permit shall be 796
in addition to any permit required by section 1509.05 of the 797
Revised Code. Secondary or additional recovery operations shall be 798

conducted in accordance with rules and orders of the chief and any 799
terms or conditions of the permit authorizing such operations. In 800
addition, the chief may authorize tests to evaluate whether fluids 801
or carbon dioxide may be injected in a reservoir and to determine 802
the maximum allowable injection pressure. The tests shall be 803
conducted in accordance with methods prescribed in rules of the 804
chief or conditions of the permit. Rules adopted under this 805
section shall include provisions regarding applications for and 806
the issuance of permits; the terms and conditions of permits; 807
entry to conduct inspections and to examine records to ascertain 808
compliance with this section and rules, orders, and terms and 809
conditions of permits adopted or issued thereunder; the provision 810
and maintenance of information through monitoring, recordkeeping, 811
and reporting; and other provisions in furtherance of the goals of 812
this section and the Safe Drinking Water Act. To implement the 813
goals of the Safe Drinking Water Act, the chief shall not issue a 814
permit for the underground injection of fluids for the secondary 815
or tertiary recovery of oil or natural gas or for the storage of 816
hydrocarbons that are liquid at standard temperature and pressure, 817
unless the chief concludes that the applicant has demonstrated 818
that the injection will not result in the presence of any 819
contaminant in underground water that supplies or can be 820
reasonably expected to supply any public water system, such that 821
the presence of any such contaminant may result in the system's 822
not complying with any national primary drinking water regulation 823
or may otherwise adversely affect the health of persons. Rules, 824
orders, and terms or conditions of permits adopted or issued under 825
this section shall be construed to be no more stringent than 826
required for compliance with the Safe Drinking Water Act, unless 827
essential to ensure that underground sources of drinking water 828
will not be endangered. 829

(B) No person shall dispose of brine in association with a 830
method of enhanced recovery conducted pursuant to division (A) of 831

this section. 832

Sec. 1509.22. (A) ~~Except when acting in accordance with~~ 833
~~section 1509.226 of the Revised Code, no~~ (1) No person shall place 834
or cause to be placed brine in or on the land or in surface or 835
ground water. 836

(2) No person shall place or cause to be placed brine, 837
oil, natural gas, or other fluids associated with the exploration 838
or development of oil and gas resources in surface or ground water 839
or in or on the land in such quantities or in such manner as 840
actually causes or could reasonably be anticipated to cause either 841
of the following: 842

~~(1)(a)~~ (a) Water used for consumption by humans or domestic 843
animals to exceed the standards of the Safe Drinking Water Act; 844

~~(2)(b)~~ (b) Damage or injury to public health or safety or the 845
environment. 846

(3) Divisions (A)(1) and (2) of this section apply regardless 847
of whether brine, crude oil, natural gas, or other fluids 848
associated with the exploration or development of oil and gas 849
resources have been treated in a public water system or other 850
treatment system or process. 851

(B) No person shall store or dispose of brine in violation of 852
a plan approved under division (A) of section 1509.222 ~~or section~~ 853
~~1509.226 of the Revised Code, in violation of a resolution~~ 854
~~submitted under section 1509.226 of the Revised Code,~~ or in 855
violation of rules or orders applicable to those plans ~~or~~ 856
~~resolutions.~~ 857

(C) The chief of the division of oil and gas resources 858
management shall adopt rules and issue orders regarding storage 859
and disposal of brine and other waste substances; however, the 860
storage and disposal of brine and other waste substances and the 861

chief's rules relating to storage and disposal are subject to all 862
of the following standards: 863

(1) Brine from any well ~~except an exempt Mississippian well~~ 864
shall be disposed of only ~~by injection into an underground~~ 865
~~formation, including annular disposal if approved by rule of the~~ 866
~~chief, which injection shall be subject to division (D) of this~~ 867
~~section; by surface application in accordance with section~~ 868
~~1509.226 of the Revised Code; in association with a method of~~ 869
~~enhanced recovery as provided in section 1509.21 of the Revised~~ 870
~~Code; or by other methods approved by the chief for testing or~~ 871
implementing a new technology or method of disposal. Brine from 872
~~exempt Mississippian wells shall not be discharged directly into~~ 873
~~the waters of the state.~~ 874

(2) Muds, cuttings, and other waste substances shall not be 875
disposed of in violation of any rule. 876

(3) Pits or steel tanks shall be used as authorized by the 877
chief for containing brine and other waste substances resulting 878
from, obtained from, or produced in connection with drilling, well 879
stimulation, reworking, reconditioning, plugging back, or plugging 880
operations. The pits and steel tanks shall be constructed and 881
maintained to prevent the escape of brine and other waste 882
substances. 883

(4) A dike or pit may be used for spill prevention and 884
control. A dike or pit so used shall be constructed and maintained 885
to prevent the escape of brine and crude oil, and the reservoir 886
within such a dike or pit shall be kept reasonably free of brine, 887
crude oil, and other waste substances. 888

(5) Earthen impoundments constructed pursuant to the 889
division's specifications may be used for the temporary storage of 890
fluids used in the stimulation of a well. 891

(6) No pit, earthen impoundment, or dike shall be used for 892

the temporary storage of brine or other substances except in 893
accordance with divisions (C)(3) to (5) of this section. 894

(7) No pit or dike shall be used for the ultimate disposal of 895
brine or other liquid waste substances. 896

(D)(1) ~~No Except as provided in division (D)(2) of this 897
section, no person, without first having obtained a permit from 898
the chief, shall inject brine or other waste substances resulting 899
from, obtained from, or produced in connection with oil or gas 900
drilling, exploration, or production into an underground formation 901
~~unless a rule of the chief expressly authorizes the injection~~ 902
~~without a permit. The permit shall be in addition to any permit~~ 903
~~required by section 1509.05 of the Revised Code, and the permit~~ 904
~~application shall be accompanied by a permit fee of one thousand~~ 905
~~dollars. The chief shall adopt rules in accordance with Chapter~~ 906
~~119. of the Revised Code regarding the injection into wells of~~ 907
~~brine and other waste substances resulting from, obtained from, or~~ 908
~~produced in connection with oil or gas drilling, exploration, or~~ 909
~~production. The rules shall include provisions regarding all of~~ 910
~~the following:~~ 911~~

~~(a) Applications for and issuance of the permits required by 912
this division:~~ 913

~~(b) Entry to conduct inspections and to examine and copy 914
records to ascertain compliance with this division and rules, 915
orders, and terms and conditions of permits adopted or issued 916
under it:~~ 917

~~(c) The provision and maintenance of information through 918
monitoring, recordkeeping, and reporting. In addition, the rules 919
shall require the owner of an injection well who has been issued a 920
permit under division (D) of this section to quarterly submit 921
electronically to the chief information concerning each shipment 922
of brine or other waste substances received by the owner for 923~~

~~injection into the well.~~ 924

~~(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;~~ 925
926
927
928
929

~~(e) Any other provisions in furtherance of the goals of this section and the Safe Drinking Water Act.~~ 930
931

(2) The chief may adopt rules in accordance with Chapter 119. 932
of the Revised Code authorizing tests to evaluate whether fluids 933
other than brine or carbon dioxide may be injected in a reservoir 934
and to determine the maximum allowable injection pressure, which 935
shall be conducted in accordance with methods prescribed in the 936
rules or in accordance with conditions of ~~the~~ a permit issued by 937
the chief for that purpose. In addition, the chief may adopt rules 938
that do both of the following: 939

(a) Establish the total depth of a well for which a permit 940
has been applied for or issued under this division; 941

(b) Establish requirements and procedures to protect public 942
health and safety. 943

~~(3) To implement the goals of the Safe Drinking Water Act~~ 944
Except as provided in division (D)(2) of this section, the chief 945
shall not issue a permit for the injection of brine or other waste 946
substances resulting from, obtained from, or produced in 947
connection with oil or gas drilling, exploration, or production 948
~~unless the chief concludes that the applicant has demonstrated~~ 949
~~that the injection will not result in the presence of any~~ 950
~~contaminant in ground water that supplies or can reasonably be~~ 951
~~expected to supply any public water system, such that the presence~~ 952
~~of the contaminant may result in the system's not complying with~~ 953
~~any national primary drinking water regulation or may otherwise~~ 954

~~adversely affect the health of persons.~~ 955

(4) The chief may issue an order to the owner of a well in 956
existence on ~~the effective date of this amendment~~ September 10, 957
2012, to make changes in the operation of the well in order to 958
correct problems or to address safety concerns. 959

~~(5) This division and rules, orders, and terms and conditions 960
of permits adopted or issued under it shall be construed to be no 961
more stringent than required for compliance with the Safe Drinking 962
Water Act unless essential to ensure that underground sources of 963
drinking water will not be endangered.~~ 964

(E) The owner holding a permit, or an assignee or transferee 965
who has assumed the obligations and liabilities imposed by this 966
chapter and any rules adopted or orders issued under it pursuant 967
to section 1509.31 of the Revised Code, and the operator of a well 968
shall be liable for a violation of this section or any rules 969
adopted or orders or terms or conditions of a permit issued under 970
it. 971

(F) An owner shall replace the water supply of the holder of 972
an interest in real property who obtains all or part of the 973
holder's supply of water for domestic, agricultural, industrial, 974
or other legitimate use from an underground or surface source 975
where the supply has been substantially disrupted by 976
contamination, diminution, or interruption proximately resulting 977
from the owner's oil or gas operation, or the owner may elect to 978
compensate the holder of the interest in real property for the 979
difference between the fair market value of the interest before 980
the damage occurred to the water supply and the fair market value 981
after the damage occurred if the cost of replacing the water 982
supply exceeds this difference in fair market values. However, 983
during the pendency of any order issued under this division, the 984
owner shall obtain for the holder or shall reimburse the holder 985
for the reasonable cost of obtaining a water supply from the time 986

of the contamination, diminution, or interruption by the operation 987
until the owner has complied with an order of the chief for 988
compliance with this division or such an order has been revoked or 989
otherwise becomes not effective. If the owner elects to pay the 990
difference in fair market values, but the owner and the holder 991
have not agreed on the difference within thirty days after the 992
chief issues an order for compliance with this division, within 993
ten days after the expiration of that thirty-day period, the owner 994
and the chief each shall appoint an appraiser to determine the 995
difference in fair market values, except that the holder of the 996
interest in real property may elect to appoint and compensate the 997
holder's own appraiser, in which case the chief shall not appoint 998
an appraiser. The two appraisers appointed shall appoint a third 999
appraiser, and within thirty days after the appointment of the 1000
third appraiser, the three appraisers shall hold a hearing to 1001
determine the difference in fair market values. Within ten days 1002
after the hearing, the appraisers shall make their determination 1003
by majority vote and issue their final determination of the 1004
difference in fair market values. The chief shall accept a 1005
determination of the difference in fair market values made by 1006
agreement of the owner and holder or by appraisers under this 1007
division and shall make and dissolve orders accordingly. This 1008
division does not affect in any way the right of any person to 1009
enforce or protect, under applicable law, the person's interest in 1010
water resources affected by an oil or gas operation. 1011

(G) In any action brought by the state for a violation of 1012
division (A) of this section involving any well at which annular 1013
disposal is used, there shall be a rebuttable presumption 1014
available to the state that the annular disposal caused the 1015
violation if the well is located within a one-quarter-mile radius 1016
of the site of the violation. 1017

~~(H)(1) There is levied on the owner of an injection well who 1018~~

has been issued a permit under division (D) of this section the 1019
following fees: 1020

~~(a) Five cents per barrel of each substance that is delivered 1021
to a well to be injected in the well when the substance is 1022
produced within the division of oil and gas resources management 1023
regulatory district in which the well is located or within an 1024
adjoining oil and gas resources management regulatory district; 1025~~

~~(b) Twenty cents per barrel of each substance that is 1026
delivered to a well to be injected in the well when the substance 1027
is not produced within the division of oil and gas resources 1028
management regulatory district in which the well is located or 1029
within an adjoining oil and gas resources management regulatory 1030
district. 1031~~

~~(2) The maximum number of barrels of substance per injection 1032
well in a calendar year on which a fee may be levied under 1033
division (H) of this section is five hundred thousand. If in a 1034
calendar year the owner of an injection well receives more than 1035
five hundred thousand barrels of substance to be injected in the 1036
owner's well and if the owner receives at least one substance that 1037
is produced within the division's regulatory district in which the 1038
well is located or within an adjoining regulatory district and at 1039
least one substance that is not produced within the division's 1040
regulatory district in which the well is located or within an 1041
adjoining regulatory district, the fee shall be calculated first 1042
on all of the barrels of substance that are not produced within 1043
the division's regulatory district in which the well is located or 1044
within an adjoining district at the rate established in division 1045
(H)(2) of this section. The fee then shall be calculated on the 1046
barrels of substance that are produced within the division's 1047
regulatory district in which the well is located or within an 1048
adjoining district at the rate established in division (H)(1) of 1049
this section until the maximum number of barrels established in 1050~~

~~division (H)(2) of this section has been attained.~~ 1051

~~(3) The owner of an injection well who is issued a permit 1052
under division (D) of this section shall collect the fee levied by 1053
division (H) of this section on behalf of the division of oil and 1054
gas resources management and forward the fee to the division. The 1055
chief shall transmit all money received under division (H) of this 1056
section to the treasurer of state who shall deposit the money in 1057
the state treasury to the credit of the oil and gas well fund 1058
created in section 1509.02 of the Revised Code. The owner of an 1059
injection well who collects the fee levied by this division may 1060
retain up to three per cent of the amount that is collected. 1061~~

~~(4) The chief shall adopt rules in accordance with Chapter 1062
119. of the Revised Code establishing requirements and procedures 1063
for collection of the fee levied by division (H) of this section. 1064~~

Sec. 1509.222. ~~(A)(1) Except as provided in section 1509.226 1065
of the Revised Code, no No person shall transport brine by vehicle 1066
in this state unless the business entity that employs the person 1067
first registers with and obtains a registration certificate and 1068
identification number from the chief of the division of oil and 1069
gas resources management. 1070~~

(2) No more than one registration certificate shall be 1071
required of any business entity. Registration certificates issued 1072
under this section are not transferable. An applicant shall file 1073
an application with the chief, containing such information in such 1074
form as the chief prescribes. The application shall include at 1075
least all of the following: 1076

(a) A list that identifies each vehicle, vessel, railcar, and 1077
container that will be used in the transportation of brine; 1078

(b) A plan for disposal that provides for compliance with the 1079
requirements of this chapter and rules of the chief pertaining to 1080

the transportation of brine by vehicle and the disposal of brine 1081
so transported and that lists all disposal sites that the 1082
applicant intends to use; 1083

(c) The bond required by section 1509.225 of the Revised 1084
Code; 1085

(d) A certificate issued by an insurance company authorized 1086
to do business in this state certifying that the applicant has in 1087
force a liability insurance policy in an amount not less than 1088
three hundred thousand dollars bodily injury coverage and three 1089
hundred thousand dollars property damage coverage to pay damages 1090
for injury to persons or property caused by the collecting, 1091
handling, transportation, or disposal of brine. 1092

The insurance policy required by division (A)(2)(d) of this 1093
section shall be maintained in effect during the term of the 1094
registration certificate. The policy or policies providing the 1095
coverage shall require the insurance company to give notice to the 1096
chief if the policy or policies lapse for any reason. Upon such 1097
termination of the policy, the chief may suspend the registration 1098
certificate until proper insurance coverage is obtained. 1099

(3) Each application for a registration certificate shall be 1100
accompanied by a nonrefundable fee of five hundred dollars. 1101

(4) If a business entity that has been issued a registration 1102
certificate under this section changes its name due to a business 1103
reorganization or merger, the business entity shall revise the 1104
bond or certificates of deposit required by section 1509.225 of 1105
the Revised Code and obtain a new certificate from an insurance 1106
company in accordance with division (A)(2)(e) of this section to 1107
reflect the change in the name of the business entity. 1108

(B) The chief shall issue an order denying an application for 1109
a registration certificate if the chief finds that either of the 1110
following applies: 1111

(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 responsibility to another person or entity, or by any similar act.

(D) A registered transporter shall apply to revise a disposal plan under procedures that the chief shall prescribe by rule. However, at a minimum, an application for a revision shall list all sources and disposal sites of brine currently transported. The chief shall deny any application for a revision of a plan under this division if the chief finds that the proposed revised plan 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. Approvals and denials of revisions shall be by order of the chief.

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

Sec. 1509.223. (A) No permit holder or owner of a well shall

enter into an agreement with or permit any person to transport 1143
brine produced from the well who is not registered pursuant to 1144
section 1509.222 of the Revised Code ~~or exempt from registration~~ 1145
~~under section 1509.226 of the Revised Code.~~ 1146

(B) Each registered transporter shall file with the chief of 1147
the division of oil and gas resources management, on or before the 1148
fifteenth day of April, a statement concerning brine transported, 1149
including quantities transported and source and delivery points, 1150
during the last preceding calendar year, and such other 1151
information in such form as the chief may prescribe. 1152

(C) Each registered transporter shall keep on each vehicle 1153
used to transport brine a daily log and have it available upon the 1154
request of the chief or an authorized representative of the chief 1155
or a peace officer. The log shall, at a minimum, include all of 1156
the following information: 1157

(1) The name of the owner or owners of the well or wells 1158
producing the brine to be transported; 1159

(2) The date and time the brine is loaded; 1160

(3) The name of the driver; 1161

(4) The amount of brine loaded at each collection point; 1162

(5) The disposal location; 1163

(6) The date and time the brine is disposed of and the amount 1164
of brine disposed of at each location. 1165

The chief, by rule, may establish procedures for the 1166
electronic submission to the chief of the information that is 1167
required to be included in the daily log. No registered 1168
transporter shall falsify or fail to keep or submit the log 1169
required by this division. 1170

(D) Each registered transporter shall legibly identify with 1171
reflective paints all vehicles employed in transporting or 1172

disposing of brine. Letters shall be no less than four inches in 1173
height and shall indicate the identification number issued by the 1174
chief, the word "brine," and the name and telephone number of the 1175
transporter. 1176

(E) The chief shall maintain and keep a current list of 1177
persons registered to transport brine under section 1509.222 of 1178
the Revised Code. The list shall be open to public inspection. It 1179
is an affirmative defense to a charge under division (A) of this 1180
section that at the time the permit holder or owner of a well 1181
entered into an agreement with or permitted a person to transport 1182
brine, the person was shown on the list as currently registered to 1183
transport brine. 1184

Sec. 1509.224. (A) In addition to any other remedies provided 1185
in this chapter, if the chief of the division of oil and gas 1186
resources management has reason to believe that a pattern of the 1187
same or similar violations of any requirements of section 1509.22, 1188
1509.222, or 1509.223 of the Revised Code, or any rule adopted 1189
thereunder or term or condition of the registration certificate 1190
issued thereunder exists or has existed, and the violations are 1191
caused by the transporter's indifference, lack of diligence, or 1192
lack of reasonable care, or are willfully caused by the 1193
transporter, the chief shall immediately issue an order to the 1194
transporter to show cause why the certificate should not be 1195
suspended or revoked. After the issuance of the order, the chief 1196
shall provide the transporter an opportunity to be heard and to 1197
present evidence at an informal hearing conducted by the chief. 1198
If, at the conclusion of the hearing, the chief finds that such a 1199
pattern of violations exists or has existed, the chief shall issue 1200
an order suspending or revoking the transporter's registration 1201
certificate. An order suspending or revoking a certificate under 1202
this section may be appealed under sections 1509.36 and 1509.37 of 1203
the Revised Code, or notwithstanding any other provision of this 1204

chapter, may be appealed directly to the court of common pleas of Franklin county.

(B) Before issuing an order denying a registration certificate; approving or denying approval of an application for revision of a registered transporter's plan for disposal; or to implement, administer, or enforce section 1509.22, 1509.222, 1509.223, or 1509.225, ~~or 1509.226~~ of the Revised Code and rules and terms and conditions of registration certificates adopted or issued thereunder pertaining to the transportation of brine by vehicle and the disposal of brine so transported, the chief shall issue a preliminary order indicating the chief's intent to issue a final order. The preliminary order shall clearly state the nature of the chief's proposed action and the findings on which it is based and shall state that the preliminary order becomes a final order thirty days after its issuance unless the person to whom the preliminary order is directed submits to the chief a written request for an informal hearing before the chief within that thirty-day period. At the hearing the person may present evidence as to why the preliminary order should be revoked or modified. Based upon the findings from the informal hearing, the chief shall revoke, issue, or modify and issue the preliminary order as a final order. A final order may be appealed under sections 1509.36 and 1509.37 of the Revised Code.

Section 2. That existing sections 1509.01, 1509.02, 1509.03, 1509.05, 1509.06, 1509.08, 1509.21, 1509.22, 1509.222, 1509.223, and 1509.224 and section 1509.226 of the Revised Code are hereby repealed.