

As Introduced

131st General Assembly

Regular Session

2015-2016

H. B. No. 422

Representatives O'Brien, S., Patterson

Cosponsor: Representative O'Brien, M.

A BILL

To amend sections 317.08, 1509.02, 1509.021, 1509.22, 1509.222, 1509.223, 1509.33, and 1509.99, to enact sections 1509.023, 1509.228, 1509.229, and 5301.091, and to repeal section 1509.227 of the Revised Code to require recording and notification of assignments of leases for real property for the placing of an injection well, to revise the procedures and requirements governing the application for and issuance of a permit for a well to inject brine and other waste substances from oil and gas operations, to establish an additional fee on the injection of those substances, to require a person conducting brine or other waste substances operations prior to January 1, 2014, to obtain a permit or order to do so, to establish requirements governing ground water monitoring related to that injection, and to make other revisions in the Oil and Gas Law.

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

Section 1. That sections 317.08, 1509.02, 1509.021, 20
1509.22, 1509.222, 1509.223, 1509.33, and 1509.99 be amended and 21
sections 1509.023, 1509.228, 1509.229, and 5301.091 of the 22
Revised Code be enacted to read as follows: 23

Sec. 317.08. (A) The county recorder shall record all 24
instruments in one general record series to be known as the 25
"official records." The county recorder shall record in the 26
official records all of the following instruments that are 27
presented for recording, upon payment of the fees prescribed by 28
law: 29

(1) Deeds and other instruments of writing for the 30
absolute and unconditional sale or conveyance of lands, 31
tenements, and hereditaments; 32

(2) Notices as provided in sections 5301.47 to 5301.56 of 33
the Revised Code; 34

(3) Judgments or decrees in actions brought under section 35
5303.01 of the Revised Code; 36

(4) Declarations and bylaws, and all amendments to 37
declarations and bylaws, as provided in Chapter 5311. of the 38
Revised Code; 39

(5) Affidavits as provided in sections 5301.252 and 40
5301.56 of the Revised Code; 41

(6) Certificates as provided in section 5311.17 of the 42
Revised Code; 43

(7) Articles dedicating archaeological preserves accepted 44
by the director of the Ohio history connection under section 45
149.52 of the Revised Code; 46

(8) Articles dedicating nature preserves accepted by the 47

director of natural resources under section 1517.05 of the Revised Code;	48 49
(9) Conveyances of conservation easements and agricultural easements under section 5301.68 of the Revised Code;	50 51
(10) Instruments extinguishing agricultural easements under section 901.21 or 5301.691 of the Revised Code or pursuant to the terms of such an easement granted to a charitable organization under section 5301.68 of the Revised Code;	52 53 54 55
(11) Instruments or orders described in division (B) (2) (b) of section 5301.56 of the Revised Code;	56 57
(12) No further action letters issued under section 122.654 or 3746.11 of the Revised Code;	58 59
(13) Covenants not to sue issued under section 3746.12 of the Revised Code, including all covenants not to sue issued pursuant to section 122.654 of the Revised Code;	60 61 62
(14) Restrictions on the use of property contained in a no further action letter issued under section 122.654 of the Revised Code, restrictions on the use of property identified pursuant to division (C) (3) (a) of section 3746.10 of the Revised Code, and restrictions on the use of property contained in a deed or other instrument as provided in division (E) or (F) of section 3737.882 of the Revised Code;	63 64 65 66 67 68 69
(15) Any easement executed or granted under section 3734.22, 3734.24, 3734.25, or 3734.26 of the Revised Code;	70 71
(16) Any environmental covenant entered into in accordance with sections 5301.80 to 5301.92 of the Revised Code;	72 73
(17) Memoranda of trust, as described in division (A) of section 5301.255 of the Revised Code, that describe specific	74 75

real property;	76
(18) Agreements entered into under section 1506.44 of the Revised Code;	77 78
(19) Mortgages, including amendments, supplements, modifications, and extensions of mortgages, or other instruments of writing by which lands, tenements, or hereditaments are or may be mortgaged or otherwise conditionally sold, conveyed, affected, or encumbered;	79 80 81 82 83
(20) Executory installment contracts for the sale of land executed after September 29, 1961, that by their terms are not required to be fully performed by one or more of the parties to them within one year of the date of the contracts;	84 85 86 87
(21) Options to purchase real estate, including supplements, modifications, and amendments of the options, but no option of that nature shall be recorded if it does not state a specific day and year of expiration of its validity;	88 89 90 91
(22) Any tax certificate sold under section 5721.33 of the Revised Code, or memorandum of it, that is presented for filing of record;	92 93 94
(23) Powers of attorney, including all memoranda of trust, as described in division (A) of section 5301.255 of the Revised Code, that do not describe specific real property;	95 96 97
(24) Plats and maps of town lots, of the subdivision of town lots, and of other divisions or surveys of lands, any center line survey of a highway located within the county, the plat of which shall be furnished by the director of transportation or county engineer, and all drawings and amendments to drawings, as provided in Chapter 5311. of the Revised Code;	98 99 100 101 102 103 104

(25) Leases, memoranda of leases, and supplements,	105
modifications, and amendments of leases and memoranda of leases,	106
including a lease described in section 5301.09 of the Revised	107
Code;	108
(26) Declarations executed pursuant to section 2133.02 of	109
the Revised Code and durable powers of attorney for health care	110
executed pursuant to section 1337.12 of the Revised Code;	111
(27) Unemployment compensation liens, internal revenue tax	112
liens, and other liens in favor of the United States as	113
described in division (A) of section 317.09 of the Revised Code,	114
personal tax liens, mechanic's liens, agricultural product	115
liens, notices of liens, certificates of satisfaction or partial	116
release of estate tax liens, discharges of recognizances, excise	117
and franchise tax liens on corporations, broker's liens, and	118
liens provided for in section 1513.33, 1513.37, 3752.13,	119
4141.23, 5111.022, or 5311.18 of the Revised Code; and	120
(28) Corrupt activity lien notices filed pursuant to	121
section 2923.36 of the Revised Code and medicaid fraud lien	122
notices filed pursuant to section 2933.75 of the Revised Code;	123
<u>(29) Leases and assignments of leases of real property for</u>	124
<u>the purpose of placing a well for which a permit or order is</u>	125
<u>required by section 1509.22 of the Revised Code and rules</u>	126
<u>adopted under it.</u>	127
(B) All instruments or memoranda of instruments entitled	128
to record shall be recorded in the order in which they are	129
presented for recording.	130
The recording of an option to purchase real estate,	131
including any supplement, modification, and amendment of the	132
option, under this section shall serve as notice to any	133

purchaser of an interest in the real estate covered by the 134
option only during the period of the validity of the option as 135
stated in the option. 136

(C) In addition to the official records, a county recorder 137
may elect to keep a separate set of records that contain the 138
instruments listed in division (A) (24) of this section. 139

(D) As part of the official records, the county recorder 140
shall keep a separate set of records containing all transfers, 141
conveyances, or assignments of any type of tangible or 142
intangible personal property or any rights or interests in that 143
property if and to the extent that any person wishes to record 144
that personal property transaction and if the applicable 145
instrument is acknowledged before a notary public. If the 146
transferor is a natural person, the notice of personal property 147
transfer shall be recorded in the county in this state in which 148
the transferor maintains the transferor's principal residence. 149
If the transferor is not a natural person, the notice of 150
personal property transfer shall be recorded in the county in 151
this state in which the transferor maintains its principal place 152
of business. If the transferor does not maintain a principal 153
residence or a principal place of business in this state and the 154
transfer is to a trustee of a legacy trust formed pursuant to 155
Chapter 5816. of the Revised Code, the notice of personal 156
property transfer shall be recorded in the county in this state 157
where that trustee maintains a principal residence or principal 158
place of business. In all other instances, the notice of 159
personal property transfer shall be recorded in the county in 160
this state where the property described in the notice is 161
located. 162

Sec. 1509.02. There is hereby created in the department of 163

natural resources the division of oil and gas resources 164
management, which shall be administered by the chief of the 165
division of oil and gas resources management. The division has 166
sole and exclusive authority to regulate the permitting, 167
location, and spacing of oil and gas wells and production 168
operations within the state, excepting only those activities 169
regulated under federal laws for which oversight has been 170
delegated to the environmental protection agency and activities 171
regulated under sections 6111.02 to 6111.028 of the Revised 172
Code. The regulation of oil and gas activities is a matter of 173
general statewide interest that requires uniform statewide 174
regulation, and this chapter and rules adopted under it 175
constitute a comprehensive plan with respect to all aspects of 176
the locating, drilling, well stimulation, completing, and 177
operating of oil and gas wells within this state, including site 178
construction and restoration, permitting related to those 179
activities, and the disposal of wastes from those wells. In 180
order to assist the division in the furtherance of its sole and 181
exclusive authority as established in this section, the chief 182
may enter into cooperative agreements with other state agencies 183
for advice and consultation, including visitations at the 184
surface location of a well on behalf of the division. Such 185
cooperative agreements do not confer on other state agencies any 186
authority to administer or enforce this chapter and rules 187
adopted under it. In addition, such cooperative agreements shall 188
not be construed to dilute or diminish the division's sole and 189
exclusive authority as established in this section. Nothing in 190
this section affects the authority granted to the director of 191
transportation and local authorities in section 723.01 or 192
4513.34 of the Revised Code, provided that the authority granted 193
under those sections shall not be exercised in a manner that 194
discriminates against, unfairly impedes, or obstructs oil and 195

gas activities and operations regulated under this chapter.	196
The chief shall not hold any other public office, nor	197
shall the chief be engaged in any occupation or business that	198
might interfere with or be inconsistent with the duties as	199
chief.	200
All moneys collected by the chief pursuant to <u>divisions</u>	201
<u>(C), (D), and (I) (1) and (2) of section 1509.22 and sections</u>	202
1509.06, 1509.061, 1509.062, 1509.071, 1509.13, 1509.22,	203
1509.222, 1509.28, 1509.34, and 1509.50 of the Revised Code,	204
ninety per cent of moneys received by the treasurer of state	205
from the tax levied in divisions (A) (5) and (6) of section	206
5749.02 of the Revised Code, all civil penalties paid under	207
section 1509.33 of the Revised Code, and, notwithstanding any	208
section of the Revised Code relating to the distribution or	209
crediting of fines for violations of the Revised Code, all fines	210
imposed under divisions (A) and (B) of section 1509.99 of the	211
Revised Code and fines imposed under divisions (C) and (D) of	212
section 1509.99 of the Revised Code for all violations	213
prosecuted by the attorney general and for violations prosecuted	214
by prosecuting attorneys that do not involve the transportation	215
of brine by vehicle shall be deposited into the state treasury	216
to the credit of the oil and gas well fund, which is hereby	217
created. Fines imposed under divisions (C) and (D) of section	218
1509.99 of the Revised Code for violations prosecuted by	219
prosecuting attorneys that involve the transportation of brine	220
by vehicle and penalties associated with a compliance agreement	221
entered into pursuant to this chapter shall be paid to the	222
county treasury of the county where the violation occurred.	223
The fund shall be used solely and exclusively for the	224
purposes enumerated in division (B) of section 1509.071 of the	225

Revised Code, for the expenses of the division associated with 226
the administration of this chapter and Chapter 1571. of the 227
Revised Code and rules adopted under them, including conducting 228
ground water monitoring as provided in division (A) of section 229
1509.229 of the Revised Code, and for expenses that are critical 230
and necessary for the protection of human health and safety and 231
the environment related to oil and gas production in this state. 232
The expenses of the division in excess of the moneys available 233
in the fund shall be paid from general revenue fund 234
appropriations to the department. 235

Sec. 1509.021. ~~On~~ Except as otherwise provided in section 236
1509.023 of the Revised Code, on and after June 30, 2010, all of 237
the following apply: 238

(A) The surface location of a new well or a tank battery 239
of a well shall not be within one hundred fifty feet of an 240
occupied dwelling that is located in an urbanized area unless 241
the owner of the land on which the occupied dwelling is located 242
consents in writing to the surface location of the well or tank 243
battery of a well less than one hundred fifty feet from the 244
occupied dwelling and the chief of the division of oil and gas 245
resources management approves the written consent of that owner. 246
However, the chief shall not approve the written consent of such 247
an owner when the surface location of a new well or a tank 248
battery of a well will be within one hundred feet of an occupied 249
dwelling that is located in an urbanized area. 250

(B) The surface location of a new well shall not be within 251
one hundred fifty feet from the property line of a parcel of 252
land that is not in the drilling unit of the well if the parcel 253
of land is located in an urbanized area and directional drilling 254
will be used to drill the new well unless the owner of the 255

parcel of land consents in writing to the surface location of 256
the well less than one hundred fifty feet from the property line 257
of the parcel of land and the chief approves the written consent 258
of that owner. However, the chief shall not approve the written 259
consent of such an owner when the surface location of a new well 260
will be less than one hundred feet from the property line of the 261
owner's parcel of land that is not in the drilling unit of the 262
well if the parcel of land is located in an urbanized area and 263
directional drilling will be used. 264

(C) The surface location of a new well shall not be within 265
two hundred feet of an occupied dwelling that is located in an 266
urbanized area and that is located on land that has become part 267
of the drilling unit of the well pursuant to a mandatory pooling 268
order issued under section 1509.27 of the Revised Code unless 269
the owner of the land on which the occupied dwelling is located 270
consents in writing to the surface location of the well at a 271
distance that is less than two hundred feet from the occupied 272
dwelling. However, if the owner of the land on which the 273
occupied dwelling is located provides such written consent, the 274
surface location of the well shall not be within one hundred 275
feet of the occupied dwelling. 276

If an applicant cannot identify an owner of land or if an 277
owner of land is not responsive to attempts by the applicant to 278
contact the owner, the applicant may submit an affidavit to the 279
chief attesting to such an unidentifiable owner or to such 280
unresponsiveness of an owner and attempts by the applicant to 281
contact the owner and include a written request to reduce the 282
distance of the location of the well from the occupied dwelling 283
to less than two hundred feet. If the chief receives such an 284
affidavit and written request, the chief shall reduce the 285
distance of the location of the well from the occupied dwelling 286

to a distance of not less than one hundred feet. 287

(D) Except as otherwise provided in division (L) of this 288
section, the surface location of a new well shall not be within 289
one hundred fifty feet of the property line of a parcel of land 290
that is located in an urbanized area and that has become part of 291
the drilling unit of the well pursuant to a mandatory pooling 292
order issued under section 1509.27 of the Revised Code unless 293
the owner of the land consents in writing to the surface 294
location of the well at a distance that is less than one hundred 295
fifty feet from the owner's property line. However, if the owner 296
of the land provides such written consent, the surface location 297
of the well shall not be within seventy-five feet of the 298
property line of the owner's parcel of land. 299

If an applicant cannot identify an owner of land or if an 300
owner of land is not responsive to attempts by the applicant to 301
contact the owner, the applicant may submit an affidavit to the 302
chief attesting to such an unidentifiable owner or to such 303
unresponsiveness of an owner and attempts by the applicant to 304
contact the owner and include a written request to reduce the 305
distance of the location of the well from the property line of 306
the owner's parcel of land to less than one hundred fifty feet. 307
If the chief receives such an affidavit and written request, the 308
chief shall reduce the distance of the location of the well from 309
the property line to a distance of not less than seventy-five 310
feet. 311

(E) The surface location of a new tank battery of a well 312
shall not be within one hundred fifty feet of an occupied 313
dwelling that is located in an urbanized area and that is 314
located on land that has become part of the drilling unit of the 315
well pursuant to a mandatory pooling order issued under section 316

1509.27 of the Revised Code unless the owner of the land on 317
which the occupied dwelling is located consents in writing to 318
the location of the tank battery at a distance that is less than 319
one hundred fifty feet from the occupied dwelling. However, if 320
the owner of the land on which the occupied dwelling is located 321
provides such written consent, the location of the tank battery 322
shall not be within one hundred feet of the occupied dwelling. 323

If an applicant cannot identify an owner of land or if an 324
owner of land is not responsive to attempts by the applicant to 325
contact the owner, the applicant may submit an affidavit to the 326
chief attesting to such an unidentifiable owner or to such 327
unresponsiveness of an owner and attempts by the applicant to 328
contact the owner and include a written request to reduce the 329
distance of the location of the tank battery from the occupied 330
dwelling to less than one hundred fifty feet. If the chief 331
receives such an affidavit and written request, the chief shall 332
reduce the distance of the location of the tank battery from the 333
occupied dwelling to a distance of not less than one hundred 334
feet. 335

(F) Except as otherwise provided in division (L) of this 336
section, the location of a new tank battery of a well shall not 337
be within seventy-five feet of the property line of a parcel of 338
land that is located in an urbanized area and that has become 339
part of the drilling unit of the well pursuant to a mandatory 340
pooling order issued under section 1509.27 of the Revised Code 341
unless the owner of the land consents in writing to the location 342
of the tank battery at a distance that is less than seventy-five 343
feet from the owner's property line. However, if the owner of 344
the land provides such written consent, the location of the tank 345
battery shall not be within the property line of the owner's 346
parcel of land. 347

If an applicant cannot identify an owner of land or if an owner of land is not responsive to attempts by the applicant to contact the owner, the applicant may submit an affidavit to the chief attesting to such an unidentifiable owner or to such unresponsiveness of an owner and attempts by the applicant to contact the owner and include a written request to reduce the distance of the location of the tank battery from the property line of the owner's parcel of land to less than seventy-five feet. If the chief receives such an affidavit and written request, the chief shall reduce the distance of the location of the tank battery from the property line, provided that the tank battery shall not be within the property line of the owner's parcel of land.

(G) For purposes of divisions (C) to (F) of this section, written consent of an owner of land may be provided by any of the following:

(1) A copy of an original lease agreement as recorded in the office of the county recorder of the county in which the occupied dwelling or property is located that expressly provides for the reduction of the distance of the location of a well or a tank battery, as applicable, from an occupied dwelling or a property line;

(2) A copy of a deed severing the oil or gas mineral rights, as applicable, from the owner's parcel of land as recorded in the office of the county recorder of the county in which the property is located that expressly provides for the reduction of the distance of the location of a well or a tank battery, as applicable, from an occupied dwelling or a property line;

(3) A written statement that consents to the proposed

location of a well or a tank battery, as applicable, and that is 378
approved by the chief. For purposes of division (G) (3) of this 379
section, an applicant shall submit a copy of a written statement 380
to the chief. 381

(H) For areas that are not urbanized areas, the surface 382
location of a new well shall not be within one hundred feet of 383
an occupied private dwelling or of a public building that may be 384
used as a place of assembly, education, entertainment, lodging, 385
trade, manufacture, repair, storage, or occupancy by the public. 386
This division does not apply to a building or other structure 387
that is incidental to agricultural use of the land on which the 388
building or other structure is located unless the building or 389
other structure is used as an occupied private dwelling or for 390
retail trade. 391

(I) The surface location of a new well shall not be within 392
one hundred feet of any other well. However, an applicant may 393
submit a written statement to request the chief to authorize a 394
new well to be located at a distance that is less than one 395
hundred feet from another well. If the chief receives such a 396
written statement, the chief may authorize a new well to be 397
located within one hundred feet of another well if the chief 398
determines that the applicant satisfactorily has demonstrated 399
that the location of the new well at a distance that is less 400
than one hundred feet from another well is necessary to reduce 401
impacts to the owner of the land on which the well is to be 402
located or to the surface of the land on which the well is to be 403
located. 404

(J) For areas that are not urbanized areas, the location 405
of a new tank battery of a well shall not be within one hundred 406
feet of an existing inhabited structure. 407

(K) The location of a new tank battery of a well shall not be within fifty feet of any other well. 408
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(L) The location of a new well or a new tank battery of a well shall not be within fifty feet of a stream, river, watercourse, water well, pond, lake, or other body of water. 410
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However, the chief may authorize a new well or a new tank battery of a well to be located at a distance that is less than fifty feet from a stream, river, watercourse, water well, pond, lake, or other body of water if the chief determines that the reduction in the distance is necessary to reduce impacts to the owner of the land on which the well or tank battery of a well is to be located or to protect public safety or the environment. 413
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(M) The surface location of a new well or a new tank battery of a well shall not be within fifty feet of a railroad track or of the traveled portion of a public street, road, or highway. This division applies regardless of whether the public street, road, or highway has become part of the drilling unit of the well pursuant to a mandatory pooling order issued under section 1509.27 of the Revised Code. 420
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(N) A new oil tank shall not be within three feet of another oil tank. 427
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(O) The surface location of a mechanical separator shall not be within any of the following: 429
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(1) Fifty feet of a well; 431

(2) Ten feet of an oil tank; 432

(3) One hundred feet of an existing inhabited structure. 433

(P) A vessel that is equipped in such a manner that the contents of the vessel may be heated shall not be within any of 434
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the following: 436

(1) Fifty feet of an oil production tank; 437

(2) Fifty feet of a well; 438

(3) One hundred feet of an existing inhabited structure; 439

(4) If the contents of the vessel are heated by a direct 440
fire heater, fifty feet of a mechanical separator. 441

Sec. 1509.023. On and after the effective date of this 442
section, all of the following apply to injection wells for which 443
a permit or order is issued under section 1509.22 of the Revised 444
Code and rules adopted under it: 445

(A) The surface location of a new injection well shall not 446
be within two thousand feet of an occupied dwelling that is 447
located in an urbanized area unless the owner of the land on 448
which the occupied dwelling is located consents in writing to 449
the surface location of the injection well less than two 450
thousand feet from the occupied dwelling and the chief of the 451
division of oil and gas resources management approves the 452
written consent of that owner. However, the chief shall not 453
approve the written consent of such an owner when the surface 454
location of a new injection well will be within one thousand 455
five hundred feet of an occupied dwelling that is located in an 456
urbanized area. 457

(B) For purposes of division (A) of this section, written 458
consent of an owner of land may be provided by a written 459
statement that consents to the proposed location of a well and 460
that is approved by the chief. For purposes of this division, an 461
applicant shall submit a copy of a written statement to the 462
chief. 463

(C) For areas that are not urbanized areas, the surface 464
location of a new injection well shall not be within two 465
thousand feet of an occupied private dwelling or of a public 466
building that may be used as a place of assembly, education, 467
entertainment, lodging, trade, manufacture, repair, storage, or 468
occupancy by the public. This division does not apply to a 469
building or other structure that is incidental to agricultural 470
use of the land on which the building or other structure is 471
located unless the building or other structure is used as an 472
occupied private dwelling or for retail trade. 473

(D) The location of a new injection well shall not be 474
within two thousand feet of a stream, river, watercourse, water 475
well, pond, lake, or other body of water. However, the chief may 476
authorize a new well to be located at a distance that is less 477
than two thousand feet from a stream, river, watercourse, water 478
well, pond, lake, or other body of water if the chief determines 479
that the reduction in the distance is necessary to reduce 480
impacts to the owner of the land on which the well is to be 481
located or to protect public safety or the environment. 482

(E) The surface location of a new injection well shall not 483
be within two thousand feet of a railroad track or of the 484
traveled portion of a public street, road, or highway. 485

Sec. 1509.22. (A) Except when acting in accordance with 486
section 1509.226 of the Revised Code, no person shall place or 487
cause to be placed in ground water or in or on the land or 488
discharge or cause to be discharged in surface water brine, 489
crude oil, natural gas, or other fluids associated with the 490
exploration, development, well stimulation, production 491
operations, or plugging of oil and gas resources that causes or 492
could reasonably be anticipated to cause damage or injury to 493

public health or safety or the environment. 494

(B) (1) No person shall store or dispose of brine in 495
violation of a plan approved under division (A) of section 496
1509.222 or section 1509.226 of the Revised Code, in violation 497
of a resolution submitted under section 1509.226 of the Revised 498
Code, or in violation of rules or orders applicable to those 499
plans or resolutions. 500

(2) (a) On and after January 1, 2014, no person shall 501
store, recycle, treat, process, or dispose of in this state 502
brine or other waste substances associated with the exploration, 503
development, well stimulation, production operations, or 504
plugging of oil and gas resources without an order or a permit 505
issued under this section or section 1509.06 or 1509.21 of the 506
Revised Code or rules adopted under any of those sections. For 507
purposes of division (B) (2) (a) of this section, a permit or 508
other form of authorization issued by another agency of the 509
state or a political subdivision of the state shall not be 510
considered a permit or order issued by the chief of the division 511
of oil and gas resources management under this chapter. 512

(b) Division (B) (2) (a) of this section does not apply to a 513
person that disposes of such waste substances other than brine 514
in accordance with Chapter 3734. of the Revised Code and rules 515
adopted under it. 516

(C) The chief shall adopt rules regarding storage, 517
recycling, treatment, processing, and disposal of brine and 518
other waste substances. The rules shall establish procedures and 519
requirements in accordance with which a person shall apply for a 520
permit or order for the storage, recycling, treatment, 521
processing, or disposal of brine and other waste substances that 522
are not subject to a permit issued under section 1509.06 or 523

1509.21 of the Revised Code and in accordance with which the 524
chief may issue such a permit or order. An application for such 525
a permit shall be accompanied by a nonrefundable fee of two 526
thousand five hundred dollars. 527

The storage, recycling, treatment, processing, and 528
disposal of brine and other waste substances and the chief's 529
rules relating to storage, recycling, treatment, processing, and 530
disposal are subject to all of the following standards: 531

(1) Brine from any well except an exempt Mississippian 532
well shall be disposed of only as follows: 533

(a) By injection into an underground formation, including 534
annular disposal if approved by rule of the chief, which 535
injection shall be subject to division (D) of this section; 536

(b) By surface application in accordance with section 537
1509.226 of the Revised Code; 538

(c) In association with a method of enhanced recovery as 539
provided in section 1509.21 of the Revised Code; 540

(d) In any other manner not specified in divisions (C) (1) 541
(a) to (c) of this section that is approved by a permit or order 542
issued by the chief. 543

(2) Brine from exempt Mississippian wells shall not be 544
discharged directly into the waters of the state. 545

(3) Muds, cuttings, and other waste substances shall not 546
be disposed of in violation of this chapter or any rule adopted 547
under it. 548

(4) Pits or steel tanks shall be used as authorized by the 549
chief for containing brine and other waste substances resulting 550
from, obtained from, or produced in connection with drilling, 551

well stimulation, reworking, reconditioning, plugging back, or 552
plugging operations. The pits and steel tanks shall be 553
constructed and maintained to prevent the escape of brine and 554
other waste substances. 555

(5) A dike or pit may be used for spill prevention and 556
control. A dike or pit so used shall be constructed and 557
maintained to prevent the escape of brine and crude oil, and the 558
reservoir within such a dike or pit shall be kept reasonably 559
free of brine, crude oil, and other waste substances. 560

(6) Impoundments constructed utilizing a synthetic liner 561
pursuant to the division's specifications may be used for the 562
temporary storage of waste substances used in the construction, 563
stimulation, or plugging of a well. 564

(7) No pit or dike shall be used for the temporary storage 565
of brine or other waste substances except in accordance with 566
divisions (C) (4) and (5) of this section. 567

(8) No pit or dike shall be used for the ultimate disposal 568
of brine or other liquid waste substances. 569

(D) (1) No person, without first having obtained a permit 570
from the chief, shall inject brine or other waste substances 571
resulting from, obtained from, or produced in connection with 572
oil or gas drilling, exploration, or production into an 573
underground formation unless a rule of the chief expressly 574
authorizes the injection without a permit. The permit shall be 575
in addition to any permit required by section 1509.05 of the 576
Revised Code, and the permit application shall be accompanied by 577
a permit fee of one thousand dollars. The chief shall adopt 578
rules in accordance with Chapter 119. of the Revised Code 579
regarding the injection into wells of brine and other waste 580

substances resulting from, obtained from, or produced in 581
connection with oil or gas drilling, exploration, or production. 582
The rules shall include provisions regarding all of the 583
following: 584

(a) Applications for and issuance of the permits required 585
by this division, including a requirement that an applicant 586
submit to the chief and to each local emergency responder having 587
jurisdiction in the area in which the well is proposed to be 588
located a general description of the contents of the brine or 589
other waste substances intended to be injected into the well 590
specifying the chemical components and types of waste 591
substances; 592

(b) Entry to conduct inspections and to examine and copy 593
records to ascertain compliance with this division and rules, 594
orders, and terms and conditions of permits adopted or issued 595
under it; 596

(c) The provision and maintenance of information through 597
monitoring, recordkeeping, and reporting. In addition, the rules 598
shall require the owner of an injection well who has been issued 599
a permit under division (D) of this section to quarterly submit 600
electronically to the chief information concerning each shipment 601
of brine or other waste substances received by the owner for 602
injection into the well. 603

(d) The provision and electronic reporting quarterly of 604
information concerning brine and other waste substances from a 605
transporter that is registered under section 1509.222 of the 606
Revised Code prior to the injection of the transported brine or 607
other waste substances; 608

(e) A requirement that a person issued a permit under 609

division (D) of this section add a stable benign chemical tracer 610
into the well in an amount and at a frequency determined by the 611
chief for purposes of determining whether brine and other waste 612
substances injected into the well have migrated and if an impact 613
to ground water has occurred as a result of the operation of the 614
well; 615

(f) A requirement that a person issued a permit under 616
division (D) of this section install a continuous real-time 617
pressure measurement and monitoring device to monitor the 618
pressure and quantity of brine and other waste substances 619
injected into the well; 620

(g) Any A requirement that an applicant for a permit under 621
division (D) of this section conduct seismic testing and submit 622
the results of the testing with the application for the permit 623
to the chief, as prescribed by the chief; 624

(h) Any other provisions in furtherance of the goals of 625
this section and the Safe Drinking Water Act. 626

(2) The chief may adopt rules in accordance with Chapter 627
119. of the Revised Code authorizing tests to evaluate whether 628
fluids or carbon dioxide may be injected in a reservoir and to 629
determine the maximum allowable injection pressure, which shall 630
be conducted in accordance with methods prescribed in the rules 631
or in accordance with conditions of the permit. In addition, the 632
chief may adopt rules that do both of the following: 633

(a) Establish the total depth of a well for which a permit 634
has been applied for or issued under this division; 635

(b) Establish requirements and procedures to protect 636
public health and safety. 637

~~(3) To~~ (a) After the chief determines that an application 638

for a permit is complete, the chief shall post on the division 639
of oil and gas resources management's web site a notification 640
that contains information regarding the application, including 641
the time, date, and location of the hearing required by division 642
(D) (3) (b) of this section. In addition, the chief shall provide 643
a notice that includes the information required by division (D) 644
(3) (b) of this section to all of the following, as applicable: 645

(i) The board of county commissioners of the county in 646
which the proposed injection well is to be located; 647

(ii) The legislative authority of the municipal 648
corporation or the board of township trustees of the township in 649
which the proposed well is to be located; 650

(iii) Each private water company that has a well or a 651
reservoir that is located within a two-mile radius of the 652
proposed location of the well; 653

(iv) The board of directors of each conservancy district 654
established under Chapter 6101. of the Revised Code with 655
jurisdiction in the area in which the well is proposed to be 656
located, if applicable; 657

(v) Each planning commission with jurisdiction in the area 658
in which the well is proposed to be located; 659

(vi) Each state and federal legislator in whose 660
legislative district the well is proposed to be located. 661

An individual or entity that received a notice under 662
division (D) (3) (a) of this section may submit to the chief 663
written comments concerning the application with respect to the 664
effects of the operation of the proposed injection well on the 665
environment that is within the individual's or entity's area of 666
responsibility. The written comments shall be submitted to the 667

chief not later than thirty days after the individual's or 668
entity's receipt of the notice. If the chief receives such 669
written comments concerning an application, the chief 670
immediately shall transmit a copy of the comments to the 671
applicant and post a copy of them on the division's web site. 672

(b) The chief shall hold a public hearing in the township 673
or municipal corporation, as applicable, in which the proposed 674
injection well is to be located on the application for a permit 675
submitted under this section. The meeting shall be held not 676
later than sixty days after the applicant's fourth publication 677
in a newspaper that is required by division (D) (3) (c) of this 678
section. 679

(c) Beginning in the week following the week of receipt of 680
the information provided by the chief under division (D) (3) (a) 681
of this section, the applicant shall publish a notice, at least 682
once a week for four consecutive weeks, in a newspaper of 683
general circulation in the county in which the proposed 684
injection well is to be located and, if available, in any local 685
weekly news publication that serves the township or municipal 686
corporation in which the proposed well is to be located. The 687
font for the notice shall be of a reasonable size. In addition, 688
the notice shall contain all of the following information: 689

(i) The name of the applicant; 690

(ii) A statement that the applicant intends to drill an 691
injection well; 692

(iii) A description of the location at which the proposed 693
well will be drilled; 694

(iv) The permit application number; 695

(v) The time, date, and location of the public hearing 696

that the chief will hold under division (D) (3) (b) of this 697
section; 698

(vi) The location where a copy of the permit application 699
may be inspected. 700

(d) Any person may submit a written comment or objection 701
to the chief with respect to an application submitted under 702
division (D) (1) of this section. A comment or objection shall be 703
submitted not later than ninety days after the date of the first 704
publication of the notice by the applicant under division (D) (3) 705
(c) of this section unless the chief grants an extension. 706

(4) To implement the goals of the Safe Drinking Water Act, 707
the chief shall not issue a permit for the injection of brine or 708
other waste substances resulting from, obtained from, or 709
produced in connection with oil or gas drilling, exploration, or 710
production unless the chief concludes that the applicant has 711
demonstrated that the injection will not result in the presence 712
of any contaminant in ground water that supplies or can 713
reasonably be expected to supply any public water system, such 714
that the presence of the contaminant may result in the system's 715
not complying with any national primary drinking water 716
regulation or may otherwise adversely affect the health of 717
persons. 718

~~(4)~~(5) The chief may issue an order to the owner of a 719
well in existence on September 10, 2012, to make changes in the 720
operation of the well in order to correct problems or to address 721
safety concerns. 722

~~(5)~~(6) This division and rules, orders, and terms and 723
conditions of permits adopted or issued under it shall be 724
construed to be no more stringent than required for compliance 725

with the Safe Drinking Water Act unless essential to ensure that 726
underground sources of drinking water will not be endangered. 727

(E) The owner-chief shall not issue a permit for the 728
injection of brine or other waste substances resulting from, 729
obtained from, or produced in connection with oil or gas 730
drilling, exploration, or production if any of the following 731
applies: 732

(1) The proposed depth of the well is below Precambrian 733
stratigraphy. 734

(2) The proposed location of the well is in a one-hundred- 735
year floodplain as defined in section 1521.01 of the Revised 736
Code. 737

(3) The proposed location of the well is within twenty 738
kilometers of a known fault line. 739

(F) The owner holding a permit, or an assignee or 740
transferee who has assumed the obligations and liabilities 741
imposed by this chapter and any rules adopted or orders issued 742
under it pursuant to section 1509.31 of the Revised Code, and 743
the operator of a well shall be liable for a violation of this 744
section or any rules adopted or orders or terms or conditions of 745
a permit issued under it. 746

~~(F)~~ (G) An owner shall replace the water supply of the 747
holder of an interest in real property who obtains all or part 748
of the holder's supply of water for domestic, agricultural, 749
industrial, or other legitimate use from an underground or 750
surface source where the supply has been substantially disrupted 751
by contamination, diminution, or interruption proximately 752
resulting from the owner's oil or gas operation, or the owner 753
may elect to compensate the holder of the interest in real 754

property for the difference between the fair market value of the 755
interest before the damage occurred to the water supply and the 756
fair market value after the damage occurred if the cost of 757
replacing the water supply exceeds this difference in fair 758
market values. However, during the pendency of any order issued 759
under this division, the owner shall obtain for the holder or 760
shall reimburse the holder for the reasonable cost of obtaining 761
a water supply from the time of the contamination, diminution, 762
or interruption by the operation until the owner has complied 763
with an order of the chief for compliance with this division or 764
such an order has been revoked or otherwise becomes not 765
effective. If the owner elects to pay the difference in fair 766
market values, but the owner and the holder have not agreed on 767
the difference within thirty days after the chief issues an 768
order for compliance with this division, within ten days after 769
the expiration of that thirty-day period, the owner and the 770
chief each shall appoint an appraiser to determine the 771
difference in fair market values, except that the holder of the 772
interest in real property may elect to appoint and compensate 773
the holder's own appraiser, in which case the chief shall not 774
appoint an appraiser. The two appraisers appointed shall appoint 775
a third appraiser, and within thirty days after the appointment 776
of the third appraiser, the three appraisers shall hold a 777
hearing to determine the difference in fair market values. 778
Within ten days after the hearing, the appraisers shall make 779
their determination by majority vote and issue their final 780
determination of the difference in fair market values. The chief 781
shall accept a determination of the difference in fair market 782
values made by agreement of the owner and holder or by 783
appraisers under this division and shall make and dissolve 784
orders accordingly. This division does not affect in any way the 785
right of any person to enforce or protect, under applicable law, 786

the person's interest in water resources affected by an oil or 787
gas operation. 788

~~(G)~~ (H) In any action brought by the state for a violation 789
of division (A) of this section involving any well at which 790
annular disposal is used, there shall be a rebuttable 791
presumption available to the state that the annular disposal 792
caused the violation if the well is located within a one- 793
quarter-mile radius of the site of the violation. 794

~~(H)~~ (I) (1) There is levied on the owner of an injection 795
well who has been issued a permit under division (D) of this 796
section the following fees: 797

(a) Five cents per barrel of each substance that is 798
delivered to a well to be injected in the well when the 799
substance is produced within the division of oil and gas 800
resources management regulatory district in which the well is 801
located or within an adjoining oil and gas resources management 802
regulatory district; 803

(b) Twenty cents per barrel of each substance that is 804
delivered to a well to be injected in the well when the 805
substance is not produced within the division of oil and gas 806
resources management regulatory district in which the well is 807
located or within an adjoining oil and gas resources management 808
regulatory district. 809

(2) ~~The maximum number of barrels of substance per~~ 810
~~injection well in a calendar year on which a fee may be levied~~ 811
~~under division (H) of this section is five hundred thousand. If~~ 812
~~in a calendar year the owner of an injection well receives more~~ 813
~~than five hundred thousand barrels of substance to be injected~~ 814
~~in the owner's well and if the owner receives at least one~~ 815

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

~~(3) There is levied on the owner of an injection well who has been issued a permit under division (D) of this section an additional fee of five cents per barrel of each substance that is delivered to the well to be injected in the well.~~

(3) The owner of an injection well who is issued a permit under division (D) of this section shall collect the ~~fee-fees~~ levied by division ~~(H)-(I)~~ of this section on behalf of the division of oil and gas resources management and forward the ~~fee-fees~~ to the division. The chief shall transmit all money received under division ~~(H)-(I)~~ (1) of this section to the treasurer of state who shall deposit the money in the state treasury to the credit of the oil and gas well fund created in section 1509.02 of the Revised Code. The chief shall transmit all money received under division (I) (2) of this section to the treasurer of state who shall deposit the money in the state treasury to the credit of the injection well ground water

monitoring fund created in section 1509.229 of the Revised Code. 847
The owner of an injection well who collects the ~~fee~~fees levied 848
by ~~this~~division (I) of this section may retain up to three per 849
cent of the amount that is collected. 850

(4) The chief shall adopt rules in accordance with Chapter 851
119. of the Revised Code establishing requirements and 852
procedures for collection of the ~~fee~~fees levied by division ~~(H)~~(I) 853
of this section. 854

(J) As used in this section: 855

(1) "Crust" means the outermost major layer of the earth, 856
which is from ten to sixty-five kilometers in thickness. 857

(2) "Fault line" means a fracture along which the blocks 858
of the earth's crust on either side have moved relative to one 859
another parallel to the fracture. 860

(3) "Local emergency responder" means either of the 861
following: 862

(a) A representative of a fire department as defined in 863
section 3750.01 of the Revised Code; 864

(b) The director or coordinator of a countywide emergency 865
management agency established under section 5502.26 of the 866
Revised Code. 867

Sec. 1509.222. (A) (1) Except as provided in section 868
1509.226 of the Revised Code, no person shall transport brine by 869
vehicle in this state unless the business entity that employs 870
the person first registers with and obtains a registration 871
certificate and identification number from the chief of the 872
division of oil and gas resources management. 873

(2) No more than one registration certificate shall be 874

required of any business entity. Registration certificates 875
issued under this section are not transferable. An applicant 876
shall file an application with the chief, containing such 877
information in such form as the chief prescribes. The 878
application shall include at least all of the following: 879

(a) A list that identifies each vehicle, vessel, railcar, 880
and container that will be used in the transportation of brine; 881

(b) A plan for disposal that provides for compliance with 882
the requirements of this chapter and rules of the chief 883
pertaining to the transportation of brine by vehicle and the 884
disposal of brine so transported and that lists all disposal 885
sites that the applicant intends to use; 886

(c) The bond required by section 1509.225 of the Revised 887
Code; 888

(d) A plan for road use and maintenance, as prescribed by 889
the chief, describing the roads the applicant intends to use and 890
the actions the applicant intends to take to maintain roads the 891
applicant intends to use; 892

~~(d)~~(e) A certificate issued by an insurance company 893
authorized to do business in this state certifying that the 894
applicant has in force a liability insurance policy in an amount 895
not less than three hundred thousand dollars bodily injury 896
coverage and three hundred thousand dollars property damage 897
coverage to pay damages for injury to persons or property caused 898
by the collecting, handling, transportation, or disposal of 899
brine. 900

The insurance policy required by division (A) (2) ~~(d)~~(e) of 901
this section shall be maintained in effect during the term of 902
the registration certificate. The policy or policies providing 903

the coverage shall require the insurance company to give notice 904
to the chief if the policy or policies lapse for any reason. 905
Upon such termination of the policy, the chief may suspend the 906
registration certificate until proper insurance coverage is 907
obtained. 908

(3) Each application for a registration certificate shall 909
be accompanied by a nonrefundable fee of five hundred dollars. 910

(4) If a business entity that has been issued a 911
registration certificate under this section changes its name due 912
to a business reorganization or merger, the business entity 913
shall revise the bond or certificates of deposit required by 914
section 1509.225 of the Revised Code and obtain a new 915
certificate from an insurance company in accordance with 916
division (A) (2) (e) of this section to reflect the change in the 917
name of the business entity. 918

(5) An applicant shall also submit a copy of the plan for 919
road use and maintenance required by division (A) (2) (d) of this 920
section to the county engineer of each applicable county. Upon 921
receipt, the county engineer may provide recommendations to the 922
chief regarding the road use and maintenance plan. The chief may 923
revise the road use and maintenance plan as recommended by the 924
county engineer. If the chief revises the road use and 925
maintenance plan, the chief shall provide the applicant a copy 926
of the revised plan. 927

(B) The chief shall issue an order denying an application 928
for a registration certificate if the chief finds that either of 929
the following applies: 930

(1) The applicant, at the time of applying for the 931
registration certificate, has been found liable by a final 932

nonappealable order of a court of competent jurisdiction for 933
damage to streets, roads, highways, bridges, culverts, or 934
drainways pursuant to section 4513.34 or 5577.12 of the Revised 935
Code until the applicant provides the chief with evidence of 936
compliance with the order. 937

(2) The applicant's plan for disposal does not provide for 938
compliance with the requirements of this chapter and rules of 939
the chief pertaining to the transportation of brine by vehicle 940
and the disposal of brine so transported. 941

(C) No applicant shall attempt to circumvent division (B) 942
of this section by applying for a registration certificate under 943
a different name or business organization name, by transferring 944
responsibility to another person or entity, or by any similar 945
act. 946

(D) A registered transporter shall apply to revise a 947
disposal plan under procedures that the chief shall prescribe by 948
rule. However, at a minimum, an application for a revision shall 949
list all sources and disposal sites of brine currently 950
transported. The chief shall deny any application for a revision 951
of a plan under this division if the chief finds that the 952
proposed revised plan does not provide for compliance with the 953
requirements of this chapter and rules of the chief pertaining 954
to the transportation of brine by vehicle and the disposal of 955
brine so transported. Approvals and denials of revisions shall 956
be by order of the chief. 957

(E) ~~The~~ (1) No registered transporter shall knowingly fail 958
to comply with a road use and maintenance plan submitted to the 959
chief and revised or updated by the chief, if applicable. 960

(2) A registered transporter may apply to the chief to 961

update a road use and maintenance plan submitted under division 962
(A) (2) (d) of this section. The chief shall approve, approve with 963
revisions, or disapprove the update and shall so notify the 964
registered transporter. If the chief approves an update with 965
revisions, the chief shall submit a copy of the revised updated 966
road use and maintenance plan to the registered transporter. 967

(F) chief may adopt rules, issue orders, and attach terms 968
and conditions to registration certificates as may be necessary 969
to administer, implement, and enforce sections 1509.222 to 970
1509.226 of the Revised Code for protection of public health or 971
safety or conservation of natural resources. 972

Sec. 1509.223. (A) No permit holder or owner of a well 973
shall enter into an agreement with or permit any person to 974
transport brine produced from the well who is not registered 975
pursuant to section 1509.222 of the Revised Code or exempt from 976
registration under section 1509.226 of the Revised Code. 977

(B) Each registered transporter shall file with the chief 978
of the division of oil and gas resources management, on or 979
before the fifteenth day of April, a statement concerning brine 980
transported, including quantities transported and source and 981
delivery points, during the last preceding calendar year, and 982
such other information in such form as the chief may prescribe. 983

(C) Each registered transporter shall keep on each vehicle 984
used to transport brine a daily log and have it available upon 985
the request of the chief or an authorized representative of the 986
chief or a peace officer. In addition, a registered transporter 987
shall submit the daily log electronically to the chief each day. 988
The log shall, at a minimum, include all of the following 989
information: 990

(1) The name of the owner or owners of the well or wells producing the brine to be transported;	991 992
(2) The date and time the brine is loaded;	993
(3) The name of the driver;	994
(4) The amount of brine loaded at each collection point;	995
(5) The disposal location;	996
(6) The date and time the brine is disposed of and the amount of brine disposed of at each location.	997 998
The chief, by rule, may establish procedures for the electronic submission to the chief of the information that is required to be included in the daily log. No registered transporter shall falsify or fail to keep or submit the log required by this division.	999 1000 1001 1002 1003
(D) Each registered transporter shall legibly identify with reflective paints all vehicles employed in transporting or disposing of brine. Letters shall be no less than four inches in height and shall indicate the identification number issued by the chief, the word "brine," and the name and telephone number of the transporter.	1004 1005 1006 1007 1008 1009
(E) <u>(1) Each registered transporter shall attach a telemetric sensor to all vehicles, vessels, railcars, and containers employed in transporting or disposing of brine.</u>	1010 1011 1012
<u>(2) Within thirty days of receiving a request from the chief, a registered transporter shall provide the chief with telemetric data for the time period requested by the chief and in the form required by the chief in rules adopted under division (F) of this section.</u>	1013 1014 1015 1016 1017

(3) No registered transporter shall fail to comply with 1018
division (E) (1) or (2) of this section. 1019

(F) The chief shall adopt rules in accordance with Chapter 1020
119. of the Revised Code establishing requirements and 1021
procedures governing the use of telemetric sensors required by 1022
division (E) of this section. 1023

(G) ~~The~~ (1) When a registered transporter arrives at a 1024
well for which a permit or order is required by section 1509.22 1025
of the Revised Code and rules adopted under it, the registered 1026
transporter shall provide written documentation to the owner of 1027
the injection well of how many gallons of brine and other waste 1028
substances the registered transporter is carrying. 1029

(2) The owner of an injection well shall submit a daily 1030
report electronically to the chief stating how many gallons of 1031
brine and other waste substances were received from each 1032
registered transporter that day. 1033

(3) The chief shall review the daily report submitted by 1034
the owner of an injection well under division (G) (2) of this 1035
section in conjunction with the daily log submitted by each 1036
registered transporter under division (C) of this section that 1037
transported brine and other waste substances to that well. If 1038
the chief discovers a pattern of discrepancy between the daily 1039
report and the daily log, the chief shall investigate whether 1040
the registered transporter has violated this chapter or rules 1041
adopted under it. 1042

(4) The chief shall adopt rules in accordance with Chapter 1043
119. of the Revised Code establishing all of the following: 1044

(a) Procedures and requirements governing the submission 1045
of daily reports under this division; 1046

(b) A definition of "pattern of discrepancy" for purposes 1047
of this division; 1048

(c) Any other procedures and requirements necessary to 1049
administer and enforce this division. 1050

(H) The chief shall maintain and keep a current list of 1051
persons registered to transport brine under section 1509.222 of 1052
the Revised Code. The list shall be open to public inspection. 1053
It is an affirmative defense to a charge under division (A) of 1054
this section that at the time the permit holder or owner of a 1055
well entered into an agreement with or permitted a person to 1056
transport brine, the person was shown on the list as currently 1057
registered to transport brine. 1058

Sec. 1509.228. (A) In addition to the requirements and 1059
procedures established in rules adopted under sections 1509.03 1060
and 1509.22 of the Revised Code, all of the following apply to 1061
an application for a permit to construct, convert to, or operate 1062
a brine injection well: 1063

(1) An application for a brine injection well shall be 1064
evaluated based on an area of review that is calculated as the 1065
area circumscribed by a circle with the center point at the 1066
location of the brine injection well and having a radius of one- 1067
half mile, except that, if the area circumscribed by a circle 1068
with the center point at the location of the brine injection 1069
well and having a radius of six miles includes land owned by a 1070
school district or a political subdivison, the area of review 1071
shall be calculated as the area circumscribed by a circle with 1072
the center point at the location of the brine injection well and 1073
having a radius of six miles. 1074

(2) Notification of an application for a permit for a 1075

brine injection well shall be sent to all political subdivisions 1076
and landowners within the area of review as calculated under 1077
division (A)(1) of this section and to the state representative 1078
and the state senator in whose legislative district the well is 1079
located or is proposed to be located. 1080

(3) A person who wishes to comment on or make an objection 1081
to an application for a permit to construct, convert to, or 1082
operate a brine injection well shall file such comments or 1083
objections in accordance with division (D)(3)(d) of section 1084
1509.22 of the Revised Code. 1085

(B) As used in this section, "political subdivision" has 1086
the same meaning as in section 9.23 of the Revised Code. 1087

Sec. 1509.229. (A) There is hereby created in the state 1088
treasury the injection well ground water monitoring fund 1089
consisting of money credited to it under division (I)(3) of 1090
section 1509.22 of the Revised Code. The chief of the division 1091
of oil and gas resources management shall administer the fund 1092
and shall use money credited to it solely to conduct ground 1093
water monitoring in accordance with rules adopted under division 1094
(B) of this section. If money in the fund is insufficient to pay 1095
the cost of the ground water monitoring, the chief may use money 1096
in the oil and gas well fund created by section 1509.02 of the 1097
Revised Code for that purpose. 1098

(B) Not later than ninety days after the effective date of 1099
this section, the chief shall adopt rules in accordance with 1100
Chapter 119. of the Revised Code establishing requirements for 1101
the installation of ground water monitoring wells and the 1102
monitoring of ground water quality and quantity prior to the 1103
commencement of drilling of a well for which a permit is issued 1104
under division (D) of section 1509.22 of the Revised Code and 1105

during the injection of brine or other waste substances into 1106
such a well. The rules shall require that ground water 1107
monitoring be capable of determining impacts resulting from the 1108
operation of the injection well. In addition, the rules shall 1109
establish requirements governing ground water assessment and 1110
corrective actions for impacts to ground water. Further, the 1111
rules shall require that the owner of an injection well submit 1112
to the chief a monitoring report that has been prepared by a 1113
qualified ground water scientist and that includes all of the 1114
following: 1115

(1) A determination of any impacts to ground water from 1116
the migration of contaminants from the injection well; 1117

(2) A list of the contaminants from the injection well 1118
that may be causing contamination of ground water; 1119

(3) Recommendations for actions, if any, that should be 1120
taken to investigate or remediate the source of any ground water 1121
contamination. 1122

Sec. 1509.33. (A) Whoever violates sections 1509.01 to 1123
1509.31 of the Revised Code, or any rules adopted or orders or 1124
terms or conditions of a permit or registration certificate 1125
issued pursuant to these sections for which no specific penalty 1126
is provided in this section, shall pay a civil penalty of not 1127
more than ten thousand dollars for each offense. 1128

(B) Whoever violates section 1509.221 of the Revised Code 1129
or any rules adopted or orders or terms or conditions of a 1130
permit issued thereunder shall pay a civil penalty of not more 1131
than ten thousand dollars for each violation. 1132

(C) Whoever violates division (D) of section 1509.22 or 1133
division (A)(1) of section 1509.222 of the Revised Code shall 1134

pay a civil penalty of not less than two thousand five hundred 1135
dollars nor more than twenty thousand dollars for each 1136
violation. 1137

(D) Whoever violates division (A) of section 1509.22 of 1138
the Revised Code shall pay a civil penalty of not less than two 1139
thousand five hundred dollars nor more than ten thousand dollars 1140
for each violation. 1141

(E) Whoever violates division (A) of section 1509.223 of 1142
the Revised Code shall pay a civil penalty of not more than ten 1143
thousand dollars for each violation. 1144

(F) Whoever violates section 1509.072 of the Revised Code 1145
or any rules adopted or orders issued to administer, implement, 1146
or enforce that section shall pay a civil penalty of not more 1147
than five thousand dollars for each violation. 1148

(G) In addition to any other penalties provided in this 1149
chapter, whoever violates section 1509.05, section 1509.21, 1150
division (B) of section 1509.22, or division (A)(1) of section 1151
1509.222 of the Revised Code or a term or condition of a permit 1152
or an order issued by the chief of the division of oil and gas 1153
resources management under this chapter or knowingly violates 1154
division (A) of section 1509.223 of the Revised Code is liable 1155
for any damage or injury caused by the violation and for the 1156
actual cost of rectifying the violation and conditions caused by 1157
the violation. If two or more persons knowingly violate one or 1158
more of those divisions in connection with the same event, 1159
activity, or transaction, they are jointly and severally liable 1160
under this division. 1161

(H) The attorney general, upon the request of the chief of 1162
the division of oil and gas resources management, shall commence 1163

an action under this section against any person who violates 1164
sections 1509.01 to 1509.31 of the Revised Code, or any rules 1165
adopted or orders or terms or conditions of a permit or 1166
registration certificate issued pursuant to these sections. Any 1167
action under this section is a civil action, governed by the 1168
Rules of Civil Procedure and other rules of practice and 1169
procedure applicable to civil actions. The remedy provided in 1170
this division is cumulative and concurrent with any other remedy 1171
provided in this chapter, and the existence or exercise of one 1172
remedy does not prevent the exercise of any other, except that 1173
no person shall be subject to both a civil penalty under 1174
division (A), (B), (C), or (D) of this section and a fine 1175
established in section 1509.99 of the Revised Code for the same 1176
offense. 1177

(I) For Except as provided in division (J) of this 1178
section, for purposes of this section, each day of violation 1179
constitutes a separate offense. 1180

(J) For purposes of a violation of division (B) of section 1181
1509.22, division (E)(1) of section 1509.222, or division (C) of 1182
section 1509.223 of the Revised Code, each occurrence of a 1183
violation constitutes a separate offense. 1184

Sec. 1509.99. (A) Whoever violates sections 1509.01 to 1185
1509.31 of the Revised Code or any rules adopted or orders or 1186
terms or conditions of a permit issued pursuant to these 1187
sections for which no specific penalty is provided in this 1188
section shall be fined not less than one hundred nor more than 1189
one thousand dollars for a first offense; for each subsequent 1190
offense the person shall be fined not less than two hundred nor 1191
more than two thousand dollars. 1192

(B) Whoever violates section 1509.221 of the Revised Code 1193

or any rules adopted or orders or terms or conditions of a 1194
permit issued thereunder shall be fined not more than five 1195
thousand dollars for each violation. 1196

(C) Whoever knowingly violates section 1509.072, division 1197
(A), (B), or (D) of section 1509.22, division (A) (1) or (C) of 1198
section 1509.222, or division (A) or (D) of section 1509.223 of 1199
the Revised Code or any rules adopted or orders issued under 1200
division (C) of section 1509.22 or rules adopted or orders or 1201
terms or conditions of a registration certificate issued under 1202
division ~~(E)~~ (F) of section 1509.222 of the Revised Code shall 1203
be fined ten thousand dollars or imprisoned for six months, or 1204
both for a first offense; for each subsequent offense the person 1205
shall be fined twenty thousand dollars or imprisoned for two 1206
years, or both. Whoever negligently violates those divisions, 1207
sections, rules, orders, or terms or conditions of a 1208
registration certificate shall be fined not more than five 1209
thousand dollars. 1210

(D) Whoever violates division (C) of section 1509.223 of 1211
the Revised Code shall be fined not more than five hundred 1212
dollars for a first offense and not more than one thousand 1213
dollars for a subsequent offense. 1214

(E) Whoever recklessly violates division (E) (3) of section 1215
1509.223 of the Revised Code shall be fined not less than one 1216
hundred nor more than one thousand dollars for a first offense; 1217
for each subsequent offense the person shall be fined not less 1218
than two hundred nor more than two thousand dollars. 1219

(F) The prosecuting attorney of the county in which the 1220
offense was committed or the attorney general may prosecute an 1221
action under this section. 1222

~~(F)~~ (G) For Except as provided in division (H) of this 1223
section, for purposes of this section, each day of violation 1224
constitutes a separate offense. 1225

(H) For purposes of a violation of division (A), (B), or 1226
(D) of section 1509.22, division (E)(1) of section 1509.222, or 1227
division (C) of section 1509.223 of the Revised Code, each 1228
occurrence of a violation constitutes a separate offense. 1229

Sec. 5301.091. (A) The assignment of a lease agreement for 1230
real property for the purpose of placing a well for which a 1231
permit or order is required by section 1509.22 of the Revised 1232
Code and rules adopted under it is void unless the lease 1233
agreement contains both of the following: 1234

(1) An express statement specifying whether the assignment 1235
is permissible under the lease agreement; 1236

(2) A provision requiring notification in accordance with 1237
division (B) of this section regardless of whether the lease 1238
agreement permits assignment. 1239

(B)(1) A person who leases real property for the purpose 1240
of placing a well for which a permit or order is required by 1241
section 1509.22 of the Revised Code and rules adopted under it 1242
shall notify the owner of the real property of an assignment of 1243
the lease not later than thirty days after assigning the lease 1244
to another person. 1245

(2) Thereafter, each person to whom such a lease is 1246
subsequently assigned shall so notify the owner of the real 1247
property not later than thirty days after assigning the lease to 1248
another person. 1249

(3) If a person fails to notify the owner of real property 1250
as required by this section, the assignment is void. 1251

(C) (1) The assignment of a lease of real property for the 1252
purpose of placing a well for which a permit or order is 1253
required by section 1509.22 of the Revised Code and rules 1254
adopted under it that is not recorded as required by section 1255
317.08 of the Revised Code is void unless the owner of the real 1256
property provides written consent to the nonrecording of the 1257
assignment. 1258

(2) A person who leases real property for the purpose of 1259
placing a well for which a permit or order is required by 1260
section 1509.22 of the Revised Code and rules adopted under it 1261
and who obtains written consent from the owner of the real 1262
property as provided in division (C) (1) of this section shall 1263
provide a copy of the written consent to the county recorder. 1264

Section 2. That existing sections 317.08, 1509.02, 1265
1509.021, 1509.22, 1509.222, 1509.223, 1509.33, and 1509.99 and 1266
section 1509.227 of the Revised Code are hereby repealed. 1267

Section 3. Section 317.08 of the Revised Code is presented 1268
in this act as a composite of the section as amended by Sub. 1269
H.B. 9 of the 130th General Assembly and Am. H.B. 141 of the 1270
131st General Assembly. The General Assembly, applying the 1271
principle stated in division (B) of section 1.52 of the Revised 1272
Code that amendments are to be harmonized if reasonably capable 1273
of simultaneous operation, finds that the composite is the 1274
resulting version of the section in effect prior to the 1275
effective date of the section as presented in this act. 1276