



Ohio Revised Code

Section 1509.22 Storage or disposal of brine, crude oil, natural gas, or other fluids.

Effective: September 29, 2013

Legislation: House Bill 59 - 130th General Assembly

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

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

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

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

(C) The chief shall adopt rules regarding storage, recycling, treatment, processing, and disposal of brine and other waste substances. The rules shall establish procedures and requirements in



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

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

- (1) Brine from any well except an exempt Mississippian well shall be disposed of only as follows:
 - (a) By injection into an underground formation, including annular disposal if approved by rule of the chief, which injection shall be subject to division (D) of this section;
 - (b) By surface application in accordance with section 1509.226 of the Revised Code;
 - (c) In association with a method of enhanced recovery as provided in section 1509.21 of the Revised Code;
 - (d) In any other manner not specified in divisions (C)(1)(a) to (c) of this section that is approved by a permit or order issued by the chief.
- (2) Brine from exempt Mississippian wells shall not be discharged directly into the waters of the state.
- (3) Muds, cuttings, and other waste substances shall not be disposed of in violation of this chapter or any rule adopted under it.
- (4) Pits or steel tanks shall be used as authorized by the chief for containing brine and other waste substances resulting from, obtained from, or produced in connection with drilling, well stimulation, reworking, reconditioning, plugging back, or plugging operations. The pits and steel tanks shall be constructed and maintained to prevent the escape of brine and other waste substances.



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

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

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

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

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

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

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

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



(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;

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

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

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

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

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

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

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



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

(F) An owner shall replace the water supply of the holder of an interest in real property who obtains all or part of the holder's supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where the supply has been substantially disrupted by contamination, diminution, or interruption proximately resulting from the owner's oil or gas operation, or the owner may elect to compensate the holder of the interest in real property for the difference between the fair market value of the interest before the damage occurred to the water supply and the fair market value after the damage occurred if the cost of replacing the water supply exceeds this difference in fair market values. However, during the pendency of any order issued under this division, the owner shall obtain for the holder or shall reimburse the holder for the reasonable cost of obtaining a water supply from the time of the contamination, diminution, or interruption by the operation until the owner has complied with an order of the chief for compliance with this division or such an order has been revoked or otherwise becomes not effective. If the owner elects to pay the difference in fair market values, but the owner and the holder have not agreed on the difference within thirty days after the chief issues an order for compliance with this division, within ten days after the expiration of that thirty-day period, the owner and the chief each shall appoint an appraiser to determine the difference in fair market values, except that the holder of the interest in real property may elect to appoint and compensate the holder's own appraiser, in which case the chief shall not appoint an appraiser. The two appraisers appointed shall appoint a third appraiser, and within thirty days after the appointment of the third appraiser, the three appraisers shall hold a hearing to determine the difference in fair market values. Within ten days after the hearing, the appraisers shall make their determination by majority vote and issue their final determination of the difference in fair market values. The chief shall accept a determination of the difference in fair market values made by agreement of the owner and holder or by appraisers under this division and shall make and dissolve orders accordingly. This division does not affect in any way the right of any person to enforce or protect, under applicable law, the person's interest in water resources affected by an oil or gas operation.



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

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

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

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

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



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

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