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Sub. H. B. No. 170

Representatives Robb Blasdel, Peterson

**Cosponsors: Representatives Abrams, Bird, Brennan, Fischer, Mathews, T.,
Plummer, Salvo, Sigrist, Thomas, D., Williams, Willis, Young**

**Senators Cirino, Craig, DeMora, Hicks-Hudson, Johnson, Landis, O'Brien, Patton,
Reineke, Schaffer, Smith, Timken, Wilkin**

To amend sections 1509.01, 1509.33, and 1509.99 and 1
to enact sections 1509.71, 1509.72, 1509.73, 2
1509.75, 1509.76, 1509.77, 1509.78, 1509.79, 3
5301.57, 5301.58, 5301.59, and 5301.60 of the 4
Revised Code to establish a process to regulate 5
carbon capture and storage technologies and the 6
geologic sequestration of carbon dioxide for 7
long-term storage. 8

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

Section 1. That sections 1509.01, 1509.33, and 1509.99 be 9
amended and sections 1509.71, 1509.72, 1509.73, 1509.75, 10
1509.76, 1509.77, 1509.78, 1509.79, 5301.57, 5301.58, 5301.59, 11
and 5301.60 of the Revised Code be 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 16
such, but including natural or artificial brines and oil field 17

waters. "Well" includes a carbon dioxide well, as defined in 18
section 1509.71 of the Revised Code, and a stratigraphic well. 19

(B) "Oil" means crude petroleum oil and all other 20
hydrocarbons, regardless of gravity, that are produced in liquid 21
form by ordinary production methods, but does not include 22
hydrocarbons that were originally in a gaseous phase in the 23
reservoir. 24

(C) "Gas" means all natural gas and all other fluid 25
hydrocarbons that are not oil, including condensate. 26

(D) "Condensate" means liquid hydrocarbons separated at or 27
near the well pad or along the gas production or gathering 28
system prior to gas processing. 29

(E) "Pool" means an underground reservoir containing a 30
common accumulation of oil or gas, or both, but does not include 31
a gas storage reservoir. Each zone of a geological structure 32
that is completely separated from any other zone in the same 33
structure may contain a separate pool. 34

(F) "Field" means the general area underlaid by one or 35
more pools. 36

(G) "Drilling unit" means the minimum acreage on which one 37
well may be drilled, but does not apply to a well for injecting 38
gas into or removing gas from a gas storage reservoir and does 39
not apply to a stratigraphic well. 40

(H) "Waste" includes all of the following: 41

(1) Physical waste, as that term generally is understood 42
in the oil and gas industry; 43

(2) Inefficient, excessive, or improper use, or the 44
unnecessary dissipation, of reservoir energy; 45

(3) Inefficient storing of oil or gas;	46
(4) Locating, drilling, equipping, operating, or producing an oil or gas well in a manner that reduces or tends to reduce the quantity of oil or gas ultimately recoverable under prudent and proper operations from the pool into which it is drilled or that causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas;	47 48 49 50 51 52
(5) Other underground or surface waste in the production or storage of oil, gas, or condensate, however caused.	53 54
(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.	55 56 57 58 59
(J) "Tract" means a single, individual parcel of land or a portion of a single, individual parcel of land.	60 61
(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.	62 63 64 65 66 67 68 69 70 71 72 73 74

(L) "Royalty interest" means the fee holder's share in the production from a well, except a stratigraphic well.	75 76
(M) "Discovery well" means the first well, except a stratigraphic well, capable of producing oil or gas in commercial quantities from a pool.	77 78 79
(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.	80 81 82 83 84
(O) "Rock sediment" means the combined cutting and residue from drilling sedimentary rocks and formation.	85 86
(P) "Excavations and workings," "mine," and "pillar" have the same meanings as in section 1561.01 of the Revised Code.	87 88
(Q) "Coal bearing township" means a township designated as such by the chief of the division of mineral resources management under section 1561.06 of the Revised Code.	89 90 91
(R) "Gas storage reservoir" means a continuous area of a subterranean porous sand or rock stratum or strata into which gas is or may be injected for the purpose of storing it therein and removing it therefrom and includes a gas storage reservoir as defined in section 1571.01 of the Revised Code.	92 93 94 95 96
(S) "Safe Drinking Water Act" means the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended by the "Safe Drinking Water Amendments of 1977," 91 Stat. 1393, 42 U.S.C.A. 300(f), the "Safe Drinking Water Act Amendments of 1986," 100 Stat. 642, 42 U.S.C.A. 300(f), and the "Safe Drinking Water Act Amendments of 1996," 110 Stat. 1613, 42 U.S.C.A. 300(f), and regulations adopted under those acts.	97 98 99 100 101 102 103

(T) "Person" includes any political subdivision, 104
department, agency, or instrumentality of this state; the United 105
States and any department, agency, or instrumentality thereof; 106
any legal entity defined as a person under section 1.59 of the 107
Revised Code; and any other form of business organization or 108
entity recognized by the laws of this state. 109

(U) "Brine" means all saline geological formation water 110
resulting from, obtained from, or produced in connection with 111
exploration, drilling, well stimulation, production of oil or 112
gas, or plugging of a well. 113

(V) "Waters of the state" means all streams, lakes, ponds, 114
marshes, watercourses, waterways, springs, irrigation systems, 115
drainage systems, and other bodies of water, surface or 116
underground, natural or artificial, that are situated wholly or 117
partially within this state or within its jurisdiction, except 118
those private waters that do not combine or effect a junction 119
with natural surface or underground waters. 120

(W) "Exempt Mississippian well" means a well that meets 121
all of the following criteria: 122

(1) Was drilled and completed before January 1, 1980; 123

(2) Is located in an unglaciated part of the state; 124

(3) Was completed in a reservoir no deeper than the 125
Mississippian Big Injun sandstone in areas underlain by 126
Pennsylvanian or Permian stratigraphy, or the Mississippian 127
Berea sandstone in areas directly underlain by Permian 128
stratigraphy; 129

(4) Is used primarily to provide oil or gas for domestic 130
use. 131

(X) "Exempt domestic well" means a well that meets all of	132
the following criteria:	133
(1) Is owned by the owner of the surface estate of the	134
tract on which the well is located;	135
(2) Is used primarily to provide gas for the owner's	136
domestic use;	137
(3) Is located more than two hundred feet horizontal	138
distance from any inhabited private dwelling house other than an	139
inhabited private dwelling house located on the tract on which	140
the well is located;	141
(4) Is located more than two hundred feet horizontal	142
distance from any public building that may be used as a place of	143
resort, assembly, education, entertainment, lodging, trade,	144
manufacture, repair, storage, traffic, or occupancy by the	145
public.	146
(Y) "Urbanized area" means an area where a well or	147
production facilities of a well are located within a municipal	148
corporation or within a township that has an unincorporated	149
population of more than five thousand in the most recent federal	150
decennial census prior to the issuance of the permit for the	151
well or production facilities.	152
(Z) "Well stimulation" or "stimulation of a well" means	153
the process of enhancing well productivity, including hydraulic	154
fracturing operations.	155
(AA) "Production operation" means all operations and	156
activities and all related equipment, facilities, and other	157
structures that may be used in or associated with the	158
exploration and production of oil, gas, or other mineral	159
resources that are regulated under this chapter, including	160

operations and activities associated with site preparation, site 161
construction, access road construction, well drilling, well 162
completion, well stimulation, well site activities, reclamation, 163
and plugging. "Production operation" also includes all of the 164
following: 165

(1) The piping, equipment, and facilities used for the 166
production and preparation of hydrocarbon gas or liquids for 167
transportation or delivery; 168

(2) The processes of extraction and recovery, lifting, 169
stabilization, treatment, separation, production processing, 170
storage, waste disposal, and measurement of hydrocarbon gas and 171
liquids, including related equipment and facilities; 172

(3) The processes and related equipment and facilities 173
associated with production compression, gas lift, gas injection, 174
fuel gas supply, well drilling, well stimulation, and well 175
completion activities, including dikes, pits, and earthen and 176
other impoundments used for the temporary storage of fluids and 177
waste substances associated with well drilling, well 178
stimulation, and well completion activities; 179

(4) Equipment and facilities at a ~~wellpad~~ well pad or 180
other location that are used for the transportation, handling, 181
recycling, temporary storage, management, processing, or 182
treatment of any equipment, material, and by-products or other 183
substances from an operation at a ~~wellpad~~ well pad that may be 184
used or reused at the same or another operation at a ~~wellpad~~ 185
well pad or that will be disposed of in accordance with 186
applicable laws and rules adopted under them. 187

(BB) "Annular overpressurization" means the accumulation 188
of fluids within an annulus with sufficient pressure to allow 189

migration of annular fluids into underground sources of drinking water.	190 191
(CC) "Orphaned well" means a well that has not been properly plugged or its land surface restored in accordance with this chapter and the rules adopted under it to which either of the following apply:	192 193 194 195
(1) The owner of the well is unknown, deceased, or cannot be located and the well is abandoned.	196 197
(2) The owner of the well has abandoned the well and there is no money available to plug the well in accordance with this chapter and the rules adopted under it.	198 199 200
(DD) "Temporarily inactive well" means a well that has been granted temporary inactive status under section 1509.062 of the Revised Code.	201 202 203
(EE) "Material and substantial violation" means any of the following:	204 205
(1) Failure to obtain a permit to drill, reopen, convert, plugback, or plug a well under this chapter;	206 207
(2) Failure to obtain, maintain, update, or submit proof of insurance coverage that is required under this chapter;	208 209
(3) Failure to obtain, maintain, update, or submit proof of a surety bond that is required under this chapter;	210 211
(4) Failure to restore a disturbed land surface as required by section 1509.072 of the Revised Code;	212 213
(5) Failure to reimburse the oil and gas well fund pursuant to a final order issued under section 1509.071 of the Revised Code;	214 215 216

(6) Failure to comply with a final nonappealable order of the chief issued under section 1509.04 of the Revised Code;	217 218
(7) Failure to submit a report, test result, fee, or document that is required in this chapter or rules adopted under it.	219 220 221
(FF) "Severer" has the same meaning as in section 5749.01 of the Revised Code.	222 223
(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. "Horizontal well" does not include a stratigraphic well.	224 225 226 227 228
(HH) "Well pad" means the area that is cleared or prepared for the drilling of one or more horizontal wells.	229 230
(II) "Stratigraphic well" means a borehole that is drilled within the state on a tract solely to conduct research or testing of the subsurface geology, including porosity and permeability. "Stratigraphic well" does not include geotechnical or soil borings or a borehole drilled for seismic shot or mining of industrial minerals or coal.	231 232 233 234 235 236
Sec. 1509.33. (A) Whoever violates sections 1509.01 to 1509.31 <u>or sections 1509.71 to 1509.79</u> of the Revised Code, or any rules adopted or orders or terms or conditions of a permit or registration certificate issued pursuant to these sections for which no specific penalty is provided in this section, shall pay a civil penalty of not more than ten thousand dollars for each offense.	237 238 239 240 241 242 243
(B) Whoever violates section 1509.221 of the Revised Code or any rules adopted or orders or terms or conditions of a	244 245

permit issued thereunder shall pay a civil penalty of not more	246
than ten thousand dollars for each violation.	247
(C) Whoever violates division (D) of section 1509.22 or	248
division (A) (1) of section 1509.222 of the Revised Code shall	249
pay a civil penalty of not less than two thousand five hundred	250
dollars nor more than twenty thousand dollars for each	251
violation.	252
(D) Whoever violates division (A) of section 1509.22 of	253
the Revised Code shall pay a civil penalty of not less than two	254
thousand five hundred dollars nor more than ten thousand dollars	255
for each violation.	256
(E) Whoever violates division (A) of section 1509.223 of	257
the Revised Code shall pay a civil penalty of not more than ten	258
thousand dollars for each violation.	259
(F) Whoever violates section 1509.072 of the Revised Code	260
or any rules adopted or orders issued to administer, implement,	261
or enforce that section shall pay a civil penalty of not more	262
than five thousand dollars for each violation.	263
(G) In addition to any other penalties provided in this	264
chapter, whoever violates section 1509.05, section 1509.21,	265
division (B) of section 1509.22, or division (A) (1) of section	266
1509.222 of the Revised Code or a term or condition of a permit	267
or an order issued by the chief of the division of oil and gas	268
resources management under this chapter or knowingly violates	269
division (A) of section 1509.223 of the Revised Code is liable	270
for any damage or injury caused by the violation and for the	271
actual cost of rectifying the violation and conditions caused by	272
the violation. If two or more persons knowingly violate one or	273
more of those divisions in connection with the same event,	274

activity, or transaction, they are jointly and severally liable 275
under this division. 276

(H) The attorney general, upon the request of the chief of 277
the division of oil and gas resources management, shall commence 278
an action under this section against any person who violates 279
sections 1509.01 to 1509.31 or sections 1509.71 to 1509.79 of 280
the Revised Code, or any rules adopted or orders or terms or 281
conditions of a permit or registration certificate issued 282
pursuant to these sections. Any action under this section is a 283
civil action, governed by the Rules of Civil Procedure and other 284
rules of practice and procedure applicable to civil actions. The 285
remedy provided in this division is cumulative and concurrent 286
with any other remedy provided in this chapter, and the 287
existence or exercise of one remedy does not prevent the 288
exercise of any other, except that no person shall be subject to 289
both a civil penalty under division (A), (B), (C), or (D) of 290
this section and a fine established in section 1509.99 of the 291
Revised Code for the same offense. 292

(I) For purposes of this section, each day of violation 293
constitutes a separate offense. 294

Sec. 1509.71. As used in sections 1509.71 to 1509.79 of 295
the Revised Code: 296

"Carbon dioxide" means naturally occurring, geologically 297
sourced, or anthropogenically sourced carbon dioxide including 298
its derivatives and all mixtures, combinations, and phases, 299
whether liquid, gaseous, solid, stripped, segregated, or divided 300
from any other fluid stream thereof. 301

"Carbon dioxide well" means a well that is used to inject 302
carbon dioxide into pore space for carbon sequestration under a 303

<u>UIC Class VI permit.</u>	304
<u>"Carbon dioxide plume" means the extent, underground, in</u>	305
<u>three dimensions, of injected carbon dioxide stream.</u>	306
<u>"Carbon sequestration" means the underground storage of</u>	307
<u>carbon dioxide in a geological formation.</u>	308
<u>"Carbon sequestration project" means a project that</u>	309
<u>involves the underground storage of carbon dioxide in a</u>	310
<u>geological formation pursuant to at least one UIC Class VI</u>	311
<u>permit.</u>	312
<u>"Owner" includes, unless the context indicates otherwise,</u>	313
<u>a person who has the right to drill a carbon dioxide well and to</u>	314
<u>inject carbon dioxide in an underground geologic formation.</u>	315
<u>"Owner," as defined in section 1509.01 of the Revised Code, does</u>	316
<u>not apply to sections 1509.71 to 1509.79 or sections 5301.58 to</u>	317
<u>5301.60 of the Revised Code unless the context indicates</u>	318
<u>otherwise.</u>	319
<u>"Pore space" means subsurface cavities and voids, whether</u>	320
<u>natural or artificially created, that are used for</u>	321
<u>sequestration.</u>	322
<u>"Storage facility" means the pore space in the subsurface</u>	323
<u>area consisting of the extent of a carbon dioxide plume and the</u>	324
<u>geological seals that confine the carbon dioxide plume that are</u>	325
<u>required to be delineated on an approved UIC Class VI permit or</u>	326
<u>an amendment to a UIC Class VI permit issued to a storage</u>	327
<u>operator.</u>	328
<u>"Storage operator" means an individual, corporation, or</u>	329
<u>other legal entity that operates a carbon sequestration project,</u>	330
<u>regardless of whether an owner that has the right to drill and</u>	331
<u>store carbon dioxide in the project area contracts, retains, or</u>	332

allows an individual, corporation, or other legal entity to 333
conduct operations or provide other services at the carbon 334
sequestration project. 335

"UIC Class VI permit" means an underground injection 336
control program permit issued by the chief of the division of 337
oil and gas resources management or the United States 338
environmental protection agency that allows the operation of a 339
carbon dioxide well. 340

"Underground storage of carbon dioxide" means the 341
injection and storage of carbon dioxide into underground strata 342
and formations under at least one UIC Class VI permit. 343

Sec. 1509.72. The division of oil and gas resources 344
management has sole and exclusive authority to regulate carbon 345
sequestration and the operation of storage facilities within the 346
state, excepting only those activities regulated under federal 347
laws and for which the state does not have primacy. The 348
regulation of carbon sequestration activities is a matter of 349
general statewide interest that requires uniform statewide 350
regulation, and sections 1509.71 to 1509.79 of the Revised Code 351
and rules adopted under those sections constitute a 352
comprehensive plan with respect to all aspects of carbon 353
sequestration within this state, including storage facility 354
operation and permitting related to those activities. 355

In order to assist the division in the furtherance of its 356
sole and exclusive authority as established in this section, the 357
chief of the division of oil and gas resources management may 358
enter into cooperative agreements with other states that share 359
jurisdiction regarding carbon sequestration projects and other 360
state agencies regarding carbon sequestration projects. Such 361
cooperative agreements do not confer on other state agencies any 362

authority to administer or enforce sections 1509.71 to 1509.79 363
of the Revised Code and rules adopted under those sections. In 364
addition, such cooperative agreements shall not be construed to 365
dilute or diminish the division's sole and exclusive authority 366
as established in this section. 367

The division may create a program to incentivize 368
innovation for the use of and reutilization of captured carbon 369
dioxide. 370

Nothing in this section affects the authority granted to 371
the director of transportation and local authorities in section 372
723.01 or 4513.34 of the Revised Code, provided that the 373
authority granted under those sections shall not be exercised in 374
a manner that discriminates against, unfairly impedes, or 375
obstructs carbon sequestration projects regulated under sections 376
1509.71 to 1509.79 of the Revised Code. 377

Sec. 1509.73. (A) The chief of the division of oil and gas 378
resources management shall adopt, rescind, and amend rules in 379
accordance with Chapter 119. of the Revised Code for the 380
administration, implementation, and enforcement of sections 381
1509.71 to 1509.79 of the Revised Code. 382

(B) Rules adopted under this section shall include 383
provisions regarding applications for and the issuance of UIC 384
Class VI permits; the terms and conditions of those permits; 385
entry to conduct inspections and to examine records to ascertain 386
compliance with sections 1509.71 to 1509.79 of the Revised Code, 387
rules adopted under those sections, and orders and terms and 388
conditions of permits issued under those sections; the provision 389
and maintenance of information through monitoring, 390
recordkeeping, and reporting; and other provisions in 391
furtherance of the goals of this chapter and the Safe Drinking 392

<u>Water Act.</u>	393
<u>(C) The rules adopted under this section shall establish</u>	394
<u>all of the following:</u>	395
<u>(1) To the extent ground disturbance is necessary, a</u>	396
<u>requirement that owners review field drainage systems with</u>	397
<u>landowners, determine ways to mitigate or avoid damage to</u>	398
<u>drainage systems, and promptly repair or restore drainage</u>	399
<u>conditions;</u>	400
<u>(2) Requirements and procedures for statutory</u>	401
<u>consolidation applications under section 1509.76 of the Revised</u>	402
<u>Code that include any land owned by the state;</u>	403
<u>(3) The amount of the costs estimated to implement the</u>	404
<u>closure plan of the carbon dioxide well and associated</u>	405
<u>facilities and any post injection site care and site closure;</u>	406
<u>(4) Requirements and procedures that allow a storage</u>	407
<u>operator to seek a permit to drill a carbon dioxide well while</u>	408
<u>an application for statutory consolidation submitted under</u>	409
<u>section 1509.76 of the Revised Code is pending.</u>	410
<u>(D) The rules adopted under this section shall include an</u>	411
<u>identification of the subjects that the chief shall address when</u>	412
<u>attaching terms and conditions to a UIC Class VI permit. The</u>	413
<u>subjects shall include at least all of the following:</u>	414
<u>(1) Requirements for the operation and monitoring of a</u>	415
<u>carbon dioxide well;</u>	416
<u>(2) Safety concerning the drilling and operation of a</u>	417
<u>carbon dioxide well;</u>	418
<u>(3) Spacing, setback, and any other provisions to prevent</u>	419
<u>storage facilities and storage operators from impacting the</u>	420

<u>ability of owners of existing oil and gas well interests to</u>	421
<u>develop those interests;</u>	422
<u>(4) Protection of the public and private water supply,</u>	423
<u>including the amount of water used and the source or sources of</u>	424
<u>the water;</u>	425
<u>(5) Fencing and screening of surface facilities of a</u>	426
<u>carbon dioxide well;</u>	427
<u>(6) Containment and disposal of drilling and other wastes;</u>	428
<u>(7) Construction of access roads for purposes of the</u>	429
<u>drilling and operation of a carbon dioxide well;</u>	430
<u>(8) Noise mitigation for purposes of the drilling of a</u>	431
<u>carbon dioxide well and the operation of such a well, excluding</u>	432
<u>safety and maintenance operations;</u>	433
<u>(9) Liability insurance to pay damages for injury to</u>	434
<u>persons or property caused by the construction or operation of</u>	435
<u>the storage facility, to be maintained for the period of time</u>	436
<u>beginning at the commencement of construction operations and</u>	437
<u>ending when the chief issues a certificate of project completion</u>	438
<u>under section 1509.77 of the Revised Code;</u>	439
<u>(10) Liability insurance coverage of at least fifteen</u>	440
<u>million dollars to cover bodily injury and property damage</u>	441
<u>caused by the construction, drilling, or operation of the</u>	442
<u>owner's carbon dioxide wells in this state. The rules shall</u>	443
<u>require the insurance policy to include additional coverage for</u>	444
<u>an environmental endorsement.</u>	445
<u>(11) A financial instrument, including a surety bond,</u>	446
<u>letter of credit, insurance, escrow, or self-insurance,</u>	447
<u>conditioned on compliance with all obligations imposed under</u>	448

sections 1509.71 to 1509.79 of the Revised Code, to be 449
maintained for the period of time beginning at the commencement 450
of construction operations and ending when the chief issues a 451
certificate of project completion. The rules shall establish the 452
required amount of the financial instrument that is not less 453
than the cost estimate identified in the application. The 454
financial instrument shall be sufficient to cover corrective 455
actions, plugging, post-injection site care prior to receipt of 456
a certificate of project completion, and emergency or remedial 457
response. 458

(E) Notwithstanding any provision of section 121.95 of the 459
Revised Code to the contrary, a regulatory restriction contained 460
in a rule adopted under this section is not subject to sections 461
121.95 to 121.953 of the Revised Code. 462

Sec. 1509.75. (A) Carbon sequestration projects are 463
authorized in the state for the purposes of injecting carbon 464
dioxide into the pore space of a storage facility through at 465
least one carbon dioxide injection well under a UIC Class VI 466
permit. 467

(B) To operate a carbon sequestration project under 468
sections 1509.71 to 1509.79 of the Revised Code, a storage 469
operator shall obtain at least both of the following: 470

(1) A UIC Class VI permit, which shall be applied for in 471
the name of the storage operator; 472

(2) Any additional permits required by applicable laws, 473
rules, and regulations, except that a storage operator is not 474
required to obtain a permit required under section 1509.05 of 475
the Revised Code. 476

(C) Prior to carbon sequestration, the chief of the 477

division of oil and gas resources management may require a 478
storage operator to deploy a seismicity monitoring system. The 479
storage operator shall use the system to determine, to the best 480
of the operator's ability, the presence or absence, magnitude, 481
and the hypocenter location of seismic activity within the 482
vicinity of the storage facility as may be necessary to perform 483
an array and a risk analysis and as required by the chief. The 484
chief may periodically require the storage operator to utilize 485
the seismicity monitoring system during carbon sequestration 486
operations. 487

(D) Prior to, or during the operation of, a carbon 488
sequestration project under sections 1509.71 to 1509.79 of the 489
Revised Code, a storage operator shall design the project to 490
endeavor to isolate any existing or future production of oil and 491
gas from above and below the proposed storage facility. 492

(E) Provisions of this chapter codified in sections other 493
than sections 1509.71 to 1509.79 of the Revised Code apply to 494
carbon sequestration projects to the extent that those 495
provisions are consistent with, and not specifically excepted 496
from, sections 1509.71 to 1509.79 of the Revised Code. 497

Sec. 1509.76. (A) If, after good-faith negotiation, the 498
applicant for a UIC Class VI permit cannot locate or reach an 499
agreement with pore space owners in the proposed storage 500
facility but has obtained the consent of owners of at least 501
seventy per cent of the pore space proposed to be used in a 502
storage facility, the applicant may submit a statutory 503
consolidation application for the operation of the entire 504
proposed storage facility to the chief of the division of oil 505
and gas resources management. In calculating the seventy per 506
cent, a pore space owner's entire interest in the proposed 507

storage facility, including any divided, undivided, partial, 508
fee, or other interest in the pore space, shall be included to 509
the fullest extent of that interest. 510

(B) An applicant shall include the following with the 511
application: 512

(1) A list of all persons reasonably known to own oil, 513
gas, or coal interests above or below the pore space proposed to 514
be used for the storage facility; 515

(2) An application fee in the amount of fifty thousand 516
dollars. The division shall maintain a record of all costs 517
incurred processing the application. If the costs of processing 518
the application exceed the initial application fee, the division 519
shall send the applicant a final statement of those additional 520
costs. The applicant shall pay the additional amount before the 521
division issues its final decision on the application. If the 522
costs of processing the application are less than the initial 523
application fee, the division shall refund the difference to the 524
applicant. The division shall send the applicant the refund 525
after the division issues its final decision on the application. 526
Except for any portion of the application fee that is refunded, 527
the applicant shall pay the complete application fee regardless 528
of whether a permit is issued or denied or the application is 529
withdrawn. 530

All application fees shall be credited to the carbon 531
capture administrative fund created under section 1509.78 of the 532
Revised Code. 533

(3) Proof of notice provided under division (D) of this 534
section, if applicable; 535

(4) A notarized affidavit listing a minimum of three 536

attempts to contact all known pore space owners on three 537
separate dates; 538

(5) Any additional information reasonably requested by the 539
chief. 540

(C) For each application, the chief shall provide notice 541
to all pore space owners and lessees located within the proposed 542
storage facility and all owners and lessees of the subsurface 543
areas located above and below the proposed storage facility of 544
the proposed carbon sequestration project, as identified by the 545
applicant in the application. The notice shall be sent not later 546
than thirty days after the chief determines that the application 547
is complete. The chief shall not rule on an application until 548
after such notice has been provided. If, upon receipt of the 549
notice, an owner or lessee of the subsurface area that is 550
located above or below the proposed storage facility expresses 551
an objection to the chief regarding the design of the carbon 552
sequestration project based on the potential adverse effect to 553
an existing or future oil, gas, coal, or potable water 554
operation, the storage operator shall demonstrate, to the 555
satisfaction of the chief, that any such objection has been 556
addressed as part of the application requirements established 557
under this section. Such objections are not required to be 558
submitted in the timeframe required for notifications to the 559
chief under division (D) of this section, but shall be made not 560
later than thirty days after receipt of a notification. 561

(D) (1) If the proposed storage facility contains pore 562
space for which the owner is unknown or unlocatable, the storage 563
operator shall do both of the following: 564

(a) Publish one notice in a newspaper of general 565
circulation in each county in which the carbon sequestration 566

project is located. The notice shall appear not more than thirty 567
days prior to the date the application is submitted to the 568
chief. 569

(b) Request the chief to post a notice on the division's 570
web site. Upon receiving the request, the chief shall ensure 571
that such notice is posted to the division's web site. 572

(2) Any notice published in accordance with division (D) 573
(1) of this section shall: 574

(a) State that an application for statutory consolidation 575
will be filed with the division; 576

(b) Describe the proposed storage facility; 577

(c) In the case of an unknown pore space owner, state the 578
owner's interest in the proposed storage facility, and the name 579
of the last known owner of that interest; 580

(d) State that a person claiming an interest in the pore 581
space proposed to be consolidated shall notify the chief and the 582
applicant at the published address within twenty days of the 583
notice's publication date. Within seven days of receiving notice 584
of a claim, the applicant shall provide information to the 585
claimant, in a form and manner prescribed by the chief, 586
regarding the right of the claimant to file an objection and 587
participate in the application proceeding before the division. 588

(E) (1) (a) The chief shall hold a hearing regarding an 589
application submitted under this section, except as otherwise 590
provided in division (E) (1) (b) of this section. 591

(b) If the chief determines that an application is 592
materially incomplete before the required hearing date, the 593
chief shall notify the applicant. If the applicant does not 594

timely correct the application, the chief may reschedule the 595
hearing date. 596

(2) At the hearing, the chief shall consider whether the 597
application is reasonably necessary to facilitate carbon 598
sequestration. 599

(F) (1) The chief shall issue an order approving the 600
application submitted under this section and providing for the 601
operation of the proposed storage facility if the chief finds 602
that such operation is reasonably necessary to facilitate carbon 603
sequestration. The chief shall issue the order not later than 604
sixty days after the date of the hearing under division (E) of 605
this section, unless the chief denies the application by order 606
within that sixty-day period. 607

(2) An order approving an application shall be upon terms 608
and conditions that are just and reasonable and shall prescribe 609
a plan for operations that include: 610

(a) A description of the pore space and storage facility 611
proposed to be operated; 612

(b) The location of and means to access carbon injection 613
wells, outbuildings, roads, and monitoring equipment; 614

(c) A statement of the nature of the operations 615
contemplated; 616

(d) (i) An allocation to the separately owned interests in 617
the storage facility of all economic benefits derived from 618
operation of the storage facility. The order shall ensure that 619
all pore space owners are compensated in a fair and reasonable 620
manner. 621

(ii) The allocation shall be in accord with the agreement, 622

if any, of the interested parties. If there is no agreement 623
between the parties, the chief shall determine the value of each 624
separately owned interest in the storage facility, exclusive of 625
physical equipment, for development of the storage facility, and 626
the economic benefits allocated to each interest shall be the 627
proportion that the value of each interest so determined bears 628
to the value of all interests in the storage facility. 629

(e) The time when the storage facility operations shall 630
commence and the manner in which, and the circumstances under 631
which, the operations shall terminate; 632

(f) Any additional provisions as are found to be 633
appropriate for carrying on the operations, and for the 634
protection or adjustment of correlative rights. 635

(3) The storage operator shall file a certified copy of 636
the order and a survey of the storage facility in the office of 637
the county recorder of the county in which all or a portion of 638
the storage facility is located. The chief shall make the order 639
publicly available, which may include posting the order on the 640
division's web site. 641

(G) Storage facility operations conducted pursuant to an 642
order issued under this section constitute a fulfillment of all 643
the express or implied obligations of each lease or contract 644
covering lands in the storage facility to the extent that 645
compliance with such obligations cannot be had because of the 646
order of the chief. 647

Economic benefits allocated to any interest shall be the 648
property and income of the several persons to whom, or to whose 649
credit, the same are allocated or payable under the order 650
providing for storage facility operations. 651

(H) No order of the chief or other contract relating to 652
the pore space and the storage of carbon dioxide from a 653
separately owned interest shall be terminated by the order 654
providing for storage facility operations, but shall remain in 655
force until terminated in accordance with the provisions 656
thereof. 657

Except to the extent that the parties affected so agree, 658
no order providing for storage facility operations shall be 659
construed to result in a transfer of any person's title to all 660
or any part of the pore space in the storage facility. All 661
property, whether real or personal, that may be acquired for the 662
account of the owners within the storage facility shall be the 663
property of such owners in the proportion that the expenses of 664
operations are charged. 665

(I) (1) Except as provided in division (I) (2) of this 666
section, the right to utilize pore space for a storage facility 667
pursuant to this section does not confer a right to enter upon, 668
or otherwise use, the surface of the land above such pore space 669
unless authorized by a properly executed surface use agreement. 670
A statutory consolidation order shall not grant the storage 671
operator expressed or implied rights of surface use or access. 672

(2) Notwithstanding division (I) (1) of this section, a 673
storage operator may have a right to enter upon the surface of 674
the land as required by state or federal law, due to an imminent 675
or emergent threat to public health, safety, or the environment 676
pursuant to an order from the chief, or pursuant to any other 677
order from the chief. 678

Sec. 1509.77. (A) After carbon dioxide injection into a 679
storage facility ceases, the chief of the division of oil and 680
gas resources management may issue a certificate of project 681

completion upon application by the storage operator. The chief 682
shall issue a certificate only upon satisfaction of the 683
conditions imposed under this section and after providing public 684
notice of the application, an opportunity for public comment, 685
and if deemed necessary by the chief, a public hearing on the 686
application. 687

(B) A certificate shall not be issued until at least fifty 688
years after carbon dioxide injections cease or until an 689
established alternative timeline approved by the chief has 690
elapsed. 691

(C) A certificate shall not be issued until the storage 692
operator establishes with a degree of certainty to the 693
satisfaction of the chief that all of the following apply: 694

(1) The storage operator is in full compliance with all 695
laws governing carbon sequestration. 696

(2) The following apply to the carbon dioxide that has 697
been injected underground for storage: 698

(a) It is not expected to extend or migrate outside of the 699
storage facility and is not expected to pose a threat to public 700
health or safety or the environment or underground sources of 701
drinking water. 702

(b) It is not likely to cross any boundary vertically from 703
the storage facility and is not expected to endanger public 704
health or safety or the environment or underground sources of 705
drinking water. 706

(3) All carbon dioxide wells and associated equipment and 707
facilities to be used in maintaining and managing the stored 708
carbon dioxide, including any monitoring wells, are in good 709
condition and will retain mechanical integrity. 710

(4) The storage operator has plugged all carbon dioxide wells not used in maintaining and managing the stored carbon dioxide and has completed all reclamation required by the division. 711
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(D) Upon the issuance of a certificate of project completion, the following shall occur: 715
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(1) Except as otherwise provided in this section, the former storage operator is released from all regulatory requirements associated with continued storage and maintenance of the injected carbon dioxide, and financial assurance required under rules adopted under section 1509.73 of the Revised Code shall be released to the former storage operator. 717
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(2) Primary responsibility and liability for the stored or injected carbon dioxide shall be transferred to the state, except for criminal and contractual liability and except under any of the following circumstances: 723
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(a) The storage operator violated a duty imposed on the storage operator by state law or rule prior to the issuance of the certificate of project completion and any applicable statutes of limitations have not run out; 727
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(b) After notice and a hearing, the chief determines either of the following: 731
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(i) The storage operator provided deficient or erroneous information that was material and relied upon by the chief to support the issuance of the certificate of project completion; 733
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(ii) There is carbon dioxide migration that threatens public health or safety or the environment or underground sources of drinking water; 736
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(c) The balance of the carbon dioxide storage facility fund is insufficient to cover costs arising from storage facilities and associated carbon dioxide wells after site closure. 739
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(3) The storage operator and all individuals who generated, injected, or stored carbon dioxide shall be forever released from all regulatory requirements associated with the continued storage and maintenance of the injected carbon dioxide, except as provided in division (D) (2) of this section. 743
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Sec. 1509.78. (A) Storage operators shall pay the department of natural resources a fee of five cents for each metric ton of carbon dioxide injected for storage in a storage facility. The fee shall be paid quarterly and credited to the carbon dioxide storage facility fund created under this section. 748
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(B) (1) The carbon dioxide storage facility fund is created in the state treasury. Except for fees collected under divisions (C) and (D) of this section, the fund shall consist of any money collected under this section in relation to a carbon dioxide well, including money received by the department from financial responsibility mechanisms established and penalties imposed for violations of sections 1509.71 to 1509.79 of the Revised Code, rules adopted under those sections, and orders and terms and conditions of a permit issued under those sections. All interest earnings of the fund shall be credited to the fund. 753
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(2) The chief of the division of oil and gas resources management shall use the money in the fund for the purpose of defraying expenses of the division that are associated with post-closure care of sequestered carbon dioxide in a storage facility, including the maintenance of carbon dioxide wells, associate surface facilities, remediation of any environmental 763
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impacts from the injected carbon dioxide, and plugging of 769
monitoring wells associated with the injection of carbon dioxide 770
in a carbon dioxide well. 771

(3) The existence, management, and expenditure of money 772
from the fund do not constitute a waiver of governmental 773
immunity or an assumption of any liability by the state for 774
carbon sequestration. 775

(C) In addition to the fee established under division (A) 776
of this section, an owner of a carbon dioxide well, an applicant 777
for a UIC class VI permit, and the holder of a UIC class VI 778
permit shall pay fees to defray the department's costs of 779
administering sections 1509.71 to 1509.79 of the Revised Code 780
and the rules adopted under those sections. The chief, by rule, 781
shall establish the type and amount of the fees. The fees may 782
include, without limitation, additional application fees, annual 783
fees, and other fees that the chief determines are necessary to 784
administer sections 1509.71 to 1509.79 of the Revised Code and 785
the rules adopted under those sections. The fees shall be 786
credited to the carbon capture administrative fund created under 787
this section. 788

(D) In addition to the fee established under division (A) 789
of this section, an owner of a carbon dioxide well shall pay to 790
the chief a fee of three cents for each metric ton of carbon 791
dioxide injected for storage in a storage facility, for the 792
purpose of supporting the needs of host communities in which the 793
storage facility is located. The owner shall pay the fee to the 794
chief quarterly on the basis of carbon dioxide injected during 795
the calendar quarter. The fees shall be credited to the carbon 796
capture administrative fund created under this section. 797

(E) (1) The carbon capture administrative fund is created 798

in the state treasury. The fund shall consist of the fees 799
collected under divisions (C) and (D) of this section. The chief 800
shall use the funds collected under division (C) of this section 801
for the sole and exclusive purpose of administering sections 802
1509.71 to 1509.79 of the Revised Code and the rules adopted 803
under those sections. The chief shall use the funds collected 804
under division (D) of this section in accordance with division 805
(E) (2) of this section. All investment earnings of the fund 806
shall be credited to the fund. 807

(2) The chief shall provide for payment of the revenue 808
from the fee collected under division (D) of this section to the 809
county treasurer of the county in which the storage facility is 810
located. If the storage facility is located in more than one 811
county, the chief shall provide for payment of the revenue 812
equally to the county treasurer of each such county. The county 813
treasurer shall deposit any such payment into a special fund the 814
treasurer shall create in the county treasury called the carbon 815
storage host community fund. 816

(3) Money in a carbon storage host community fund shall be 817
used by the board of county commissioners, or disbursed to a 818
township, municipal corporation, school district, or other 819
subdivision located within the county, solely and exclusively 820
for one or more of the following purposes within the county or 821
other subdivision: 822

(a) Infrastructure, including roads, bridges, water and 823
wastewater systems, broadband, and other public works; 824

(b) Parks, recreation, and trails; 825

(c) Education, including support for primary, secondary, 826
and career-technical education within the subdivision; 827

(d) Public safety, including law enforcement, fire 828
protection, emergency medical services, and emergency 829
preparedness and response. 830

Sec. 1509.79. Any person adversely affected by an order 831
issued by the chief of the division of oil and gas resources 832
management under sections 1509.71 to 1509.79 of the Revised Code 833
may appeal to the oil and gas commission for an order vacating 834
or modifying the order. Notwithstanding any provision of the 835
Revised Code to the contrary, a person to whom a permit is 836
issued by the chief may appeal any of the terms and conditions 837
included in the permit to the commission. 838

The person so appealing to the commission shall be known 839
as appellant, and the chief shall be known as appellee. 840
Appellant and appellee shall be deemed to be parties to the 841
appeal. 842

The appeal shall be in writing and shall set forth the 843
order complained of and the grounds upon which the appeal is 844
based. The appeal shall be filed with the commission within 845
thirty days after the date upon which the person to whom the 846
order was issued received the order and, for all other persons 847
adversely affected by the order, within thirty days after the 848
date of the order complained of. Notice of the filing of the 849
appeal shall be filed with the chief within three days after the 850
appeal is filed with the commission. 851

Upon the filing of the appeal, the commission may decide 852
the appeal, in whole or in part, without a hearing when, in its 853
judgment, it is appropriate to do so. If the commission decides 854
to hold a hearing, the commission promptly shall fix the time 855
and place at which the hearing on the appeal will be held and 856
shall give the appellant and the chief at least ten days' 857

written notice thereof by mail. The commission may postpone or 858
continue any hearing upon its own motion or upon application of 859
the appellant or of the chief. 860

The filing of an appeal provided for in this section does 861
not automatically suspend or stay execution of the order 862
appealed from, but upon application by the appellant the 863
commission may suspend or stay the execution pending 864
determination of the appeal upon such terms as the commission 865
considers proper. 866

Either party to the appeal or any interested person who, 867
pursuant to commission rules has been granted permission to 868
appear, may submit such evidence as the commission considers 869
admissible. 870

For the purpose of conducting a hearing on an appeal, the 871
commission may require the attendance of witnesses and the 872
production of books, records, and papers, and it may, and at the 873
request of any party it shall, issue subpoenas for witnesses or 874
subpoenas duces tecum to compel the production of any books, 875
records, or papers, directed to the sheriffs of the counties 876
where the witnesses are found. The subpoenas shall be served and 877
returned in the same manner as subpoenas in criminal cases are 878
served and returned. The fees of sheriffs shall be the same as 879
those allowed by the court of common pleas in criminal cases. 880
Witnesses shall be paid the fees and mileage provided for under 881
section 119.094 of the Revised Code. Such fees and mileage 882
expenses incurred at the request of appellant shall be paid in 883
advance by the appellant, and the remainder of those expenses 884
shall be paid out of funds appropriated for the expenses of the 885
division of oil and gas resources management. 886

In case of disobedience or neglect of any subpoena served 887

on any person, or the refusal of any witness to testify to any 888
matter regarding which the witness may be lawfully interrogated, 889
the court of common pleas of the county in which the 890
disobedience, neglect, or refusal occurs, or any judge thereof, 891
on application of the commission or any member thereof, shall 892
compel obedience by attachment proceedings for contempt as in 893
the case of disobedience of the requirements of a subpoena 894
issued from that court or a refusal to testify therein. 895
Witnesses at such hearings shall testify under oath, and any 896
member of the commission may administer oaths or affirmations to 897
persons who so testify. 898

If a hearing occurs, and at the request of any party to 899
the appeal, a record of the testimony and other evidence 900
submitted shall be taken by an official court reporter at the 901
expense of the party making the request for the record. The 902
record shall include all of the testimony and other evidence and 903
the rulings on the admissibility thereof presented at the 904
hearing. The commission shall pass upon the admissibility of 905
evidence, but any party may at the time object to the admission 906
of any evidence and except to the rulings of the commission 907
thereon, and if the commission refuses to admit evidence the 908
party offering same may make a proffer thereof, and such proffer 909
shall be made a part of the record of the hearing. 910

If the commission finds that the order appealed from was 911
lawful and reasonable, it shall make a written order affirming 912
the order appealed from; if the commission finds that the order 913
was unreasonable or unlawful, it shall make a written order 914
vacating the order appealed from and making the order that it 915
finds the chief should have made. Every order made by the 916
commission shall contain a written finding by the commission of 917
the facts upon which the order is based. 918

Notice of the making of the order shall be given forthwith 919
to each party to the appeal by mailing a certified copy thereof 920
to each such party by certified mail. 921

The order of the commission is final unless vacated by the 922
court of common pleas of Franklin county in an appeal as 923
provided for in section 1509.37 of the Revised Code. 924

Sec. 1509.99. (A) Whoever violates sections 1509.01 to 925
1509.31 or sections 1509.71 to 1509.79 of the Revised Code or 926
any rules adopted or orders or terms or conditions of a permit 927
issued pursuant to these sections for which no specific penalty 928
is provided in this section shall be fined not less than one 929
hundred nor more than one thousand dollars for a first offense; 930
for each subsequent offense the person shall be fined not less 931
than two hundred nor more than two thousand dollars. 932

(B) Whoever violates section 1509.221 of the Revised Code 933
or any rules adopted or orders or terms or conditions of a 934
permit issued thereunder shall be fined not more than five 935
thousand dollars for each violation. 936

(C) Whoever knowingly violates section 1509.072, division 937
(A), (B), or (D) of section 1509.22, division (A)(1) or (C) of 938
section 1509.222, or division (A) or (D) of section 1509.223 of 939
the Revised Code or any rules adopted or orders issued under 940
division (C) of section 1509.22 or rules adopted or orders or 941
terms or conditions of a registration certificate issued under 942
division (E) of section 1509.222 of the Revised Code shall be 943
fined ten thousand dollars or imprisoned for six months, or both 944
for a first offense; for each subsequent offense the person 945
shall be fined twenty thousand dollars or imprisoned for two 946
years, or both. Whoever negligently violates those divisions, 947
sections, rules, orders, or terms or conditions of a 948

registration certificate shall be fined not more than five 949
thousand dollars. 950

(D) Whoever violates division (C) of section 1509.223 of 951
the Revised Code shall be fined not more than five hundred 952
dollars for a first offense and not more than one thousand 953
dollars for a subsequent offense. 954

(E) The prosecuting attorney of the county in which the 955
offense was committed or the attorney general may prosecute an 956
action under this section. 957

(F) For purposes of this section, each day of violation 958
constitutes a separate offense. 959

Sec. 5301.57. (A) As used in sections 5301.57 to 5301.60 960
of the Revised Code, "carbon dioxide," "carbon dioxide well," 961
"carbon sequestration," "carbon sequestration project," "owner," 962
"pore space," "storage operator," and "storage facility" have 963
the same meanings as in section 1509.71 of the Revised Code. 964

(B) As used in sections 5301.58 to 5301.60 of the Revised 965
Code, "subsurface property interest owner" means a property 966
interest owner identified by the records of the recorder of 967
deeds for each county in which a portion of a proposed storage 968
facility is located who holds a fee simple interest, other 969
freehold interest, or leasehold interest in the subsurface of 970
the property, which may include mineral rights, such as coal or 971
oil and gas rights. "Subsurface property interest owner" does 972
not include an owner who holds an interest in property 973
consisting solely of an easement or right-of-way. 974

Sec. 5301.58. (A) The ownership of all pore space in all 975
strata below the surface lands and waters is vested in the owner 976
of the surface directly above the pore space. 977

A conveyance of the surface ownership of real property 978
shall be a conveyance of the pore space in all strata below the 979
surface of the real property unless the ownership interest in 980
the pore space previously has been expressly excepted and 981
reserved, conveyed, or otherwise severed from the surface 982
ownership. The ownership of pore space in the strata may be 983
conveyed in the manner provided by law for the transfer of real 984
property interests. No agreement conveying mineral, oil and gas, 985
coal, limestone or similar resource, or other interests 986
underlying the surface shall convey pore space in the strata 987
unless the agreement expressly includes conveyance of the pore 988
space. 989

(B) No provision of law or rule requiring notice to be 990
given to a surface owner, owner of the mineral or oil and gas 991
interest, or both shall be construed to require notice to 992
individuals holding ownership interests in pore space in the 993
underlying strata unless the applicable law specifies notice to 994
the individuals is required or unless the owner of the pore 995
space also owns an interest in the surface or in the mineral or 996
oil and gas interests. 997

(C) (1) Nothing in sections 1509.71 to 1509.79 and 5301.58 998
to 5301.60 of the Revised Code shall be construed to change or 999
alter the common law existing as of the effective date of this 1000
section with respect to the rights belonging to, or the 1001
dominance of, the mineral estate or oil and gas estate. For the 1002
purpose of determining the priority of surface and subsurface 1003
uses between a severed mineral or oil and gas estate and pore 1004
space, the severed mineral or oil and gas estate is dominant 1005
regardless of whether ownership of the pore space is vested in 1006
the owner of the surface or is owned separately from the 1007
surface. 1008

(2) If pore space is severed from the surface ownership, 1009
the pore space estate shall be considered to be dominant over 1010
the surface estate unless the conveyance specifically provides 1011
otherwise. 1012

(3) Nothing in sections 5301.58 to 5301.60 of the Revised 1013
Code shall alter, amend, diminish, or invalidate rights to the 1014
pore space that were acquired by deed, contract, or lease prior 1015
to the effective date of this section. 1016

(D) An instrument that transfers the rights to pore space 1017
shall include a specific description of the location of the pore 1018
space being transferred. In the event that the instrument uses 1019
only a description of the surface, the transfer shall be 1020
considered to include pore space owned by the transferor at all 1021
depths underlying the described surface area unless specifically 1022
excluded. The owner of the pore space shall have no right to use 1023
the surface estate beyond that set out in a properly recorded 1024
instrument due solely to its ownership in the pore space. 1025

An instrument that conveys the surface directly above the 1026
pore space, but otherwise seeks to except or reserve the rights 1027
to the pore space, shall include a specific reference to the 1028
pore space in the instrument. In the event of such exception or 1029
reserved rights, the reserved rights to the pore space shall 1030
include pore space owned by the transferor at all depths 1031
underlying the described surface area unless otherwise 1032
specifically excluded. 1033

Sec. 5301.59. All carbon dioxide injected into a storage 1034
facility for carbon sequestration, and all other substances 1035
injected incidental to the injection of carbon dioxide, shall be 1036
presumed to be owned by the storage operator. This presumption 1037
may be rebutted by an individual claiming contrary ownership by 1038

a preponderance of the evidence in an action to establish 1039
ownership. 1040

No owner of pore space, other individual holding any right 1041
to control pore space, or other surface or subsurface property 1042
interest owner, shall have any liability relating to the 1043
injection of carbon dioxide, or any other substances injected 1044
incidental to the injection of carbon dioxide, for carbon 1045
sequestration activities solely by virtue of their interest in 1046
the pore space or their surface or subsurface rights. 1047

Sec. 5301.60. (A) A claim for damages due to injection or 1048
migration of carbon dioxide shall not be recoverable against a 1049
storage operator conducting carbon sequestration in accordance 1050
with a valid UIC Class VI permit unless the claimant proves that 1051
the injection or migration of carbon dioxide has caused direct 1052
physical injury to an individual, animal, or real or personal 1053
property. 1054

(B) A surface or subsurface property interest owner 1055
asserting a claim for injury to personal or real property may 1056
recover monetary damages due to injection or migration of carbon 1057
dioxide only for the diminution in real or personal property 1058
value resulting from the injection or migration of carbon 1059
dioxide beyond the storage facility. 1060

(C) A surface or subsurface property interest owner may 1061
not seek punitive damages due to injection or migration of 1062
carbon dioxide if the storage operator acts in compliance with 1063
the requirements of the UIC Class VI permit. 1064

(D) Divisions (A), (B), and (C) of this section do not 1065
apply to any claims that may be asserted by owners of oil and 1066
gas interests or owners of class II disposal wells for damages 1067

<u>or injuries related to any of the following:</u>	1068
<u>(1) The injection or migration of carbon dioxide;</u>	1069
<u>(2) The construction or operation of a storage facility;</u>	1070
<u>(3) A carbon sequestration project.</u>	1071
Section 2. That existing sections 1509.01, 1509.33, and	1072
1509.99 of the Revised Code are hereby repealed.	1073